



OPEN SESSION

AGENDA ITEM O-405

JUNE 2022

COMMITTEE OF BAR EXAMINERS

DATE: June 17, 2022

TO: Members, Committee of Bar Examiners

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

SUBJECT: Action on Major Change – Change Category from Fixed-Facility to Distance and Waiver of Requirements to Teach Fixed-Facility Classes - Pacific Coast University School of Law

EXECUTIVE SUMMARY

Pacific Coast University School of Law requests a Major Change from the Committee of Bar Examiners (Committee) to change its registered, unaccredited category from fixed-facility learning to distance learning effective August 2023 as set forth in its application and addendum. (Attachments A, B). Until then, this fixed-facility law school seeks to extend its waiver to teach classes online by one year through August 2023.

BACKGROUND

Pacific Coast University School of Law is an unaccredited, fixed-facility law school located in Long Beach, California. The law school completed its transition from accredited law school to unaccredited law school in September 2020. It also transitioned its schedule to a semester system starting in fall 2021. Today the law school seeks to make another change to its mode of delivery and the teach classes in three 15-week semesters.

According to its 2021 Annual Report, the law school enrolls 56 students in its JD program. The law school's most recent pass rates on the First-Year Law Students' Examination were 25 percent in June 2021, and zero percent in October 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 32.7 percent.

Under rule for unaccredited law schools 4.246 “[a] registered law school contemplating a major change must notify the Committee and obtain its prior approval before making the change. The notice must explain in detail any effect the change might have on the law school’s compliance with.” This includes a change of category from fixed-facility to distance, regarding the method used to teach the JD curriculum. A law school may only change its category on application to and approval by the Committee pursuant to unaccredited law school rule 4.245, as further described in guideline for unaccredited law schools 1.3.

Here, the law school seeks to permanently change its category from unaccredited fixed-facility to unaccredited distance effective June 2023. During the pandemic, the law school has already been teaching its courses online via Zoom, the platform it plans to use after its permanent change.

In the meantime, in addition to the major change request, the law school also seeks to extend its waiver to continue to teach classes online due to pandemic circumstances.

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

The law school has filed a waiver renewal request set forth in Attachment B seeking to teach classes synchronously online and remotely through August 2023.

DISCUSSION

Pacific Coast University School of Law requests permission for a major change to permanently change its category to distance category. When the law school initially filed its request on March 7, 2022, it hoped to place it on the Committee’s April agenda and begin the program in July 2022. The law school has been advised in the past that late filings will always be accommodated when possible, and the law school has been so accommodated on several occasions, but that was not possible here based on the Committee’s schedule. The law school indicated it had been contemplating this change for over a year, and it is encouraged to begin the conversation with the State Bar as soon as possible in the future. Here, the law school decided to delay the proposed effective date of its request to August 2023.

As a distance learning law school, the law school will be required to create a JD curriculum requiring the following under guideline 5.3:

- (1) Satisfactory completion of a course of study requiring a minimum of 864 hours preparation and study a year for four (4) years. The year of preparation and study must occur in not less than forty-eight (48) of more than fifty-two (52) consecutive weeks.

In order to exceed the minimum requirement, the law school will create a new schedule consisting of three semesters comprising a total of 873 hours of total study per year for each of four years.

Each year will be divided into three 15-week semesters: August-November; November-March; and March-June. Students could begin a course of study in August or March. This schedule is compliant, but it is more rigid than other choices available, as it only offers the law students the opportunity to earn a full-year of credit at a time, rather than a half-year. This may pose limitations for students who fail a class or need to take a leave, requiring them to repeat a full year. This should be clearly disclosed to prospective and current students and reinforced with frequent student counseling.

The law school's curriculum will include 135 interactive hours, as required.

The curriculum will be redesigned with its current 3.5 unit courses replaced by a series of three-unit courses in the same configuration. The law school indicated that it feels it can compress the material currently taught in 3.5 hours into three hours without loss of quality, and with an increase in efficiency.

The curriculum will be delivered via Zoom, as it has been during the pandemic.

Students will meet the requirement to take at least six units of practical skills training by continuing to take the same series of three practical skills training classes currently offered: Civil Procedure Practicum; Pleading and Practice; and Trial Techniques. These courses will all be reduced in credit value from 3.5 credits to three credits, just as the other courses will be.

Each law student's study will be tracked weekly to ensure compliance or address issues promptly as they arise. Professors will take attendance at synchronous classes while students will self-report study hours, turn in certain assignments, and provide a study log. The law school will proactively advise students if they are in danger of failing to meet the required hours for a particular class or semester.

The law school will ensure exam security by using a commercial proctoring software.

It will continue to provide staff training, technical support, and all administrative services online, as it has done successfully during the pandemic.

The law school's library will use a standard commercial research service and make all texts available as well.

The law school would formally announce the transition to students upon approval by the Committee. Students are already attending classes online, so the modality will not change.

Because the law school will be building out courses after approval, it may be appropriate to verify completion of these steps prior to the launch of the distance program, as well as to challenge the law school to describe the methods and metrics it will use to establish the effectiveness of the new courses.

The law school is scheduled to be inspected later this year, which will allow the Committee a timely opportunity to the law school's progress in its transition.

Until then, the law school seeks renewal of its temporary waiver to teach fixed-facility classes online through August 2023 based on student and staff fears, concerns and medical issues that limit their preferences and abilities during the pandemic. The law school provided many reasons why this could be the best choice for its students under these circumstances. Further, the law school has already made the requisite showing that granting the waiver will not otherwise affect the law school's compliance, since the law school has already taught online successfully for over one year.

RECOMMENDATION

It is recommended that the Committee of Bar Examiners receives and files Pacific Coast University School of Law's Request for Major Change to transition from the fixed-facility learning category to the distance learning category and waiver to teach fixed-facility classes online, still as a registered, unaccredited law school and provisionally grants the request subject to the condition that the law school provides evidence to the State Bar of completion of the key elements described in its proposal as part of its 2022 Annual Periodic Compliance report in November 2022. The law school indicates in its application that four months are needed to prepare to launch the program, so a timeline of five months is proposed here.

The materials to be submitted to the Committee along with the law school's annual report would be: 1) the curriculum and credit content; 2) class syllabi for the distance category program, comparing the 3.5 credit current versions to the 3 credit new versions; 3) a copy of the policy that establishes procedures for verifying each student's preparation and study; and 4) the law school's methods and metrics it will use to monitor and adjust the effectiveness of the new courses; and 5) sample transcripts submitted to staff for evaluation.

The transcript submission is particularly important for this school, given that has undergone a range of changes in law school type, law school category, quarter schedule and semester schedule.

It is also recommended that the Committee grant the law school's request extend its waiver to allow it to teach classes online through August 31, 2023 while still in the fixed-facility category.

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 receive and file Pacific Coast University College of Law's Request for Major Change to transition to the distance learning category of teaching as a registered, unaccredited law school, and provisionally grant the request with a program launch timing of August 2023, subject to the following

conditions. By November 15, 2022 the law school must submit: 1) the curriculum and credit content for the distance program; 2) class syllabi for the distance category program, comparing the 3.5 credit current versions to the 3 credit new versions; 3) a copy of the policy that establishes procedures for verifying each student's preparation and study; and 4) the law school's methods and metrics it will use to monitor and adjust the effectiveness of the new courses; and 5) sample transcripts submitted to staff for evaluation.

FURTHER MOVE, that the Committee receives and files the law school's request to extend its waiver to teach classes online through August 31, 2023 while still in the fixed-facility category.

ATTACHMENTS LIST

- A.** Pacific Coast University College of Law's Request for Major Change Category from Fixed-Facility to Distance, March 7, 2022
- B.** Pacific Coast University College of Law's Addendum to the Proposal and Request for Waiver Extension to Teach Classes Online, June 2, 2022

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**Application of Pacific Coast University School of Law
for Approval of Major Change in the Form of
Changing Its Category to that of a
Registered Distance-Learning Law School**

Pursuant to Rule 4.245 of the *Unaccredited Law School Rules* and Guideline 1.5 of the *Guidelines for Unaccredited Law School Rules*, Pacific Coast University School of Law (hereinafter referred to as “PCU”) hereby applies to the California State Bar Committee of Bar Examiners for approval of a Major Change in the form of changing its category from that of a registered unaccredited fixed-facility law school to that of a registered unaccredited distance-learning law school.¹

As is demonstrated more fully below, PCU’s proposed distance-learning curriculum will comply with each of the following guidelines:

A. Guideline 5.3 - Minimum Requirements for Award of Juris Doctor (J.D.) Degree

Guideline 5.3(C) of the *Guidelines for Unaccredited Law School Rules* provides that a registered distance-learning law school may issue a J.D. degree to a student who has met the following requirements:

“(1) Satisfactory completion of a course of study requiring a minimum of 864 hours preparation and study a year for four (4) years. The year of preparation and study must occur in not less than forty-eight (48) or more than fifty-two (52) consecutive weeks. To receive credit for one-half year, a student must have 432 hours of preparation and study in not less than twenty-four (24) or more than twenty-six (26) consecutive weeks. Reasonable final examination time may be included in the hourly requirement (having the number of hours for the examination equal to the number of credits assigned to the course is prima facie reasonable). Students must participate in eighty (80) percent of the regularly scheduled interactive classes in each course. Regular and punctual participation in interactive classes is required. The law school must have a written

¹ In an effort to streamline and simplify the approval process as to this application and to maximize the likelihood of its prompt approval, PCU has, in large part, adopted (and, where appropriate, adapted) the “Major Change Request of Irvine University College of Law,” which was provisionally granted by the Committee of Bar Examiners at its meeting held on December 3, 2021, as a “template of compliance.” Accordingly, the verbiage of this application intentionally hews as closely as practicable to the Irvine University College of Law application granted on December 3, 2021.

policy that establishes procedures for verifying student participation and study. The policy may also include requirements regarding the degree and quality of preparation and study. The law school must keep accurate records of students' time spent in study and preparation;

“(2) Obtaining a cumulative grade point average set by the law school that provides the student a reasonable basis upon which to pass the California Bar Examination; and

“(3) Satisfaction of the legal education requirements to take the California Bar Examination, including passage of the First-Year Law Students’ Examination unless exempt from that examination, although the law school is not a guarantor of the student’s eligibility to take the California Bar Examination.”

To meet the requirements of Guideline 5.3(C) and California Business Code § 6060(D), PCU’s proposed distance-learning J.D. degree program will require that students complete a total of 873 hours of “preparation and study” each year (nine hours above the annual statutory minimum of 864 hours) for an additional 36 hours over four years (or, 3,492 hours *versus* 3,456). To achieve this goal, PCU students will complete a course of study that will combine synchronous, online class attendance, offline study, completion of various course assignments, and testing.

In order to meet its proposed 873-hour annual requirement, PCU plans to implement a new academic year composed of three 15-week semesters of continuous preparation and study – to wit:

Fall Semester: August - November

Winter Semester: November - March

Spring Semester: March - June.

During each term, PCU students will be required to register for and complete 6 semester units of academic credit (18 units per year) with each unit consisting of 48.5 hours of synchronous online class attendance, offline study, completion of various assignments and testing. By earning 6 units each term, PCU students will complete 291 hours of verified “study and preparation” each term. Upon completion of each academic year, PCU students will complete all 873 hours within 48 to 52 consecutive weeks as required by Guideline 5.3(C).

B. Guideline 5.9(C) - Quantitative Academic Requirements: Distance-Learning Schools

To meet its proposed annual 873 hours requirement, PCU will redesign and “build out” each of the courses presently offered in its fixed-facility curriculum. As distance-learning courses, each will be reconfigured and taught in a 3-unit format versus our current 3.5-unit format.

In the 3-unit courses, students will complete 145.5 hours of “study and preparation” consisting of 45 hours of synchronous online class sessions (comprising 3 hours each) taught over 15 sessions, 67.5 hours of verified individual offline study, 15 hours of assigned homework tasks (such as

self-testing and writing assignments), and 3 hours of testing in the form of midterm and final examinations.

To complete 291 hours of preparation and study each term, PCU students will be required to enroll in two 3-unit courses (consisting of 145.5 hours each). Thus, under its proposed new semester configuration, PCU students who earn 18 units of credit over three consecutive 15-week semesters will, as also provided by Guideline 5.9(C), compliantly earn a full year of credit within each academic year. In doing so over four years, they will be statutorily eligible to register for and sit for the California Bar Examination.

Also in compliance with Guideline 5.9(C), during each academic year, PCU students will be required to attend a total of 270 hours of synchronous “interactive” class sessions. As such, they will significantly exceed the 135-hour minimum mandated by Guideline 5.9 (C).

C. Guideline 5.10 - Content of Curriculum

Guideline 5.10 provides as follows:

“A law school is not required to follow a specific curriculum and is free to set the number of units of study allocated to individual courses. A law school must design its curriculum offerings, units per class or course, and requirements for graduation in a manner consistent with Unaccredited Law School Rule 4.240(E) and its own goals. The curriculum must include the subjects tested in the California Bar Examination, but the only subject students are required by the Committee to take a course in is Professional Responsibility.”

In converting its academic program into three 15-week semesters, and by redesigning its curriculum to include 3-unit courses (instead of 3.5-unit courses), PCU’s distance-learning curriculum will both comply with Guideline 5.10 and allow it to strengthen its J.D. degree program. At present, all courses in its fixed-facility curriculum are taught in 3.5-unit increments, with several key courses – namely, Contracts, Torts, Constitutional, Evidence and Real Property -- taught in two 3.5-unit increments for a total of seven units. PCU’s distance-learning curriculum will remain largely the same except that classes will be taught in 3-unit increments (rather than 3.5-unit increments) -- with courses in Contracts, Torts, Civil Procedure, Constitutional Law, Evidence and Real Property being offered in the form of two 3-unit increments for a total of 6 units, rather than seven units.

As such, and upon receiving permission to operate as a distance-learning law school, all courses included in PCU’s current curriculum will be redesigned and taught in 3-unit, 15-week terms or 6-unit 30-week terms, depending on the class.

Rule 4.240(F) (“Competency Training”) requires that students “satisfactorily complete a minimum of six semester units...of course work designated to teach practice-based skills and competency training.” PCU’s currently operative fixed-facility curriculum includes three 3.5-unit competency-training courses, titled Civil Procedure Practicum, Pleading and Practice, and Trial Techniques – each of which has already been taught in the online format since the onset of

the Covid pandemic. Those three courses will be redesigned as 3-unit classes under the proposed distance-learning curriculum, for a total of 9 competency-training units.

In keeping with the dictates of Rule 4.240(E) and Guideline 5.10, PCU's distance-learning J.D. curriculum will be based upon completion of 72 units earned through 18 courses -- teaching all subjects tested on the California Bar Examination, including Professional Responsibility and nine units of practice-based skills and competency training as required by Rule 4.240(F). All classes will be taught using Zoom because of its demonstrated ease of use, affordability, reliability, and high video and audio quality.

D. Compliance with Guideline (C) - Verification of Students' Study and Preparation

Under PCU's currently effective fixed-facility curriculum, and in compliance with Guideline 5.3(A), PCU's students must satisfactorily complete a course of classroom study requiring a minimum of 270 hours of classroom attendance per year for four years. Student attendance is taken in each class meeting by the professor teaching the course. Attendance rosters are maintained and monitored by PCU's registrar for the purpose to identify those students who have been marked absent and who may be at risk of failing to attend the requisite minimum of 80 percent of the regularly scheduled class hours in each of their courses. After each absence, a student is informed of the minimum attendance requirement and reminded that they will not be granted academic credit in the event their absences exceed the minimum number of absences allowable under Guideline 5.3(A).

Under its proposed distance-learning program, responsibility for tracking and recording each student's hours of "study and preparation" over the course of each semester will be shared by the student, the faculty and PCU's administrative staff – such that each enrolled student will be tracked on a weekly basis to confirm the number of hours of study and preparation each is entitled to claim toward their course requirements.

In compliance with Guideline 5.3(C), PCU will develop and adopt a "written policy that establishes procedures for verifying each student's preparation and study." PCU's policy will include both electronic and written means to verify students' completion of all hours each course requires, including all hours of interactive-class attendance, the number of hours of offline study they complete, and their completion of all hours of mandatory offline homework.

Those hours will be verified by means of the following procedures: As is done currently, student attendance in each interactive class meeting will be recorded in class rosters by the faculty member teaching the course and then electronically submitted to and electronically recorded by PCU's registrar.

Using Moodle, the online learning management system, students will be required to verify that they have completed each mandatory "homework" assignment as each is specified in each course syllabus in order to qualify for credit for the hours assigned to each task. Depending on the course, students will verify completion of all assignments listed in each course syllabus as assigned by each professor. Such assignments will include a designated number of hours to

complete assigned lessons comprising, for instance, writing assignments, Multistate Bar Examination-style questions, and quizzes.

To record and verify the total number of hours of offline study as required in each course, PCU students will be required to: (1) submit their assignments to their respective instructors in a timely manner; and (2) submit a weekly course-study log, in writing and signed by the student, confirming that she has completed the required minimum number of hours of offline assigned reading, study and/or review.

Regarding midterm and final examinations, PCU plans to continue administering them as proctored tests by means of ExamSoft's Examplify program. As such, hours attributed to testing will be automatically verified upon each student's completion of each examination.

On a weekly basis, all hours of class attendance and verified hours of offline study and those devoted to completing "homework" by each PCU student will be recorded in an electronic spreadsheet by a PCU administrator who will be assigned (as they are now) to track each student's progress as they complete all hours assigned in each course in which they are enrolled. Accordingly, as is presently the case, a PCU administrator will track and then notify each student on a bi-monthly basis of their total number of hours as the semester progresses. Whenever a student's reported hours fail to meet the 80% threshold for their synchronous class attendance -- or if their hours are below the hours assigned each week for offline preparation and study and homework completion -- a PCU administrator will notify them that they are at risk of not earning credit in any course in which their attendance of class sessions or completion of all additional hours falls below the minimum required.

E. Mode of Delivery of PCU's Proposed Distance-Learning Curriculum

As has been the case throughout the Covid pandemic -- and pursuant to the Committee's permission -- PCU continues to deliver its curriculum entirely online via the Zoom virtual-meeting platform, consistent with the current practice of many other institutions of higher learning and graduate/professional programs. As previously reported to the Committee, PCU's faculty made the transition smoothly for the most part, and they appear to be increasingly comfortable with the technology as each continues to adapt their teaching approach to this new *modus vivendi* in his or her own way. Likewise, our students have adjusted well to learning in the all-digital environment. We continue to provide basic and advanced training to faculty, as required or desired, in order to assist them in more effectively navigating this modality of course-content delivery. During class meetings held via Zoom, our staff remain always available to assist with any technological issues or glitches that may arise. All Zoom class meetings continue to be password-protected and waiting room-enabled in order to ensure that only our students are present and that the class does not experience disruption or interruption. In addition, and as always, we monitor student attendance by requiring all instructors to take and submit attendance for each class meeting.

With regard to examinations and grading, PCU utilizes the Examplify program for testing purposes. We are pleased to report the absence of any significant issues with the process. In order to verify their identities, students must log in to Zoom on their smartphones, focusing the

phone's camera lens on themselves. Each exam is proctored and the proctor is required to verify the student's identity remotely. The proctor then observes the student for the entirety of the examination period via Zoom. We administer both essay and MBE-style multiple-choice exams remotely. All exam materials must be photographed and emailed to the registrar immediately following administration of an exam. We also ensure that students afforded special testing accommodations are tested in a separate environment so that they may receive the full benefit of all accommodations to which they are entitled.

Moreover, and based on feedback received from several professors and upon the dean's own first-hand experience teaching online in the Covid era (Contracts, Professional Responsibility and academic-support sessions in Contracts and Evidence), there exists ample reason to believe that the methodology of teaching the law online is not only manifestly "do-able"; it also has about it its own set of unique advantages. The practical, logistical benefits of synchronous distance learning -- such as affording students and faculty the opportunity to learn and teach in the comfort and convenience of their own homes, thereby dispensing with the need to undergo the anxiety of rushed, often stressful after-work commutes to campus and returning home late at night after class -- are well known, of course. Additionally, however, the online class meeting can provide an up-close and personal, albeit virtual, "face-to-face" interaction between student and teacher that is, on certain levels, even *more* pedagogically effective than the physical in-the-classroom setting in teasing-out the issues and principles then under discussion and, as Abraham Lincoln used to say, in "getting to the nub of it."

And finally, the Zoom technology perforce permits students, faculty and staff to maintain closer and more regular communication among one another. By way of example, and with special reference to the requirements of Guideline 5.13, the Zoom platform has provided PCU students with a far more effective and convenient way of meeting with their instructors and with one another.

F. Providing Student Services in PCU's Proposed Distance Learning Program

PCU's proposed distance-learning program will continue to provide students a high level of administrative and academic services and support. By the use of email, telephone, text messaging and Zoom conferences, students have ready, essentially immediate, access to PCU's dean and administrators. (By way of example, the dean's cellphone number is provided to all students.) As such, students are not required to wait until they are physically present on a fixed-facility campus in order to engage in an in-person meeting to discuss an issue. Instead, PCU students are able, as they have been throughout the pandemic, to schedule and attend meetings with the law school's dean and/or registrar at any time during regular business hours.

G. PCU's Compliance with Library Requirements as a Distance Learning Law School

In compliance with Guidelines 6.2 and 6.5 and Rule 9.30 of the California Rules of Court, all law-library resources required to be available to students are – and, after PCU's transition to a distance-learning law school, will continue to be – accessible in electronic form, on a 24/7 basis, to all students (and faculty) via the LexisNexis computer-assisted legal-research service.

Finally, and in keeping with Guideline 6.2, PCU currently maintains and will continue to maintain all current casebooks and other texts assigned in each course offered in its curriculum. Accordingly, PCU will be fully compliant with all library requirements required of a distance-learning law school.

H. Proposed Transition to and Implementation of PCU's Distance Learning Program

Upon being granted approval to change its category at the Committee's meeting in April 2022, PCU will immediately begin implementing its plan to convert its curriculum into a distance-learning J.D. degree program as of August 2022. In converting to an academic year comprising three semesters, PCU will offer two admissions start dates – August for the fall semester and March for the spring semester. Pursuant to this timetable, PCU would be afforded four months – more than sufficient time -- to carry out all that will be required to offer its students (both new and currently enrolled) courses designed to meet the academic and eligibility requirements discussed above.

As the courses will continue to be taught over the same period of time as they are now (in 15 or 30 class meetings), the faculty will need only slightly adjust their courses to incorporate the required hours of assigned homework tasks.

As for PCU's currently enrolled students, including fourth-year students expecting to graduate in 2022, completion of their remaining year(s) of law study in a distance-learning program should present no significant issues or problems. As discussed above, PCU plans to offer all newly revised and redesigned second- through fourth-year courses during the 2022 fall semester. Other than requiring all such students to complete additional hours of non-classroom study (including assigned "homework"), all currently enrolled students will continue to be able to complete the courses they need to earn their J.D. degree.

In order to provide as much advance notice as possible to its student body and faculty – and immediately upon the Committee's hoped-for approval of this application at its April meeting – PCU will immediately cause a formal announcement to be sent to all currently enrolled students and faculty members to inform them that PCU has been granted approval to begin operating as a distance-learning law school as of August 2022. In this announcement (to be followed up with an online "townhall" meeting of students, faculty and administrators), the details of the new PCU academic year, how all J.D. courses will be revised and redesigned, and the new "preparation and study" hours will be discussed thoroughly.

At any rate, news of PCU's conversion into a distance-learning law school will not come as a surprise to any of its students or faculty members because, for at least the past year, they have been informally advised of PCU's intention to seek the Committee's approval to become a distance-learning law school. Moreover, and because PCU's entire curriculum has for more than 18 months been offered exclusively online, virtually all PCU students who have continued their enrollment since the start of the Covid health pandemic and all students admitted since August of 2020 have been aware that the law school would almost certainly not return to the physical campus and offer courses taught in onsite classrooms.

That said, after the particulars of the new, distance-learning program are announced – and in the event that any currently enrolled students should elect not to continue their law studies at PCU and instead choose to transfer to a law school that is now or will then be taught via a fixed-facility program -- PCU will, of course, undertake all that is required to facilitate their transfer to any such law school with all deliberate speed.

I. Conclusion

Based upon the foregoing, and pursuant to Rule 4.245 and Guideline 1.5, PCU respectfully requests that the California State Bar Committee of Bar Examiners grant the within application for approval of a Major Change in the form of changing its category from that of a registered unaccredited fixed-facility law school to that of a registered unaccredited distance-learning law school.

Respectfully submitted,

Basil G. Dezes

Dated: March 7, 2022

Basil G. Dezes,
Dean

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ADDENDUM

**to Application of Pacific Coast University School of Law
for Approval of Major Change in the Form of
Changing Its Category to that of a
Registered Distance-Learning Law School**

Pursuant to discussions had and understandings reached during a videoconference held June 1, 2022, among Principal Program Analyst Natalie Leonard, Dean Basil Dezes of Pacific Coast University School of Law (hereinafter referred to as “PCU”), and PCU Associate Dean and Registrar Natalie Casas, PCU respectfully submits the within addendum to its currently pending application for approval of a major change in the form of changing its category to that of a registered unaccredited distance-learning law school.

The purpose of this addendum is twofold – to wit:

1. To formally advise the Committee that in consequence of the Committee’s inability to take up PCU’s application to change its category to that of a distance-learning law school at its meeting held in April of this year, PCU was compelled to continue the projected time of implementation of its distance-learning curriculum from the fall semester of the 2022-2023 academic year to the fall semester of the following year, the 2023-2024 academic year; and
2. To request approval of a major change in the form of leave to continue delivery of PCU’s curriculum via the distance-learning format – *i.e.*, fully online -- beyond August 31, 2022, the date upon which the currently effective waiver of the requirement that a fixed-facility law school conduct its instruction principally in physical classroom facilities is set to expire by its terms.

**I. Regarding the Necessity to Defer the Projected
Start-Date of PCU’s Distance-Learning Curriculum**

By its pending application to change its status to that of a registered unaccredited distance-learning law school (the “Category-Change Application”), PCU initially proposed to implement its distance-learning curriculum as of August of this year – that is, as of commencement of the 2022-2023 academic year. That projected start-date, though, was expressly premised on the hoped-for approval of PCU’s Category-Change Application at the Committee’s meeting in April 2022. (See the Category-Change Application, p. 7, paragraph 1 of

section H, titled “Proposed Transition to and Implementation of PCU’s Distance-Learning Program.”)

Subsequent to the submission of the Category-Change Application, however, PCU was advised that it could not be placed on the agenda of the Committee’s April 2022 meeting. That being the case – and since the tentative start-date in August 2022 was directly keyed to approval of the Application in April – PCU concluded that it was necessary and prudent to defer implementation of the distance-learning program to the start of the following academic year. The reasons underpinning that decision include the following:

1. Even assuming that the Category-Change Application were to be approved by the Committee at its June 2022 meeting, that would allow PCU’s administration and faculty only approximately two months to undertake to fully and properly convert the existing curriculum into a compliant distance-learning format – a time frame deemed insufficient to make the necessary changes in an effective, organized and orderly manner; and
2. Of equal (if not greater) importance, the truncated period for implementation would not permit adequate time or opportunity to properly prepare and orient the student body or the faculty to the new pedagogical regime. It has been and remains PCU’s highest priority and a defining characteristic of this initiative to keep its students and faculty members continually apprised of the status of the prospective transition to a distance-learning curriculum. (See, *e.g.*, the Category-Change Application, p. 7, *passim*.)

Accordingly, and upon receiving the hoped-for approval of its Category-Change Application, PCU will immediately begin implementing its plan to convert its curriculum into a distance-learning J.D. degree program as of August 2023.

II. Regarding PCU’s Within Request for Leave to Continue Delivery of Its Curriculum via the Distance-Learning Format During the 2022-2023 Academic Year

By its September 7, 2022, correspondence addressed to Principal Program Analyst Natalie Leonard, PCU requested (and thereafter was granted) the Committee’s approval to continue delivery of its curriculum by means of the distance-learning format – that is, fully online – beyond December 31, 2021, the date upon which the then-effective waiver of the requirement that a fixed-facility law school conduct its instruction principally in physical classroom facilities was scheduled to expire by its terms (the “September 7 Request to Extend Waiver”).

The September 7 Request to Extend Waiver was based on the following two grounds:

1. In view of the known and unknown present and future risks to the health and safety of PCU’s students, faculty and staff posed by the ongoing Covid-19 Pandemic, prudence dictates the temporary continuation of the law school’s currently in-place regime of conducting its instruction via interactive-online means; and

2. In that the law school's synchronous distance-learning method of conducting instruction during the Covid crisis has proved to be altogether administratively workable and academically sound, PCU's students will not be adversely affected by the proposed continuation of the online regime.

Notwithstanding the vagaries of shifting statistical trends in terms of Covid-related infections, hospitalizations and deaths experienced nationally and statewide since the submission of the September 7 Request to Extend Waiver, the basic concerns, uncertainties and fears as to the known and unknown risks to health and safety posed by the Covid-19 virus prevailing as of that time continue to exist today. It is respectfully submitted, therefore, that the arguments delineated in PCU's September 7 Request to Extend Waiver apply with equally persuasive force to support the within request to further extend the waiver throughout the next, 2022-2023 academic year.

Accordingly, and in the interests of brevity, PCU will not reiterate the particulars of the September 7 Request to Extend here. Rather, the September 7 Request is attached as Attachment 1 to this Addendum and incorporated herein by this reference as though fully set forth at this point.

That said, PCU additionally submits the following more recent developments for the Committee's consideration:

First, within the week prior to this writing, on May 28, California Governor Gavin Newsom tested positive for Covid-19 -- after having been vaccinated and receiving two booster shots, including as recently as May 18. (Statement from Governor Newsom's Press office, <https://www.gov.ca.gov/2022/05/28/statement-from-governor-newsoms-press-office/>.)

Second, under the headline "COVID-19 surge worsens in California, with the Sacramento area now among hardest hit," *The Sacramento Bee* reported on June 2, 2022, that "Coronavirus activity surged throughout May in California, with most transmission and hospitalization numbers roughly doubling over the course of the month as highly contagious subvariants of omicron continue to gain traction." (<https://www.sacbee.com/news/coronavirus/article261975865.html>.)

Next, facemasks are again required on BART, at least through July 18, 2022. (<https://www.bart.gov/news/articles/2020/news20200421>.)

Fourth, today's edition of *The New York Times* (June 2) reports that Covid cases in California have increased by 39 percent from the average two weeks ago. (<https://www.nytimes.com/interactive/2021/us/california-covid-cases.html>.)

Fifth, *The New York Times* also reports today (June 2) as follows: "An average of **4,411 cases per day** were reported in Los Angeles County [where PCU is located], a **42 percent increase** from the average two weeks ago." (Emphasis in original.) (<https://www.nytimes.com/interactive/2021/us/los-angeles-california-covid-cases.html>.)

And finally, on October 22, 2021, the “Mayo Clinic Staff” published an article addressing the long-term effects of Covid -- reporting that “COVID-19 symptoms can sometimes persist for months. The virus can damage the lungs, heart and brain, which increases the risk of long-term health problems.” (<https://www.mayoclinic.org/diseases-conditions/coronavirus/in-depth/coronavirus-long-term-effects/art-20490351>.)

Based on the foregoing, PCU respectfully requests that the Committee grant the within request for approval of a major change in the form of leave to continue its distance-learning delivery of the curriculum beyond the August 31, 2022, expiration of the currently operative waiver and through August 31, 2023.

Dated: June 2, 2022

Respectfully submitted,

Pacific Coast University School of Law

By: *Basil G. Dezes*
Basil G. Dezes, Dean

ATTACHMENT 1
PCU'S September 7, 2021, Request to Extend Waiver

PACIFIC COAST UNIVERSITY

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September 7, 2021

Via Electronic Transmission Only

Natalie Leonard, Esq.
Principal Program Analyst
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State Bar of California
180 Howard Street
San Francisco, California 94105

Re: Request of Pacific Coast University, School of Law, for Approval of Major Change in the Form of Leave to Temporarily Continue Distance-Learning Delivery of Curriculum Beyond the December 31, 2021, Expiration of the Currently Operative General Waiver

Dear Ms. Leonard:

Pursuant to Rule 4.245 of the *Unaccredited Law School Rules*, this will serve as the formal request of Pacific Coast University, School of Law ("PCU") for approval of a Major Change in the form of leave granted by the Committee of Bar Examiners to temporarily continue delivery of its curriculum via the distance-learning format – that is, fully online -- beyond December 31, 2021, the date upon which the currently effective waiver of the requirement that a fixed-facility law school conduct its instruction principally in physical classroom facilities is set to expire by its terms.

This request is based upon the following two grounds:

Natalie Leonard, Esq.
State Bar of California

I.

In View of the Known and Unknown Present and Future Risks to the Health and Safety of PCU's Students, Faculty and Staff Posed by the Ongoing Covid-19 Pandemic, Prudence Dictates the Temporary Continuation of the Law School's Currently In-Place Regime of Conducting Its Instruction via Interactive-Online Means.

To be sure, a great deal of progress has been made in the ongoing effort to minimize the dangers to the public's health and safety posed by the Covid-19 virus. In light of the development of highly efficacious and safe vaccines -- along with implementation of the basic risk-mitigation protocols of physical distancing and mask-wearing -- there is reason to hope that the country, in general, and California, in particular, may be on the road back to comparative normalcy.

That said, however, there yet remain troubling uncertainties and contingencies associated with the extent and timing of the recovery from the pandemic. Among those sobering contingencies and uncertainties, of course, is the presence and spread of highly communicable and lethal variants of the "wild" Covid-19 virus -- including, of course, the so-called Delta Variant. It is precisely because of the virus's vagaries and unpredictability -- combined with the logistical difficulties on the part of small institutions such as PCU to make drastic, last-minute changes in their curriculum-delivery methodology and the expressed discomfort on the part of several faculty members and students with the prospect of returning to campus in the spring -- that, from an abundance of caution, we have no realistic alternative but to plan to continue teaching classes online through at least the spring of 2022.

Indeed, one need only briefly glance at the mainstream news media in order to grasp a sense of the continuing health risks posed by the pandemic -- as typified by the following headlines appearing in the September 4, 2021, edition of *The New York Times*:



3:33 4 The New York Times

Why You Might Not Be Returning to the Office Until Next Year

After the Delta variant disrupted plans to reopen after Labor Day, many businesses pushed their targets further out or left them open-ended.

Natalie Leonard, Esq.
State Bar of California

Moreover, PCU's return to the physical classroom for the spring term amid the currently prevailing health risks, both known and unknown, would unavoidably necessitate implementation of the following logistically challenging disease-mitigation protocols and initiatives:

1. Ensuring proper ventilation in all classrooms, the law library and the administrative suite in an effort to check the airborne transmission of the virus. (As in the case with respect to many modern buildings, none of the windows in PCU's classrooms or elsewhere on campus is capable of being opened);
2. Enforcing physical-distancing and mask-wearing requirements at all times;
3. Devising and implementing special protocols and procedures necessitated by students and/or or faculty members who may claim legal exemption from a vaccination requirement for medical, religious, or other reasons; and
4. Planning and preparing for the disruption that unavoidably will result if and when there occurs a (virtually inevitable) Covid exposure in one or more of our classes — including the necessity to suspend the holding of all in-person class meetings for at least 14 days following any such exposure.

II.

In that the Law School's Synchronous Distance-Learning Method of Conducting Instruction During the Covid Crisis Has Proved to Be Altogether Administratively Workable and Academically Sound, PCU's Students Will Not Be Adversely Affected by the Proposed Continuation of the Online Regime.

As has been described in PCU's previously submitted quarterly status reports on its plans, progress and issues relating to the delivery of interactive online classes during the Covid-19 crisis, the changeover to the distance-learning format has proved successful and, indeed, essentially uneventful. As such, we respectfully submit that there exists no reason to believe that the proposed temporary continuation of the online delivery of instruction pending resolution of the Covid pandemic will in any manner adversely impact our students.

More specifically, PCU continues to deliver its curriculum entirely online via the Zoom virtual-meeting platform, consistent with the current practice of many other institutions of higher learning and graduate/professional programs. As previously reported, PCU's faculty made the changeover smoothly for the most part, and they appear to be increasingly comfortable with the technology as each continues to adapt their teaching approach to this new *modus vivendi* in his or

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State Bar of California

her own way. Likewise, our students have adjusted well to learning in the all-digital environment. We continue to provide basic and advanced training to faculty, as required or desired, in order to assist them in more effectively navigating this modality of course-content delivery. During class meetings held via Zoom, our staff -- namely, PCU's registrar and I -- remain always available to assist with any technological issues or glitches that may arise. All Zoom class meetings continue to be password-protected and waiting room-enabled in order to ensure that only our students are present and that the class does not experience disruption or interruption. In addition, we, of course, continue to monitor student attendance by requiring all instructors to take and submit attendance for each class meeting.

Regarding examinations and grading, PCU is still utilizing the Examplify program for testing purposes. We continue to report no significant issues with the process. In order to verify their identities, students must log in to Zoom on their smartphones, focusing the phone's camera lens on themselves. Each exam is proctored, and the proctor is required to verify the student's identity remotely. The proctor then observes the student for the entirety of the examination period via Zoom. We administer both essay and MBE-style multiple-choice exams remotely. All exam materials must be photographed and emailed to the registrar immediately following administration of an exam. We also ensure that students afforded special testing accommodations are tested in a separate environment so that they may receive the full benefit of all accommodations to which they are entitled.

Finally -- and by way of an anecdotal observation based on feedback received from several professors and upon my own first-hand experience teaching online in the Covid era (Contracts, Professional Responsibility and twice-weekly academic-support sessions in Contracts and Evidence) -- I have concluded (to my own surprise) that the methodology of teaching the law online is not only manifestly "do-able"; it also has about it its own set of distinct advantages. The practical, logistical benefits of synchronous distance learning -- such as affording students and faculty the opportunity to learn and teach in the comfort, convenience and safety of their own homes, thereby dispensing with the need to undergo the anxiety of rushed, often stressful after-work commutes to campus and returning home late at night after class -- are axiomatic, of course. Additionally, however, I have heard several professors' accounts, matching my own experience, of how the up-close and personal, albeit virtual, "face-to-face" interaction between student and teacher on Zoom can be, on certain levels, even *more* pedagogically effective than the physical in-the-classroom setting in teasing-out the issues and principles then under discussion.

* * *

Based on the foregoing, therefore, I respectfully request that the Committee grant the within request of PCU for approval of a major change in the form of leave to temporarily

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continue its distance-learning delivery of the curriculum beyond the December 31, 2021, expiration of the currently operative general waiver until May 31, 2022.

Of course, should you have any questions or comments, please do not hesitate to contact me at any time.

Respectfully submitted,
Pacific Coast University, School of Law

B. G. Dezes

Basil G. Dezes,
Dean and Professor of Law