



OPEN SESSION

AGENDA ITEM O-407

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 Response to Notice of Noncompliance – American Heritage
University School of Law

EXECUTIVE SUMMARY

In December 2021, the Committee of Bar Examiners (Committee) issued a Notice of Noncompliance to American Heritage School of Law (American Heritage SOL). (Attachment A). The Notice directed the law school to respond within 15 days regarding the status of numerous compliance issues documented during the law school's most recent periodic inspection in order to help the Committee determine whether probation or termination of registration was the appropriate next step. The law school did not respond. Therefore, it is appropriate for the Committee to order an inspection to determine whether probation or termination of registration is appropriate.

BACKGROUND

American Heritage SOL is a for-profit registered, unaccredited distance law school headquartered in Rancho Cucamonga, California.

According to its 2021 Annual Report, the law school enrolls 11 students in its JD program, down from 18 last year. At a conference on May 25, 2022, the law school indicated that it currently enrolls 20 law students. The law school's most recent pass rates on the First-Year Law Students' Examination were 0 percent in October 2020, 0 percent in June 2021, and 12 percent in October 2021. Its most recent cumulative five-year bar exam pass rate according to its 2021

disclosure pursuant to California Business and Professions Code 6061.7(a) is 12.5 percent. The law school has also experienced significant attrition.

American Heritage SOL was inspected in December 2020. The law school was provided with significantly more time than usual to complete its self-study due to the pandemic and emergency requests from the law school. The State Bar also required the law school to resubmit its first report when the report submitted was not complete or responsive. After the second submission was also incomplete, the State Bar proceeded with the inspection in order to try to discern why gaps remained in the self-study after repeated extensions and counseling, and to otherwise use the inspection process to assess the law school's compliance..

After the inspection, the law school was provided with additional time to produce documents and information that were unavailable at the inspection. The law school required several extensions to provide the information needed, and despite that, several areas remained unaddressed. The State Bar finalized its report when no further information or explanation appeared to be forthcoming.

The Committee reviewed the resulting inspection report in December 2021 along with the law school's response to the report. The Committee issued a warning letter to the law school based on observed noncompliance, much of which remained unaddressed. The warning letter directed the law school to take immediate action to correct the compliance issues documented in the inspection report, and to provide the response to the State Bar within 30 days. (Rule 4.244(G)(4); Item [O-401, Committee of Bar Examiners' Meeting, Dec. 3, 2021](#)). The warning letter also put the law school on notice that, based on the evidence before it, the Committee intended to pursue probation or termination of registration pursuant to Rule 4.263.

The law school provided a timely response addressing some of the issues identified, while other significant issues remained unaddressed.

At its March 2022 meeting, the Committee reviewed the law school's response to the warning letter. After determining that the letter did not establish the law school's compliance, the Committee proceeded to the next step of the process, issuing a "written Notice of Noncompliance that states the reasons for its belief" as to why the law school is not in compliance. (Rule 4.260). The law school was provided with 15 days to respond to the notice, as required by the rules. (Rule 4.261). ([Item O-403, Committee of Bar Examiners' Meeting, Mar. 18, 2022](#)).

The law school confirmed it received the Notice, but did not respond. The State Bar then contacted the law school to set up a courtesy meeting with staff to discuss the steps of the noncompliance process.

If the law school's response or lack of response fails to establish its compliance, the rules require the Committee to order an inspection to determine whether probation or termination of registration is appropriate. (Rule 4.262).

DISCUSSION

Because the law school did not respond, the Committee does not have a basis to find the law school's response to be satisfactory.

The State Bar confirmed that the law school received the Notice of Noncompliance timely, as well as the directive to respond within 15 days. Next, staff confirmed that the law school did not respond by the deadline. The law school asked for an extension of five days; staff advised this could be requested along with the response. The law school did not submit the response after the five days requested. As a result, staff contacted the law school and arranged a zoom meeting that took place on May 25, 2022 to discuss the noncompliance process as described in the rules.

At the meeting, the law school advised that it did not respond to the Notice of Noncompliance because it had already responded to the inspection report and the warning letter issued by the Committee. Staff reminded the law school that the Committee had reviewed those submissions and found that they did not determine that the law school was in compliance with the Rules and Guidelines for Unaccredited Law Schools, as previously advised verbally and in writing.

The law school was also advised that it had waived its response by failing to meet the published deadlines, as well as its own identified deadline five days later. The law school indicated that it still planned to file additional written comment, but none was received subsequent to the meeting.

The law school was also reminded that they had received several extensions of time to prepare materials prior to the inspection, after the inspection, and during the Committee's inspection review process. The law school also acknowledged at the meeting that the State Bar had been responsive to its questions. The law school has had the opportunity to demonstrate its compliance at the inspection, during lengthy follow-up, during the response to the inspection report, in response to the warning letter, and in response to the Notice of Noncompliance, but it has not done so in material ways, though some improvement has been noted. As a result, while additional information may be provided in the future, it is recommended that the Committee proceed with the information before it at the current time.

At the meeting on May 25, 2022, State Bar staff reminded the law school of its standard options for forwarding information and created a custom site for large file upload to allow the law school to provide a response of any size. As of the time of the posting of this memorandum, no response was received at that site or via any other means.

Given that no response was provided by the stated deadline, compliance was not established. It is recommended that staff contact the law school to propose a remote inspection to take place as soon as possible and that the law school be required to include any people or materials necessary to address the compliance issues noted in the Notice of Noncompliance.

Staff will prepare a report of the observations during the inspection that the Committee can use as part of its final determination of the law school's compliance and whether probation or termination of registration as an unaccredited law school is appropriate.

RECOMMENDATION

It is recommended that the Committee find that American Heritage University School of Law has not responded to the Notice of Noncompliance issued by the Committee within the timeline provided by the rules and has not established compliance with the Rules and Guidelines for Unaccredited Law Schools.

It is also recommended that the Committee direct staff to attempt to schedule a remote inspection to provide the law school with a further opportunity to demonstrate compliance before the Committee takes final action to determine whether probation or termination of registration as an unaccredited law school is appropriate, and that the law school is to bring to that inspection any individuals or information it needs to fully address the issues raised in the Notice of Noncompliance issued to the law school and establish the law school's compliance with the Rules and Guidelines for Unaccredited Law Schools. In light of the numerous and lengthy extensions, it is further recommended that the inspection be conducted as soon as possible, and that if the law school does not respond, that the Committee will take final action based on the evidence before it and impose termination of registration at its August 2022 meeting.

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 find that American Heritage University School of Law has not responded to the Notice of Noncompliance issued by the Committee within the timeline provided by the rules and has not established its compliance with the Rules and Guidelines for Unaccredited Law Schools.

FURTHER MOVE, that the Committee directs staff to schedule a remote inspection of the law school to offer a final opportunity to the law school to address its compliance status, and that the law school be directed to bring to that inspection any individual or information needed to fully address the issues raised in the Notice of Noncompliance issued to the law school and demonstrate its compliance with the Rules and Guidelines for Unaccredited Law Schools.

FURTHER MOVE, that at its next regularly scheduled meeting, the Committee will take notice that an inspection has been conducted and review the resulting report, or, if the law school does not respond, that the Committee will take final action to impose termination of registration at its August 2022 meeting.

ATTACHMENT LIST

- A.** Notice of Noncompliance issued to American Heritage University School of Law



The State Bar of California

180 Howard Street, San Francisco, CA 94105

OFFICE OF ADMISSIONS

Natalie.Leonard@calbar.ca.gov
415-538-2118

March 30, 2022

Dean Rosa Mosley
American Heritage University School of Law
9227 Haven Street, Suite 210
Rancho Cucamonga, CA 91730

RE: Action on Response to Warning Letter from American Heritage University School of Law

Dear Dean Mosley:

The Committee of Bar Examiners met on March 18, 2021 to consider the law school's response to the warning letter issued by the Committee after its December 3, 2021 meeting. After carefully reviewing the law school's response, the Committee took the following action:

MOVE, that the Committee of Bar Examiners receives and files the response of American Heritage University School of Law to the warning letter issued to the law school by the Committee at its December 3, 2021 meeting;

FURTHER MOVE, that the Committee find that the response is not satisfactory to establish compliance and therefore issues a Notice of Noncompliance to the law school, and the law school is directed to respond within 15 days.

FURTHER MOVE, that the Committee deny law school's request to waive unaccredited guideline 6.3 and forego teaching of legal research using hard copy materials.

FURTHER MOVE, that the law school is provided with further notice pursuant to Rule 4.263 that the Committee believes that the inspection report and subsequent response demonstrates that the law school is likely to be out of compliance with the Unaccredited Law School Rules and, therefore, the Committee recommends and intends to pursue probation or termination of

registration unless the law school can provide evidence to demonstrate compliance as part of its timely response to the Committee's Notice of Noncompliance.

The Notice of Noncompliance for your review and response within 15 days of the date of this letter, as well as the invoice requiring a deposit toward charges in this matter.

Sincerely,

Natalie Leonard

Natalie Leonard
Principal Program Analyst

Enclosures

**NOTICE OF NONCOMPLIANCE
TO
AMERICAN HERITAGE UNIVERSITY SCHOOL OF LAW**

March 22, 2022

Pursuant to Rule 4.260, of the State Bar of California's Unaccredited Law School Rules ("Rules"), the Committee of Bar Examiners ("Committee") finds that American Heritage University School of Law ("American Heritage"), a registered unaccredited distance law school, is not in compliance with Rules and the Guidelines for Unaccredited Law School Rules ("Guidelines"):

1. Guideline 1.2: The law school must clearly state the entity status of the law school and any shareholders or partners in the ownership entity, and provide copies of all required paperwork, such as registration with the Secretary of State, local business license, and evidence of taxes paid, if any. The law school must also provide a fictitious business name certificate for the law school and list its agent for service of process. In addition, the law school must clearly state and document the status of its now-cancelled purchase agreement with Richard Dabney, as well as whether any funds paid as part of that purchase must be reimbursed and how any such reimbursement will affect the law school.
2. Guideline 1.9: The law school must cease admitting students into the non-JD program and delete references to that program in its publications. The law school must advise whether it has any partnerships, agreements, or collaborations with any other institution either directly or through American Heritage University and whether the law school or University provides course content in law to other schools, locally or internationally. As this report was being finalized, the law school submitted an application that will be reviewed.
3. Guideline 1.9: The law school must adopt, publish, and implement lawful policies and procedures for handling requests for accommodations, and give notice to students that accommodations given by the law school may differ from those given by the State Bar.
4. Guideline 1.9: The law school must correct the data on the disclosure form required by California Business and Professions Code section 6061.7(a), including correcting the calculation of the bar exam pass rates of its graduates, and properly noting the undergraduate GPAs for entering students. It must also post that disclosure on its website on its Admissions page as required by the statute.
5. Guideline 1.9: The law school must revise its policy on payments and release of student records to conform to California Civil Code section 1788.9 et seq.
6. Guideline 2.1: The law school must be forthright and complete in its communications with the State Bar, including providing accurate financial information, providing access to the finance staff, and providing this information timely.

7. Guideline 2.1-2.3: The law school must review and, as necessary, revise its publications, disclosures, financial statements, and other submissions to the State Bar to ensure that all information provided is accurate, consistent, current, and complete; the current materials require extensive updates.
8. Guideline 2.2(B): The law school must revise its refund policy to provide clear and consistent examples, state that a refund or refund accounting will be provided within thirty days, and provide a working link to the refund form.
9. Guideline 2.8: The law school must revise the student discipline policy for clarity and to conform to all guideline requirements.
10. Guideline 2.9(B)(2): The law school must revise the Catalog to give notice of the circumstances in which Pass/Fail grading is used.
11. Guideline 2.9(B)-(D): To bring itself into compliance, the law school must establish a written policy on authentication of student work and adequately authenticate student work.
12. Guideline 2.9(F): The law school must adopt, publish, and implement procedures to allow students to inspect and copy examination materials as required by the guideline.
13. Guideline 2.9(H): The law school must revise its grade review policy to incorporate the allowable grounds and evidentiary standards required by the guideline.
14. Guideline 3.1: The law school must identify the financial staff including the CFO, make that staff available to answer questions, and make all required financial information available including past results, projections, resources available, and financial relationship to American Heritage University and other parties. The law school must provide a timely, complete, and audited financial statement annually.
15. Guideline 3.3: AHSL's governance and administrative structure must be clearly, fully, and accurately described to the Committee in order to demonstrate to the Committee whether or not the structure appears adequate to support the JD program.
16. Guideline 4.7: The law school must advise instructors of their duty to continually strive to improve their teaching skills.
17. Guidelines 4.8 and 4.9: The law school must adopt, publish, and implement a policy and procedures for the regular evaluation of instructors as required by the guidelines, document a timeline for implementation, and present evidence that the policy has been fully implemented.

18. Guideline 5.3(C)(1): The law school must revise its attendance policy to correctly state that 80 percent attendance is required per course, along with all other course requirements, in order for a student to earn credit for a class. While students may watch archived courses in certain instances, the law school must ensure and document that each student's course instruction includes at least 135 interactive hours per year, rather than taped instruction.
19. Guidelines 5.3(C)(2), 5.19, and 2.9(B)(4): The law school must revise its Catalog to state its academic standards clearly, consistently, and as required by the guidelines, with respect to academic standing, advancement, advancement on probation, dismissal, and graduation. Further, AHSL must set a GPA for graduation that meets the guideline's "reasonable basis" standard, and in doing so should consider the success of its students and graduates on Committee-administered exams.
20. Guideline 5.6: The law school must adopt and implement procedures to ensure that guideline requirements are followed with respect to special circumstance exemptions.
21. Guidelines 5.11 and 2.3: The law school must revise its curriculum to make elective opportunities available, revise its Catalog course descriptions to indicate that not all courses are given each year, and eliminate descriptions for courses the law school does not plan to offer in the next two years.
22. Guideline 5.12: The law school must revise its curriculum to provide instruction in the practical skills enumerated in the guideline as well as Rule 4.240(F).
23. Guidelines 5.17 and 5.18: The law school must review and, as necessary, revise its grading practices to improve the validity, consistency, and reliability of its grades. This revision will give students a more realistic assessment of their likely success on Committee-administered exams. Further, the law school must take steps to verify the identity of test takers so it can verify whether the work turned in represents the student's own work. This ensures that any grade awarded represents the accurate, valid, reliable, and consistent evaluation required by Guideline 5.17. Additionally, this addresses the need to quickly identify and disqualify those students who have demonstrated they are not qualified to continue under Guideline 5.18.
24. Guidelines 5.35 and 2.3: The law school must adopt, implement, and publish transfer credit policies and procedures. This ensures students have notice of the transfer credit limit, and that all guideline requirements are followed with respect to the granting of transfer credit.
25. Guideline 6.3: The law school must provide legal research instruction in both electronic and hardcopy publications.
26. Guidelines 8.1-8.3: It is strongly recommended that this school be required to provide audited financial statements for the foreseeable future. Also, the law school must describe

the sources of its other revenue and explain how it will improve financial performance and finance its operations as it reduces expenses in line with its resources.

27. Guideline 9.1: The law school must review and revise its record-keeping processes to ensure that all required records are prepared and maintained as required by guideline.
28. Guideline 9.1(D): The law school must adopt, publish, and implement a compliant policy on changes to transcript entries. The school must adopt and implement procedures to ensure that transcripts of transfer students contain all required information. Lastly, the law school must correct the transcripts of all current transfer students to conform to guideline requirements.
29. Rule 4.240(K): Overall, the law school must affirmatively provide accurate and complete financial information, for both past and future projections, and grant access to those responsible for financial matters. The law school must provide the State Bar with complete and clear audited financial statements annually and respond promptly, fully, and clearly. The law school must also demonstrate how it intends to remain solvent to provide the services it represents.

APPLICABLE AUTHORITY

A copy of the applicable Rules and Guidelines are enclosed with this notice. Additionally, the Rules and Guidelines may be accessed on the State Bar's website.

The applicable Rules are available on the State Bar's website at:

https://www.calbar.ca.gov/Portals/0/documents/rules/Rules_Title4_Div3-UnAcc-Law-Sch.pdf.

The applicable Guidelines are available on the State Bar's website at:

<https://www.calbar.ca.gov/Portals/0/documents/admissions/GuidelinesforUnaccreditedLawSchoolRules.pdf>

FINDING OF NONCOMPLIANCE

The Committee's finding of noncompliance is supported by the Periodic Inspection Report dated December 18, 2020, the Committee's December 7, 2021 Rule 4.244(G)(4) warning letter, and American Heritage University School of Law's January 3, 2022 response to the warning letter.

Pursuant to Rule 4.261, a law school that receives a Notice of Noncompliance must file a written response within fifteen days of the Notice of Noncompliance demonstrating that it is in compliance, or is taking steps to achieve compliance, with the Rules, along with the required deposit of \$924. (Rule 4.261.) Should the law school acknowledge that it is not in compliance, the Committee asks that the law school's response detail the school's intent, capacity, method, and best effort as to timing to return to compliance. Following receipt and review of the law school's response, the Committee must either notify the school within thirty days that the

response is deemed satisfactory, or if the Committee deems the response unsatisfactory, it must schedule an inspection within thirty days. (Rule 4.262.)

If the Committee believes that the inspection report demonstrates that the law school is not or is not likely to be in compliance with the Rules, the Committee will notify the law school that it recommends probation or withdrawal of registration. (Rule 4.263.) The law school may request a hearing before the Committee within fifteen days of being sent a notice that the Committee is recommending probation or withdrawal of registration. (Rule 4.264.) Within sixty days of receiving a timely request for hearing, the Committee will schedule a hearing at a time that is mutually agreeable to the Committee and the law school. (Rule 4.265(A).) Following the hearing, based on the entire record, the Committee will determine whether the law school is in compliance with the Rules. (Rule 4.266(A).) The Committee may take any action affecting the law school's registration that it considers appropriate, including termination of registration. (Rule 4.266(B).) If the Committee determines that the law school is not in compliance or has not taken adequate steps to comply with the Rules but has made "perceptible progress toward compliance," the Committee may place the law school on probation and impose probation conditions on the law school. (Rule 4.267.)