



OPEN SESSION

AGENDA ITEM O-406

AUGUST 2022

COMMITTEE OF BAR EXAMINERS

DATE: August 19, 2022

TO: Members, Committee of Bar Examiners

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

SUBJECT: Action on Conclusion or Extension of Probation or Termination of Accreditation and Application for Registration as an Unaccredited, Fixed-Facility Law School and Waiver to Teach Classes Online Due to COVID – Lincoln Law School of San Jose

EXECUTIVE SUMMARY

Lincoln Law School of San Jose (Lincoln - San Jose) is concluding its probationary period and has not met the condition of reporting a minimum, cumulative five-year bar exam pass rate (MPR) of 40 percent or more within the time allowed. The law school's MPR has declined from 36.5 percent last year to 36.1 percent this year. There are four tasks before the Committee today. First, the Committee must determine the appropriate action since the law school has not met the terms of its probation within the time allowed. Second, the Committee must consider the law school's request for an extension of time to meet the conditions of its probation. (Attachment A). Third, the Committee must review and act on the law school's application for registration as an unaccredited law school, filed as a precaution in the event that the law school's accreditation is terminated. (Attachment B). Fourth, regardless of the outcome of the prior motions, the Committee must review act on law school's application to extend its waiver to teach classes online temporarily due to the pandemic. (Attachment C).

BACKGROUND

At its January 29, 2021, meeting, the Committee placed Lincoln Law School of San Jose on probation due to reporting an MPR value below 40 percent in 2020, 2021, and 2022. ([See Item O-401, Committee of Bar Examiners' Meeting, Jan. 29, 2021](#)). The Committee directed that, to maintain its accreditation the law school must achieve an MPR of at least 40 percent no later

than the 2022 MPR reporting cycle. The law school has not done so. (See Item O-404, Committee of Bar Examiners' Meeting, Aug. 19, 2022).

When the law school was placed on probation, a prior set of accredited rules were in effect and those rules will therefore control here. Those rules were in place until December 31, 2021. Currently, all accredited law schools are in a transitional period. They may comply with the new rules immediately or may take up to two years, through December 31, 2023, to comply with the new rules while maintaining compliance with the rules that were in effect through December 31, 2021. Both sets of rules require that accredited law schools maintain an MPR of 40 percent or more.

Applying the prior rules is appropriate for two reasons. First, the probation was imposed under those rules. Next, in the current rules, the opportunity for a hearing is placed earlier in the process – which would have already passed if those rules were to be followed in this instance. By following the former rules, the law school is being afforded the opportunity to request a hearing following today's action by the Committee. The law school supports this plan as well.

The process for acting on noncompliance with the prior accredited rules and guidelines is set forth in Rule 4.170 et seq. in the prior accredited law school rules. All further references in this memorandum will be to the prior accredited law school rules unless otherwise noted.

If the Committee concludes that an accredited law school has not complied with one or more applicable rules, the Committee issues a Notice of Noncompliance. (Rule 4.170(A)). The Committee issued a Notice of Noncompliance to Lincoln Law – San Jose in August 2020, when it reported an MPR value of 30.5 percent, below the minimum 40 percent required by Rule 4.160(N), now noted as Rule 4.160(D)(6) in the current Rules for Accredited Law Schools. ([See Item O-400, Committee of Bar Examiners' Meeting, Aug. 21, 2020](#)).

The law school was permitted to file a response to the Notice of Noncompliance in an attempt to “demonstrat[e] that it ... is in compliance with these rules.” (Rule 4.170(B)). Lincoln Law School of San Jose filed a timely response, and the Committee reviewed the response. The response did not dispute that the law school was out of compliance. Instead, the law school detailed the steps the school was taking to try to improve its graduates' cumulative bar examination passage rate.

The Committee did not find the law school's response to be satisfactory because the law school did not demonstrate that it was in compliance with the MPR requirement. As a result, the rules required the Committee to “schedule an inspection ... within sixty days of its consideration of the matter.” (Rule 4.170(B)(2)). ([Item O-401, Committee of Bar Examiners' Meeting, Dec. 5, 2020](#)).

At the Committee's December 2020 meeting, the Committee directed staff to coordinate a telephonic inspection. The inspection took place on January 11, 2021, led by Committee members Alex Chan and Larry Kaplan, as well as State Bar staff Natalie Leonard. At the inspection, the school had an opportunity to present information to supplement the written responses that the school had filed previously as to its compliance status.

The Committee reviewed the resulting inspection report and all other information before it and imposed a period of probation to last for two MPR reporting cycles. (Rule 4.172(B)). ([Item O-401, Committee of Bar Examiners' Meeting, Jan. 29, 2021](#)). The Committee advised that it would pursue termination of the law school's accreditation if it did not raise its MPR to at least 40 percent by the time it reported its 2022 MPR. The Committee also advised that only annual MPR values calculated according to the published formula and reported in July would be considered when satisfying the probation condition.

Rule 4.176 provides that, "[t]he Committee will terminate accreditation or provisional accreditation on a specific date, at which time it will also terminate a law school's degree-granting authority." It further provides that "[u]ntil that date, students attending the law school are deemed enrolled at an accredited ... law school."

At least thirty days before probation expires, the Committee will notify the law school of its determination that ... it will end the accredited law school's probation or will proceed to terminate the law school's accreditation. (Rule 4.172(D)).

Therefore, if the Committee intends to terminate the law school's accreditation, it must provide at least 30 days' notice. (Rule 4.172 (D)). The Committee also maintains the discretion to select a date further in the future. If the Committee chooses to exercise this discretion, staff notes that the fall 2022 semester has already begun, however, December 31, 2022 coincides with the conclusion of the semester, which may provide both clarity and administrative convenience for both the students and the law school. In the alternative, if the law school prefers to transition directly to registered, unaccredited status, it may do so, if the Committee approves the law school's application also contained within this agenda item.

Pursuant to Rule 4.173, the school may, within 15 days of the sending of the notice, request a hearing before a panel of three Committee members as described in Rule 4.174. Following that hearing, the full Committee will consider whether to take action to terminate the accreditation. Rule 4.175.

Request for Extension of Time to Meet Probationary Conditions

The law school has requested an extension of probation under the new accredited law school rules. These rules provide that "the Committee may extend the probationary period if the Committee makes specific findings that extraordinary circumstances justify the extension." They further provide that "[i]n reviewing an extension request, the Committee shall consider the progress made toward bringing the law school into substantial compliance or compliance and any other relevant information." (Rule 4.172(E)).

The law school's reasoning as to why an extension is justified is set forth in Attachment A and summarized in the discussion below.

Application for Registration as an Unaccredited Law School

If the Committee moves to terminate the law school's accreditation, the law school has submitted the attached application for registration as a fixed-facility law school, teaching classes during the 2022-2023 school year online as needed due to COVID, as set forth in Attachment B.

Request for Waiver to Teach Classes Online Due to COVID

In order to address the circumstances faced by the pandemic, the State Bar has been considering waivers to teach classes online in the interest of public health. This law school has been teaching under such a waiver since spring 2020; that waiver is set to expire on August 31, 2022.

DISCUSSION

Request for Extension of Time to Meet Probationary Conditions

The law school requests that it be allowed to remain on probation for a longer time to allow it to try to raise its MPR to 40 percent or more as required by its probationary conditions. The law school's first choice would be an extension to the 2023 MPR reporting cycle. In the alternative, the law school seeks an extension to two full years of probation and the calculation of a mid-cycle MPR after the release of the July 2022 bar exam results but before the release of the February 2023 bar exam results. This is not contemplated in either set of the rules. The law school's full request for extension is set forth in Attachment A. The law school cites progress made to date raising its MPR over 5 percentage points in the past two years as the rationale for this request, though the pass rate has not increased this year. The law school also indicates that if it transitions to unaccredited status, it will be more challenging for the law school to continue to increase its overall pass rate on State Bar exams because the quality of its student body and its revenues may decline.

Action on Probationary Status

The law school has remained in accredited status over the last three MPR reporting cycles though its MPR has been below 40 percent. The Committee must weigh the law school's request for more time to meet the requirements against fairness to other law schools who met the standard and to the public, who will expect that this standard is met for all accredited law schools.

In addition, while the law school believes that its students' ability to take and pass the bar exam was impacted negatively by the pandemic, all law schools faced the same public health conditions as they delivered their educational programs during the pandemic. During that time, MPR values at many law schools increased.

While the law school's MPR has increased since the start of its probation, it has decreased from last year and remains under the 40 percent minimum. The law school has provided detailed calculations indicating why it believes it can return to compliant status by the 2023 reporting

cycle, but this is speculative, this is not the time period set forth, and the law school's MPR did not increase this year. The law school will be able to apply for accreditation in the future if it again meets the MPR standard at that time.

Under these circumstances, it is appropriate for the Committee to conclude the law school's probationary period and consider termination of accreditation, as originally described in the law school's probationary conditions.

Application for Registration as an Unaccredited Law School

If the Committee acts to terminate its accreditation, Lincoln Law School of San Jose requests that the Committee grant its application to register as an unaccredited, fixed-facility law school. (Attachment C). Staff reviewed the attached application in detail and key points are summarized here.

The school agrees to take steps to meet all obligations of registered, unaccredited, fixed-facility law schools, including filing compliant annual reports and complying with conditions that the Committee may impose, including a confirming inspection to be scheduled shortly after the law school's registration takes effect.

The school will use its current framework to ensure honesty, integrity, equity, and effective governance. The school described its infrastructure for ensuring lawful operation, integrity of operations, non-discrimination, and governance. (Rules 4.240 (A), (B), (C), (K), (L), (M)). The school is a non-profit public benefit corporation. Though founded much earlier, it has been an independent entity since 1993. Tuition covers 80 percent of expenses, while grants and donations cover the rest. The law school is governed by a board and its financial statements are audited by an independent entity.

The law school keeps a reserve large enough to support itself for approximately one school year, which it feels will be sufficient to carry the law school through the transition. (Rule 4.240 (K)).

The law school asserts it will continue to maintain accurate records. (Rule 4.240(L)).

The school has a non-discrimination policy and maintains a diverse student body and faculty, as well as a policy designed to provide effective accommodations to qualified students. (Rule 4.240 (M)).

The credentials of the school's dean and faculty meet the requirements of the rules. The school's dean will continue to be Laura Palazzolo, a graduate of the law school who was a private attorney and professor before assuming the role of dean; she is a California licensee. (Rule 4.240 (D)). The school expects to retain its current faculty.

The school's proposed fixed-facility JD education program appears to be a compliant program. A registered, fixed facility school must offer a sound program of legal education that includes at least 270 hours of classroom instruction per year. (Guideline 5.3). The law school's planned

program includes more than the minimum 270 hours of classroom instruction per year. (Rule 4.240 (E)). While the law school plans to continue to offer its current program, the law school should continue to evaluate enhancements that can improve outcomes for its student customers.

The law school will maintain its competency training options and enhance its writing skills programs, exceeding the requirement that registered schools provide at least six units of competency training. (Rule 4.240 (F)).

The law school will implement a compliant admissions program requiring students to establish that they have the time and capacity to devote to the rigorous part-time study of law. (Rule 4.240 (H)). The school will update its outreach and disclosures to reflect its intent to operate as an unaccredited law school.

Students will continue to have access to support services through academic support (Rule 4.240 (G)).

The school will maintain its physical facilities and student services, while seeking a waiver to update its library. The school's library is significant, and the law school is undertaking a review to see if additional hard copy volumes are needed to fully comply with the library requirement. (Rule 4.240(I)). Unaccredited, fixed-facility law schools are subject to different requirements than accredited fixed-facility law schools and certain hard copy volumes are required. (Guidelines 6.2, 6.4).

The school will also maintain its building, including library facilities, so they are available for use when in-person classes are practical. Until then, the school has been conducting remote education with adequate technical capacity and is asking by way of this application for a further permission to teach classes online through June 30, 2023 due to the pandemic. (Rule 4.240(J)).

Request for Waiver to Teach Classes Online Due to COVID

The law school submitted a request to continue to teach classes online due to the pandemic through June 30, 2023. (Attachment C). The law school first began teaching classes online when the Committee granted a temporary waiver to do so to all fixed-facility law schools to do so. The law school later filed a waiver request to continue teaching online through June 30, 2022. While the law school planned to return to fully online teaching with the 2022-2023 school year, the law school seeks permission to simultaneously broadcast classes for remote, synchronous attendance to allow students to isolate as needed or otherwise comply with public health orders if they should arise.

RECOMMENDATIONS

It is recommended that the law school's request for an extension of time on probation be denied. It is further recommended that the Committee find that the law school has not met the terms of its probation within the time period specified and that the law school be notified of the Committee's determination to terminate the law school's accreditation effective December

31, 2022. It is further recommended that the law school's request for registration as an unaccredited, fixed-facility law school be granted, with a confirming inspection to be set for 2023. It is further recommended that the law school's request to extend its temporary waiver to teach classes online through June 30, 2023, due to the pandemic be granted. Finally, the law school should be advised to inform its students, prospective students, and the public of these decisions immediately, including posting prominent notice on its law school website home page in a font size consistent with the rest of the page and under its own heading and title.

PROPOSED MOTION

If the Committee agrees with this recommendation, the following motion is suggested:

MOVE, that Lincoln Law School of San Jose's request for an extension of time to complete the requirements of its probation be denied.

FURTHER MOVE, that the Committee find that the law school has not met the terms of its probation within the time period specified and that the law school be notified that the Committee intends to terminate the law school's accreditation effective December 31, 2022.

FURTHER MOVE, that the law school's request for registration as an unaccredited, fixed-facility law school be granted, with a confirming inspection to be set for 2023.

FURTHER MOVE, that the law school's request to extend its temporary waiver to teach classes online through June 30, 2023 due to the pandemic be granted.

FURTHER MOVE, that the law school shall inform its students, prospective students, and the public of the Committee's decisions immediately, including posting prominent notice on the law school's website home page in a font size consistent with the rest of the page and under its own heading and title.

ATTACHMENTS LIST

- A. Application for Extension of Probation Due to Extraordinary Circumstances
- B. Contingent Application for Registration as an Unaccredited, Fixed-Facility Law School
- C. Application for Extension of Waiver to Teach Classes Online Due to COVID



July 27, 2022

Committee of Bar Examiners
State Bar of California
180 Howard Street
San Francisco, CA 95

RE: Application to Extend Probation for Extraordinary Circumstances or, In the Alternative, To Provide a Full Two-Year Probationary Period

Member of the Committee:

Lincoln Law School of San Jose ("Lincoln") hereby requests that the Committee of Bar Examiners ("Committee") extend Lincoln's probation through July 1, 2023, as a result of extraordinary circumstances, pursuant to the provisions of Rule 4.172(E) of the Accredited Law School Rules effective January 1, 2022 ("Rules"). In the alternative, Lincoln requests that the Committee allow Lincoln the full two-year probationary period under Rule 4.172(C) of the Rules, thus allowing Lincoln at least until the December 2022 Committee meeting to show evidence of compliance with the minimum Bar Pass Rate.

I. INTRODUCTION

The last two years have been nothing if not extraordinary. People and businesses all over the world have been adjusting to circumstances nobody could have imagined in January of 2020. The State Bar, the National Committee of Bar Examiners, and Lincoln, as well as Lincoln students and alumni, all did their best to adjust to shifting circumstances as they arose. The State Bar and NCBE had to decide whether (and how) to administer the Bar Exam in an online format when applicants were prevented by health directives from gathering in person. Applicants also had to decide whether (and where) to take the exam in an unfamiliar format when their usual quiet spaces were either closed or chaotic.

While it is admirable that vendors and State Bar administrators were able to make any sort of Bar Exam possible, the result of those efforts was not an experience equal to that of taking the traditional Bar Exam. The stories of students having to take the exam in a hotel room or, like one Lincoln graduate, in his garage, are abundant. The experiences of Bar Exam applicants for the last two years have been marred by events and circumstances outside of their control, and which circumstances disproportionately affected students with fewer resources to find accommodations – physical, psychological, and technological.

Similarly, the speed with which remote exams were made possible also made those exams vulnerable to glitches that had an effect on applicant performance and behaviors. Some of these glitches affected applicant scores in a manner that cannot be adequately compensated for by a standard adjustment formula. And concerns about (or negative experiences with) the online technology also caused applicants to delay taking, or repeating, the exam. Both of these resulting anomalies affected Lincoln graduates, and those effects are reflected in Lincoln's current Bar Pass Rate. These are unprecedented affects and there was nothing Lincoln could have done to ameliorate them.

As the Committee is aware, Lincoln was placed on probation in February of 2021, after the first “Pandemic Bar Exam” in October of 2020, and just before the online February 2021 Bar Exam. Lincoln’s initial probationary period will end on July 31, 2022, unless extended, without an abatement of the major effects of the lockdown. Three of the four administrations of the Bar Exam during probation will have been online – two of those with major technological issues causing applicants emotional distress. And the last administration (February of 2022) returned to in-person conditions under a cloud of continued uncertainty regarding the safety of gathering large groups of people indoors – a situation which has caused applicants to choose not to take this exam (because of their own, or a loved one’s health concerns and not because they are unprepared).

Despite these extraordinary circumstances, Lincoln has made great strides with respect to improving its Bar Pass Rate, with 18 more Lincoln students having passed the Bar. However, the exceptional circumstances of the last two years have definitely made the road to compliance more difficult; and Lincoln still finds itself short of the required 40% by two students. Nevertheless, Lincoln believes an extension of its probation for another year, through July of 2023, is warranted as a result of the unexpected challenges both the State Bar and Lincoln students and alumni have endured during these unprecedented times.

In the alternative, Lincoln submits that the issuance of the Committee’s Order of Probation on February 4, 2021, providing for a probation period through July 1, 2022, allowed Lincoln only 17 months of probation, while Rule 4.172(C) allows up to two years. While Lincoln understands the reasoning behind ending a probationary period when the last official Bar Pass Rate is reported within the two year period, Lincoln believes that if the Committee were to extend the probationary period for the full two years – through its December 2022 meeting, that Lincoln may be able to show, to a statistical certainty, its 2023 Bar Pass Rate compliance to a statistical certainty based on the results of the July 2022 Bar Exam, such that revocation of Lincoln’s accreditation would be a moot exercise.

Lincoln asks that the Committee consider the merits of both alternatives. These have been extraordinary times, and Lincoln has made extraordinary progress despite many obstacles. It believes having access to a single “normal” July Bar Exam during its probationary period may be all that is required to complete its rapid return to compliance and asks that the Committee consider the possibility of a mid-year report in December if extension to an official report in July of 2023 would otherwise offend the Committee’s notions of fair play and substantial justice.

II. LINCOLN’S BAR PASS HISTORY AND CURRENT STATUS

Lincoln has been continuously accredited by the Committee of Bar Examiners since 1993, when it separated from Lincoln University in San Francisco almost thirty years ago. The ultimate Bar Pass Rates of Lincoln class years from 2013-2016 were all at or above 64%. But the change in the Bar Exam to two days and one-half multiple choice in 2017 affected the 2017 bar takers particularly hard. The Bar Pass Rate for that class year remained stuck at 10% for three years. (During the probation period, the cumulative Bar Pass Rate for the 2017 class has risen to 30%).

As was explained in the context of the probation site inspection, in 2016, Lincoln partnered with Barbri for Bar Review, which partnership allowed Lincoln students access to Barbri study materials during their Lincoln studies, as well as early access to Barbri’s Summer Bar Review Course. Lincoln’s in-house Bar Review courses were taught by Barbri professors. This seemed like an excellent idea, given Barbri’s

reputation for student success on the Bar Exam. But it turned out that Barbri resources were not a good fit for Lincoln's graduates – most of whom continued working through their summer Bar Review studies. The Barbri system is geared toward full time law students, not part time working professionals.

The result was that Lincoln's first time Bar Pass Rate plummeted. Lincoln reviewed its historical trends and noted that even those class years with low first time Bar Pass Rates generally self-corrected and reached a 40% pass rate by three years after graduation. (See **Table 1 attached**). So, from 2016 to 2019 Lincoln stayed the course and simply coordinated with Barbri on various adjustments to its curriculum. In 2018, Lincoln reported a cumulative Bar Pass Rate of 56.1%. In 2019, it dropped to 44%. At this point it became obvious that the 2017 class was not self-correcting, and neither was the 2018 class, as everyone was repeating the Barbri study cycle in reliance on Barbri's "repeat guarantee" (students who use Barbri and do not pass the first time may repeat the Bar Review course for free).

Though Lincoln began to make immediate changes to its Bar Review program in 2020, it was, by then, too late, and Lincoln reported a disappointing cumulative Bar Pass Rate of 30.9% in July of 2020. (This figure was later adjusted to 31.5% based on a 2016 graduate participating in the Provisional Licensure Program). Lincoln received an Order from the Committee of Bar Examiners placing Lincoln on probation on February 4, 2021. Lincoln's cumulative Bar Pass Rate would be reviewed again after the February 2021, July 2021, and February 2022 exam results were posted.

As will be described in more detail below, the two summer administrations (2021 and 2022) were technologically flawed, and the February 2022 administration boasted the lowest all-time national average on the MBE portion of the exam. Nevertheless, ***six times more Lincoln graduates passed the exam during the probation period than had passed in the prior four administrations.*** Moreover, more Lincoln students passed the exam in the last two years than had passed the exam ***in the prior four years combined.***

Though it may appear Lincoln hasn't made much progress, raising its Bar Pass Rate from 31.5% to 36.1%, these numbers are deceiving. As illustrated in **Table 1 attached**, every year for the past four years, Lincoln's cumulative 5-year Bar Pass Rate has dropped off a class year with an ultimate pass rate at or above 64%, and replaced it with the 2017 class (stuck at 10%) and additional class years earlier and earlier in their cumulative cycles. ***To put the accomplishments of the past two years in perspective, at the time of probation, Lincoln's 2017-2019 class years were at a combined 9.4% Bar Pass Rate. Now, the combined pass rate for those three classes is 40.6%.*** In addition, three of the last four class years (2018, 2019 and 2021) are already at or above 40%. (See **Table 1 attached**). With small class sizes in the 10-12 student range, every student's score can have an outsized impact. For example, if only *one more student* in had passed the exam in this reporting period, the cumulative Bar Pass Rate for the four class years from 2018-2021 would be 40.5%. One more student is all Lincoln would have needed to be able to say that, without the 2017 class, Lincoln's most recent class years would already be in compliance with the minimum Bar Pass Rate. Given the fact that Lincoln has averaged 9 passers per year over the past two years, a compliant cumulative pass rate in 2023 is practically assured.

No doubt the damage done by Lincoln's reliance on a commercial bar review program has been severe; and obviously, Lincoln should have seen the precipitous drop in its cumulative Bar Pass Rate coming sooner. Indeed, Lincoln has been working with various accreditation consultants to improve its data collection and reporting capabilities with the purpose of improving visibility into these and other important student success measures. But, since the purpose of probation, and accreditation standards in general, is public protection, the focus of the Committee's inquiry should be on the status of Lincoln's

most recent graduating classes as being most predictive of the likely success of incoming students based on Lincoln's current curriculum and practices. For this reason, the extraordinary results of these past two years on Lincoln's most recent graduating classes (six times more passers and a cumulative increase of 31.2% in two years) cannot be over-emphasized.

III. EXTENSION OF PROBATION IS APPROPRIATE UNDER EXTRAORDINARY CIRCUMSTANCES

Pursuant to Rule 4.172(E), the Committee may grant an extension of a school's probation if extraordinary circumstances justify the extension.

As the Committee is aware, Lincoln was placed on probation in February of 2021 because its Bar Pass Rate had fallen to 31.5%, short of the 40% minimum required under Rule 4.147(D)(6). By July of 2021, Lincoln's Bar Pass Rate had risen to 36.5%, an increase of 5%, but still short of the required minimum.

While Lincoln has shown exceptional progress toward bringing its Bar Pass Rate into compliance with Rule 4.147(D)(6), a number of unusual and extraordinary events have occurred during Lincoln's probationary period that have affected the administration of the Bar Examination and have been reported by Lincoln alumni to have affected their performance on the exam. As a result, Lincoln believes the circumstances of the past two years would qualify Lincoln for an extension of its probation through July of 2023, and that the immediate granting of an application for such extension is appropriate so that applicants may receive accurate disclosures as they consider what it would mean to begin their law school studies with Lincoln in the Fall of 2022.

The Committee may grant such an extension immediately pursuant to Rule 4.172, as follows:

(A)-(B)...

(C) If the Committee finds that an accredited law school, or any branch or satellite campus thereof, has not complied with these rules, the Committee may place the law school on probation for a specified time not to exceed two years.

(D) A provisionally accredited or accredited law school placed on probation is subject to any probation conditions imposed by the Committee, including interim inspections, public notice, and progress reports. The law school continues to have degree-granting authority and its students are deemed enrolled at a provisionally accredited or accredited law school, as applicable.

(E) No sooner than the last six months prior to the conclusion of the probationary period, *the Committee may extend the probationary period if the Committee makes specific findings that extraordinary circumstances justify the extension. In reviewing an extension request, the Committee shall consider the progress made toward bringing the law school into substantial compliance or compliance and any other relevant information.* [emphasis added]

(F) At least 30 days before probation expires, the Committee will set a date, and notify the law school of such date, and on or after such date, the Committee will determine whether it will:

(1) end the provisionally accredited law school's probation or will proceed to terminate the law school's provisional accreditation; or

(2) end the accredited law school's probation or will proceed to terminate the law school's accreditation.

(G) The Committee may remove a law school from probation prior to the conclusion of the probationary period if the law school demonstrates substantial compliance or compliance, as applicable. Probation is not available to a provisionally accredited law school during the last 180 days of its provisional accreditation.

(H)

A. Extraordinary Circumstances Justify An Extension As A Result Of The Worldwide Pandemic

The past two years have been nothing if not extraordinary. The entire world has been trying to find its way through a pandemic that has resulted in millions of deaths, and an unprecedented shuffling of the workforce and studying remotely has created many challenges.

Specifically with respect to the pandemic's effect on Lincoln alumni's endeavors to pass the Bar Exam, the following factors, taken together, provide sufficient support for a finding of extraordinary circumstances to justify an extension:

1. The pandemic affected students' work and home lives.

Most Lincoln students are working professionals. Most also live in Santa Clara County, which was one of the first in the country to implement Covid-related lockdowns. The result was wide-spread layoffs, followed immediately by housing uncertainties. Many Lincoln students struggled with juggling the financial uncertainties at home alongside the many immediate and significant changes from on-site to online learning at Lincoln. For some, the financial uncertainty prevented them from taking the Bar Exam immediately after graduation. It is difficult to catch up after significant gaps in studying.

When laid off or furloughed students returned to work, they were necessarily "on Zoom" for 8 hours a day for work, followed by another 3 at Lincoln. The online fatigue was apparent. In addition, the "great resignation" has resulted in significantly increased workloads, increased responsibilities, and shifting schedules for some students. These changes continue to make success in school more difficult.

2. The pandemic affected Lincoln students' ability to study for the Bar Exam.

Lincoln is an on-site law school program. Lincoln students are used to learning in a classroom. Most commercial bar review companies historically offered onsite bar review courses as well. Most of Lincoln's most successful graduates took time off work to attend onsite seminars, and then went to a library or other quiet space to complete the assignments.

However, by May of 2020, Bar Review companies were unable to provide on-site seminars. And, while online Bar Review courses were available, all quiet public spaces (like libraries) were closed. In addition, as noted above, Lincoln alumni were shut in at home, most of them with children and working spouses

who were also shut in at home – all of them competing for the electronic resources required for online working and learning. Spouses were trading off at-home childcare responsibilities, since children could not go to school. And the noise, with so many people needing to be on their devices at one time, was inescapable.

3. The pandemic affected Lincoln students' ability to take, and succeed on, the Bar Exam.

a) The move to an online exam format in Summer of 2020 was challenging.

A number of factors combined to make the October 2020 exam particularly challenging for Lincoln students.

i) As an initial matter, the exam date was moved from July to October. For some working students, who had already arranged for time off work and childcare, the change of date was simply not feasible. Many had arranged for multiple weeks off, and those are not easily rearranged with supervisors and co-workers. Similarly, a shift from a time when children are on a break from school to a time when children were competing against potential Bar takers for study space and online resources was unmanageable. In addition, all the uncertainty around whether the exam would be held, and how, created significant mental strain and anxiety, causing even those who could manage the logistics of taking the exam to have been distracted from studying.

ii) The change to an online format was a barrier for students used to on-site exams. Lincoln is an on-site school. Lincoln students are used to marking up their fact patterns with highlighters and pens. Such practices were suddenly not allowed in the online environment. Similarly, students had been acclimated to completing three essays in three hours, such that the timing between essays could be adjusted. If one essay went long, the next could be completed more quickly. Taking a break between each essay removed that flexibility. For some takers, finding a quiet place to take the exam, with appropriate uninterrupted internet speeds was a challenge. Lincoln students generally cannot afford high speed connections and could not rent hotel rooms. Those with reasonable connections had family members or roommates sharing their living spaces. The State Bar limited the number of students that could be accommodated in Lincoln classrooms. One Lincoln student lamented about having to take the MBE portion of the exam in his garage.

As a separate matter, when a lack of fine tuning in the proctoring software resulted in thousands of letters accusing applicants of cheating, many Lincoln students expressed concern that their ability to obtain a license might be threatened, even if they passed a future exam. The result has been that large percentages of the 2020 and 2021 graduating classes still have not taken the exam (30% of the 2020 graduates and 40% of the 2021 graduates). When there are only 10 graduates in a class year, the circumstances and decisions of a single student can affect that class year's Bar Pass Rate by 10%. When 40% of the graduates have yet to take the exam, each graduate who takes the exam changes Lincoln's Bar Pass Rate for that class year by almost 20%.

b) The "glitch" in the July 2021 exam affected scores in ways that cannot be calculated.

In July of 2021, a software glitch caused significant delays for hundreds of Bar Exam takers. For those affected, the State Bar created an algorithm that purported to provide a simulated score for the affected exam sections. At least two Lincoln students were affected, and each of them missed a passing core by

approximately 10 points. While the simulated score was the best the State Bar could do under the circumstances, such a score cannot compensate for the mental anguish caused by the glitches, which undoubtedly affected the applicants' remaining sections as well. In addition, affected students spent valuable time between the July and February exams attempting to contact the State Bar and manage the appeal process. It is impossible to know the effect the glitch may have had on the two Lincoln graduates. But it is easy to speculate that their exam results could have been affected by ten points, which was their margin of error. *If those two students had passed, all four of Lincoln's most recent class years would have a Bar Pass Rate at 40% or above, and Lincoln's overall Bar Pass Rate would be at 40.4%.*

(c) The ongoing pandemic is affecting bar exam scores nationally.

According to a recent press release, the average score nationally on the multiple-choice section of the February 2022 Bar Exam was at an all-time low. Despite this anomaly, ***Lincoln's pass rate on the exam was 30.8%, almost seven percentage points higher than the overall "repeater" average for all schools, and 16.7 percentage points higher than the Accredited school average (14%).***

In addition, the February Bar Exam was the first onsite exam since the pandemic began, and many students were wary of taking it, as the steep drop in applications from historic norms suggests. As noted above, with such small classes, the decision of one or two students not to take the exam could have been the difference between Lincoln meeting and falling short of its 40% goal.

For all the foregoing reasons, Lincoln believes that sufficient extraordinary circumstances have existed during the entire length of the current two-year probation that would justify the extension of Lincoln's probation for another year.

B. Extraordinary Progress Has Been Made Toward Bringing The Law School Into Substantial Compliance

1. Six times more students have passed the exam in the last two years than in the previous two years, and more students have passed in the past two years than in the previous four years combined.

As noted during Lincoln's inspection prior to probation, from 2016 to 2021 Lincoln had contracted its Bar Review out to Barbri and had allowed students to make private tutoring arrangements in lieu of Lincoln's Bar Review course. As it turned out, Barbri's online Bar Review was not a good fit for Lincoln's working students, and the level of private tutoring proved ineffective. The result was a Bar Pass Rate that continued to fall.

Between July of 2016 and February of 2020, a total of 52 "Barbri graduates" took the Bar Exam at various intervals. In those 8 administrations, only 13 graduates passed the exam. In the 4 administrations between July of 2018 and February of 2020, the total number of passers was 3. Nevertheless, in January of 2021, Lincoln committed to seeing 20 Lincoln graduates pass the Bar Exam in the 4 administrations between July of 2020 and February of 2022. It was a bold statement of faith in the Lincoln community.

And, in a testament to the investments made by the school in bringing Bar Review back in house; and, of course, with the hard work of Lincoln's graduates, Lincoln saw 10 alumni pass the Bar Exam in the 2021

reporting period and 8 more in the 2022 reporting period, for a total of 18 new passers. *Thus, in the past four administrations (July 2020-February 2022), six times more Lincoln graduates have passed the exam as compared to the number who passed in the previous four administrations (July 2018-February 2020). The total number of passers in the past two years (18) also exceeded the total number of passers from the previous eight administrations combined (13 passers from July 2016-February 2020).*

Lincoln still fell short of the minimum Bar Pass Rate by four students (some of Lincoln's recent passers were from class years outside the reporting period). But the huge swing in numbers, particularly the 30% improvement in the combined Bar Pass Rate for the last four class years) should give the Committee some assurance that the problems of Lincoln's past were, indeed, attributable to an error in judgement relative to our Bar Review system, and not a reflection of the quality of a Lincoln education generally. Strong evidence suggests that our new Bar Review system works, such that continued improvement may be expected long into the future.

2. Lincoln's performance on the Bar Exam since 2018 matches historically successful norms.

Despite the devastating effect Lincoln's five-year Barbri contract had on its first time Bar Pass Rate between 2016 and 2019, six of the past seven class years have met or exceeded the 40% minimum Bar Pass Rate within the first three years after graduation, and four of the last seven graduating classes have met or exceeded a 64% Bar Pass Rate. The 2020 class had 10% of its takers pass on the first try, and the 2021 class is already at 40%.

Table 1 attached shows the progression of Lincoln's cumulative Bar Pass Rates for the past nine graduating classes.

As the Table shows, the "Barbri years" (in red) had a significant effect on Lincoln's first time Bar Pass Rate. But the 2016 class corrected itself to 54% after two years, and reached 64% after three years, to match or nearly match the results of the previous two graduating classes.

The 2017 graduating class results (in red) were an anomaly, as will be further discussed below. Until to recent successes during the probation period, the class had been "stuck" at a 10% pass rate.

But the most recent graduating classes are beginning to show the effects of the changes to curriculum and Bar Review protocols Lincoln began implementing in 2019. As a consequence, the 2018 class has exceeded the 40% minimum pass rate within three years, the 2019 class met the 40% pass rate within 2 years (and the 50% mark in three years), and the 2021 class met the 40% pass rate in its first year.

Accordingly, no public protection purpose would be served by removing Lincoln's accreditation at this time. Rather, a further extension of probation through at least July of 2023 (when the 2017 class is removed from the equation, as explained below) is both right and appropriate.

3. The 2017 Graduating Class Was An Anomaly Without Which Lincoln Would Not Be On Probation.

Lincoln's 2017 graduating class was the first to take the 2-day Bar Exam. Only one of the 2017 graduates passed the Bar Exam on the first try, and the rest of the class has simply never been able to find its footing.

Table 2 attached shows, six of the seven class years from 2013 to 2019 have reached the minimum 40% Bar Pass Rate by the end of the third year after graduation. The 2017 class is the only exception. The 2020 and 2021 class years are making progress similar to the 2018 and 2016 class years respectively. And the first-time Bar Pass Rate has been improving since Bar Review was returned to Lincoln classrooms in 2020.

Indeed, if the 2017 class had followed the statistical pattern of its predecessors, Lincoln would not have been placed on probation.

Table 3 attached shows the statistical progressions of each of the last nine class years toward an ultimate Bar Pass Rate above 40%. The green lines indicate what a statistically consistent progression of Bar passage might look like for the 2017 class. The progression shows a 20% pass rate after 2 years (2 students), 50% after 3 years (5 students), and 60% overall (6 students). These numbers are in line with the percentages of the 2015 class (36%, 45%, 54%) and 2016 class (18%, 54%, 64%).

The last column shows what the cumulative Minimum Bar Pass Rate (MBPR) would have been in each reporting year had the 2017 class not been a complete anomaly. The MBPR in **black** is the percentage as actually reported. The alternate MBPR in **green** is the percentage that would have been reported if 2017 had exhibited a normal progression. ***The numbers make it clear, with a normal 2017 class progression, Lincoln would never have been placed on probation.*** Lincoln's academic program is sound. But the progress of its 2017 class clouds the cumulative Bar pass results from 2018 all the way through the upcoming 2022 report.

The only fair conclusion, then, is that Lincoln is not a school experiencing a decline in academic outcomes. It is a school that is, and has been, consistently providing a sound legal education resulting in a Bar Pass Rate generally exceeding 40% by year three, and in excess of 60% at year five – except for one single year. Given the stabilization of the Bar Pass Rates to historical norms over the past four years, Lincoln is not a school that requires a first-year law school examination as a check on its educational effectiveness.

There is nothing Lincoln can do to correct for the Bar Pass Rate of the 2017 class, since the two additional graduates expected to eventually pass the exam decided not to sit for the exam in February of 2022. However, as the Committee is considering the soundness of Lincoln's academic program, and whether it is in the best interest of the public to extend Lincoln's probation for two additional years, it is important to understand that Lincoln's low Bar Pass Rate is not a function of a systemic failure of its academic program, but a reflection of its inability to correct the shortcomings of a single class year, which, as set forth below, will no longer factor into its Bar Pass Rate in 2023.

4. Lincoln's Bar Pass Rate will self-correct above the minimum when the 2017 class year is removed from the cumulative results in 2023.

Conservative performance predictions, as set forth below, show that Lincoln's Bar Pass Rate will self-correct well above the minimum when the 2017 class year results are removed from the cumulative equation in 2023.

Table 4 attached Lincoln's current Bar Pass Rates after the recently reported February 2022 Bar Exam results. The numbers in black reflect the current cumulative Bar Pass Rate for the 2017-2021 class years.

Such results would put the 2020 class in line with the 2018 class results and put the 2021 class ahead of recent classes in terms of reaching the 40% threshold within the first year. ***Such results also put the last 4 class years at a 37.9% combined pass rate at the four-year mark,*** with three of the four classes already meeting or exceeding the minimum 40% Bar Pass Rate. The 2020 class only needs 2 people to pass in the next three years. Even if all of those who have been sitting out the pandemic take the exam, the 2020 class only needs 3 people to pass in the next three years, and the 2021 class only needs 3 people to pass in the next *four* years. Given that Lincoln saw 18 students pass in the last two years, and only needs six to pass in the next four years, such results are not only possible, they are statistically probable.

This suggests that extending Lincoln's probation through the 2023 reporting period would not create undue risk for Lincoln applicants. The expected performance of the 2022 graduating class is set forth in **Table 5** attached. Even if no one else from the 2018-2021 classes passed the July 2022 Bar Exam, Lincoln would only need two of its expected 2022 graduates to pass in order for Lincoln to retain a Bar Pass Rate of almost 45%. If just one person passed, Lincoln's Bar Pass Rate would hold at 40.9%. Given that Lincoln's past two classes have had at least one first-time passer, getting at least one from the 2022 class to pass in the first two administrations is statistically probable.

As shown in **Table 5**, even if only 4 Lincoln alumni passed the Bar Exam next year, Lincoln would still achieve a 40% pass rate. Given that 10 Lincoln graduates passed the exam last year, and 8 more this year, these numbers are well within statistical probabilities. As well, the predictive outcomes reflect historical norms as well as recent trends.

C. Other Relevant Information Supports Extending Probation Through The 2024 Reporting Period.

1. Lincoln's progress in the 2021 reporting period compares favorably with that of other Accredited schools.

As further support that Lincoln's current educational outcomes are appropriate for continued accreditation, Lincoln has compared its Bar Pass Rate improvement from 2020-2021 to that of other accredited schools. A comparison of 2020-2021 results takes into account the effect of the "cut score" being moved from 1440 to 1390 beginning with the October 2020 exam.

The average Bar Pass Rate percentage increase from 2020-2021 for all CALS schools was 5.98%, with a median improvement of 5.6%. Removing the outliers on both ends, four schools increased their scores between 3% and 4.6%, and four schools improved their scores between 6.2% and 8.9%. Lincoln improved its score by 5% - right in the middle and on par with the other CALS schools.

The 2022 reporting period numbers have not yet been released, but, as set forth above, Lincoln's comparative results on the February 2022 exam were impressive compared both to other Accredited (16.7% better) schools and to all takers (6.7% better).

2. The disruption to the Lincoln student body of terminating accreditation is unnecessary when compliance next year is nearly certain.

The shift from being an accredited school to being a registered school is not just an exercise in paperwork and approvals. It requires significant adjustments and negotiations around modalities and curriculum. Of utmost concern are the limitations on how much Bar Review may be included in various parts of a registered school's curriculum.

Lincoln students are just settling into the curriculum adjustments that have allowed Lincoln to see such a significant, consistent, and sustained upswing in its Bar Pass Rate over the past two years. Obviously, Lincoln would like to continue this success, without concern about whether its methods will need to be adjusted to comply with the registered school rules.

In addition, Lincoln is unique in that it is one of only two schools with Patent Clinics, one of only two schools with Trademark Clinics, and the only school in Northern California to operate both a Patent and a Trademark Clinic in one location in Northern California. This is partially due to Lincoln's location within blocks of the United States Patent and Trademark Office ("USPTO") in downtown San Jose.

Lincoln is the only non-ABA school in the country to have been bestowed the honor of hosting these USPTO-approved clinics, and it is currently unknown what affect the removal of Lincoln's State Bar accreditation might have on Lincoln's ability to continue offering free legal representation to individuals and small business owners who seek assistance with their inventions (hardware, software, and other forms of intellectual property). Lincoln has recently developed online MLS, LLM, and certificate programs as previously reviewed and acceded to by this Committee, and each is also dependent on participation in the Patent and Trademark Clinics. Thus, a disruption in Lincoln's accreditation is particularly disruptive to Lincoln because of its special relationship with the USPTO and its specialized curriculum centered in the Silicon Valley.

If even a temporary disruption in Lincoln's accreditation status can be avoided in light of its significant accomplishments and momentum toward compliance with the minimum Bar Pass Rate, as well as its interdependent degree-development in close relationship with the USPTO, it would seem the balance of the public interest would tip on the side of continuing probation as opposed to relegating Lincoln to registered school status.

IV. CONCLUSION

In general, probation is intended to provide a non-compliant school with an opportunity to make such adjustments to its operations as necessary to bring its program into compliance, AND Lincoln has been making great strides in this regard. Lincoln submits that its probationary circumstances were extraordinary in that its continued non-compliance hinges on two factors over which it has had little control over the past two years – (1) the unprecedented effects of the pandemic on the lives of Lincoln students and on the administration of the Bar Exam, and (2) the performance of a single graduating class (2017), which class year will no longer factor into Lincoln's MBPR in 2023.

In spite of the pandemic, Lincoln has shown incredible progress toward bringing its cumulative Bar Pass Rate into compliance with the Rules. Our efforts to focus on processes that make our unique population of students successful on the Bar Exam are bearing fruit. *Lincoln is simply requesting that it be given a year of on-site Bar Exams without the pandemic overlay to show what its graduates can do under standard Bar Exam conditions.*

Since the effect of the 2017 class is disproportionate and, without it, Lincoln will almost certainly be in compliance with the MBPR in July of 2023, it would be extremely disruptive to Lincoln's students and ongoing operations to remove Lincoln's accreditation before that non-conforming class can be phased out of the cumulative calculation. In such a circumstance, a change of accreditation status would serve no public protection purpose, especially in light of Lincoln's exceptional progress over the last two years.

For all the foregoing reasons, Lincoln respectfully requests that the Committee extend Lincoln's probation until July of 2023, on the basis of extraordinary circumstances pursuant to Rule 4.172(E) and to see the fruits of Lincoln's progress without the burden of its 2017 class.

An explanation of the alternative option – to allow Lincoln an additional six months to complete a full two-year probation period, with a mid-year compliance report based on the results of the July 2022 Bar Exam – follows herein, including additional exhibits. The alternative request adds additional evidence and some overlap of argument is contained in it.

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Alternative Request To Allow Lincoln To Complete A Full Two-Year Probation Period Culminating In A Mid-Year Compliance Report

As an alternative to allowing Lincoln an extension of the two-year probation period to allow completion of the official MBPR reporting cycle in July of 2023, Lincoln requests an extension of the probationary period set by the Probationary Order only for an additional six months. This extension, if granted, still would provide a probationary period that is within the two-year probationary period allowed by Rule 4.172(C).

Specifically, Lincoln asks the Committee to give Lincoln at least until the Committee's December 2022 meeting to show evidence of compliance, which would allow for the Committee to consider the performance of Lincoln's graduates on the July 2022 Bar Exam. Granting this extension will be compliant with the two-year probationary period allowed under Rule 4.172(C) because the December 2022 Committee meeting will be held within 23 months of the Committee's February 4, 2021, Probation Order. Although Lincoln is not asking for a probationary period extension longer than allowed by the Rules, "good cause" under Rule 4.111 exists for granting an extension of the Probationary Order, as set forth more fully below.

It is understood that the State Bar only updates the "official" minimum Bar Pass Rate once per year, after both the July and February exams have been completed, so a July probationary period deadline makes good sense. However, given recent success on the Bar Exam by Lincoln graduates, Lincoln does not believe there will be a need to wait for the February 2023 exam results because Lincoln will be able to demonstrate compliance based on the Bar Pass Rate in July 2022 and prior years. Over the past four administrations of the Bar Exam, at least four Lincoln graduates have passed (an average of 9 per year), and Lincoln has calculated that only five graduates total are needed to pass in the July 2022-February 2023 cycle for Lincoln to have a compliant Bar Pass Rate (see attached Confidential Exhibit "B"). Lincoln believes those five graduates are likely to pass the July 2022 Bar Exam, making the additional February 2023 exam moot for compliance purposes and the Committee's review of Lincoln's compliance more fairly and appropriately timed in December 2022 after the results of the July Bar Exam are released in November.

I. Lincoln's curricular adjustments are significantly improving its Bar Pass Rate.

Over the past three years, Lincoln made significant adjustments to its curriculum at all class levels to include a greater focus on writing assignments and analytical thinking exercises more directly correlated to the Bar Exam questions and essays. These changes have proven to be successful, resulting in a significant improvement to the Bar passage rate for our most recent graduates (from 1 graduate passing July 2017-February 2018 to 9 graduates passing July 2020-February 2021). We expect these and ongoing adjustments will position our graduates for increased success on the Bar Exam in the coming years.

Lincoln's writing skills courses now include significant classroom time devoted to the student writing exercises necessary for success on the performance and essay test sections of the Bar Exam. Additionally, the curriculum for the third and fourth-year students is now more focused on improving their analytical skills with an increase in time required for students to spend practicing multiple choice questions ("MBEs"), as well as timed performance and essay writing exercises.

As a result of the changes to the curriculum, during the academic year of 2021-2022 first and second-year Lincoln students are now provided with at least 150 hours of legal writing and MBE analytical skills instruction, third year law students receive an additional 235 hours of MBE and intensive essay and performance writing, and fourth year students receive an extra 420 hours of Bar Exam-specific practice. These curriculum changes have been tailored to meet the needs of Lincoln's working students, who are often disadvantaged by commercial Bar Review courses that assume test takers will devote themselves full-time to Bar Exam preparation in the two months preceding the Exam. Requiring students to focus more thoroughly on Bar Exam testing skills and competencies throughout the four-year curriculum instead of having concentrated learning during the immediate pre-exam period has provided superior results for Lincoln's students.

II. The changes to Lincoln's curriculum are improving the Bar Pass Rate, and Lincoln believes that it will be in Compliance by December 2022.

The Class of 2022 is the first class to benefit fully from changes to Lincoln's curriculum in all law school years. Seven Lincoln students are expected to sit for the Bar exam in July 2022. Internal survey sampling of this group indicates that the 2022 graduating class will achieve better than a 40% first time pass rate. In addition, three recent graduates missed passing the February 2022 Bar Exam by a few dozen points. We expect them to pass the July 2022 Exam. As the attached confidential redacted charts show, in its 2022 MBPR report, 17 of the 47 takers during the reporting period passed the Bar. See attached Confidential Exhibit "A." With the elimination of the 2017 class in 2023, Lincoln anticipates the same denominator (47) and only needs 2 more takers (19) to pass in order to reach a compliant 40.4%. See attached Confidential Exhibit "B." Lincoln anticipates at least four from its 2022 class will pass, plus at least one from its 2021 class. *Id.* These numbers would be consistent with Lincoln's results on the past four administrations of the Bar Exam. Moreover, that result (4 from the Class of 2022, and 1 from the Class of 2021) would bring all five reporting classes for the 2023 MPBR above the minimum 40% Bar Pass Rate and provide Lincoln with an overall Bar Pass Rate of 46.8%.

As noted previously, in July of 2020, Lincoln's Bar Pass Rate for its 2017-2019 class years was a dismal 3 out of 32, or 9%. In July of 2021, Lincoln's Bar Pass Rate for those class years was 11 out of 32, or 34%. By July of 2022, Lincoln's Bar Pass Rate for those class years was a compliant 40.5%, a remarkable improvement of 31% in four administrations.

In addition, in July of 2022, the Bar Pass Rate for the most recent four years (2018-2021) is already at 37.8%. A *single additional passer* would have given the last four years a combined pass rate of 40.5%. Thus, even accounting for some of the latent Covid-era non-takers finally jumping in to take the exam, Lincoln would only need a handful of takers to pass the exam this year (4-5, less than half its yearly average from the past two years) to achieve compliance. If Lincoln achieved the same numbers as the last two years (8 on the low end), Lincoln's 2023 Bar Pass Rate would be at least 46.8%. And the next year (2024) Lincoln expects its Bar Pass Rate to rise to at least 48%, even if only two of its 2023 graduates pass the Bar Exam in their first reporting year. See attached Confidential Exhibit "C."

The statistics are compelling. Lincoln had a lot of ground to make up, and it did a remarkable job of going from being 20 students short to just 2, even with the persistent drag of the 2017 class (see the Initial Application). As a result of various Covid-era testing challenges (more on that below), Lincoln needs one more Bar Exam to reach compliance and show the Committee additional progress in terms of its first-time Bar pass success. Allowing for one additional exam would be consistent with providing a

full two-year probationary period starting with the February 2021 Probation Order date. And while the statistics after the July 2022 exam would not be “official” (the official reporting would have to wait until July of 2023), if it could be shown to a statistical certainty at the December 2022 meeting that Lincoln has achieved compliance even with likely additional non-takers factored in, then revoking Lincoln’s accreditation would be a moot exercise.

III. Lincoln’s accredited status qualifies it to serve its community in unique ways.

Over the past several years, Lincoln has also developed four community clinics: A Patent Clinic, a Trademark Clinic, a Small Business Clinic, and a Peer Court partnership. The first three assist local businesses with patent and trademark protection, well as incorporation and documentation of other small business concerns (see www.lincolnipclinic.com and www.lincolnlawsbc.org). The Peer Court program provides a diversion option for juvenile criminal offenders, combined with a training program for aspiring lawyers at the high school level.

Lincoln is one of only two patent clinics and two trademark clinics in all of Northern California authorized by the United States Patent and Trademark Office.

Lincoln’s accredited status with the State Bar is important to its government partners, including the USPTO and local Peer Court school districts. Its accredited status also allows Lincoln to solicit funding for its Clinics from local private and public partners.

Lincoln is the only non-ABA on-site/in-person school in existence between Monterey and San Francisco. Revoking Lincoln’s accreditation could have a significant impact on its ability to continue to serve this densely populated region.

IV. Lincoln would likely have achieved a stronger Bar Pass Rate if not for the effects of Covid on its particularly diverse student body.

As noted previously, each of the Bar Exams administered during the last two years has been plagued by some anomaly. Working adult learners, like those at Lincoln, were particularly affected.

In the last two years, Lincoln’s student body has averaged over 78% non-White, as set forth in Lincoln’s Annual Reports. This is in line with Lincoln’s location in the heart of one of the most diverse counties in the State of California. However, Lincoln’s commitment to diversify its local attorneys to better represent the members of the surrounding communities necessarily results in fewer Bar passers as statistics painfully show that Bar Pass Rates of minorities are far lower than those of their white counterparts.

Lincoln is actively prioritizing the three tenets set forth in State Bar’s most recent (2021) Diversity Report, as follows:

- *The justice system is equally accessible and free of bias should be a core value of the legal profession;*
- *Diversity and inclusion are an integral part of the State Bar’s public protection mission to build, retain, and maintain a diverse legal profession to provide quality and culturally sensitive services; and*
- *The State Bar should continue to increase diversity and inclusion in the legal profession.*

However, as was made clear in an October 2020 AccessLex Institute Report, over the 11-year period studied (between 2009 and 2018), “every minority group eventually passed the Bar Exam at a rate at least 9 percentage points lower compared to Whites.” See attached Exhibit “D” at p. 15. The AccessLex Report found that from 2008-2018 only 69.5% of Hispanic/Latino Bar Exam takers eventually passed the Bar. *Id.* Similarly, in that same period only 71.5 percent of Asian examinees eventually passed the Bar. *Id.* At Lincoln, Hispanic/Latino students made up 40% of its student body in its most recent Annual Report, and Asian students make up 27.5%. As a result, almost 70% of Lincoln’s student body comes to the Bar Exam at a distinct statistical disadvantage.

The AccessLex Report predicted that the 2020 change to the so-called “cut score” might have a beneficial effect on the ability of ethnic minority students to pass the Bar Exam. But the expected differential effect was minimal at the chosen cut score of 1390. At best Hispanics were expected to experience a 5.4% gain compared to 3.9% for Whites. See Exhibit D at p. 18. Not surprising, then, that the California Accredited law schools located in counties with the highest percentage of ethnic populations saw the smallest gains in the first year of 1390 cut score reporting (2020 to 2021).¹

Moreover, as pointed out in the accompanying letter from Lincoln’s Board of Trustees, the economic and social realities of the Covid-19 pandemic were experienced differently by Lincoln’s student body as compared to their ABA counterparts. For example, a September 2020 report by the Milken Institute focused on Hispanics as Essential Workers, finding that in 2019, Hispanics filled 41.5 percent of essential worker roles. See Attachment “E” at p. 2. According to this Report, only one in five Hispanics was able to work from home in June 2020, compared to one in three White workers. *Id.* at p. 4. Not surprisingly, Hispanics also experienced elevated levels of Covid 19 infections from exposure at work, resulting in Hispanics being the most infected ethnic group by almost double, as workers brought the infection home – a problem made worse by gaps in health care access. *Id.* at pp. 4-5 and California Department of Public Health Report <https://covid19.ca.gov/state-dashboard/#ethnicity-gender-age>.

In short, unlike most ABA students who had the benefit of the Covid economic shutdowns to study for the Bar Exam, the majority of Lincoln students had no “down time” during the Covid-19 pandemic but were, instead, pressed harder at work and at home than usual. This contributed to a lower percentage of students taking, or repeating, the exam and therefore a slower recovery rate for Lincoln’s Bar Pass Rate than might be expected. Where, as here, *two students* not passing the Bar made the difference between compliance and non-compliance, the outsized effect of Covid-19 on Lincoln’s student population cannot be ignored.

V. Delaying consideration of Lincoln’s probation until December 31, 2022, would allow for consideration of a “normal” July Bar Exam within the probationary period.

This July 2022 in-person exam is the first opportunity for Bar takers to have a relatively “normal” July exam experience since the issuance of the February 4, 2021, Probation Order. The July 2021 Exam had technical glitches that locked certain students out of the Exam and required special scoring accommodations. Among those affected were at least two Lincoln students, each of whose overall

¹<https://www.calbar.ca.gov/Portals/0/documents/admissions/Education/MinimumPassRateStandardCumulativePassRates.pdf>

score was within a dozen or so points of passing. It is, of course, impossible to know how they might have scored had their examination progressed unimpeded. Neither examinee chose to take the February 2022 Exam because of personal obligations.

Therefore, even if the Committee declines to “extend” Lincoln’s probation beyond the two year “limitation” set forth in Rule 4.172(C) in response to extraordinary circumstances as requested previously, the Committee should delay the hearing on revoking Lincoln’s accreditation until its December 2022 meeting, to allow Lincoln graduates an opportunity to succeed in the context of at least one “normal” July Bar Exam.

VI. Bar exam results following the curriculum changes provide good cause to give Lincoln the full two years or probation allowed by the Rules.

Though Lincoln believes the circumstances of the last two years have been “extraordinary,” to the extent the Committee believes Rule 4.172(E) was not intended to be applied to schools on probation because of a non-compliant Bar Pass Rate, Rule 4.111 allows the Committee to extend the time set forth in its initial Probation Order for “good cause.” As set forth in its Initial Application, good cause exists to allow Lincoln to show that the changes it has made to its curriculum have provided a systemic solution to preparing its students for success on the Bar Exam such that Lincoln’s Bar Pass Rate next year, and in future years, will be compliant with the Rules as a matter of statistical certainty, rather than of wish or conjecture.

Extending review of Lincoln’s probationary status until the December Committee meeting would allow the Committee to evaluate the consistency of Lincoln’s progress, confirm the effectiveness of its curricular changes, and assure itself that any lingering concerns about Lincoln’s ability to maintain a compliant Bar Pass Rate have been resolved.

VII. The Committee’s consumer protection purpose is better served by allowing the school a full two years to demonstrate compliance.

The overarching purpose of the State Bar and its committees is consumer protection. That purpose is best served in this case by allowing Lincoln a full two years to demonstrate compliance. Lincoln believes the results of the July 2022 Bar Exam will confirm with statistical certainty that Lincoln’s Bar Pass Rate is, and will continue to be, compliant. Revoking Lincoln’s accreditation early, when it remains possible for such compliance to be demonstrated with statistical certainty, would not serve the Committee’s consumer protection purpose but would, in fact, have the opposite effect.

As an example, fiscal responsibility is also a “core” requirement under the Rules. It seems self-evident that if the financial prospects of a school on probation have improved such that its existing and prospective students are in less danger of having their school fail unexpectedly due to financial reasons, it makes little sense to revoke the school’s accreditation rather than provide additional time to build on its success. To do so would likely have the exact opposite of the intended effect. The school’s focus on fiscal improvement would necessarily be redirected to the various administrative tasks associated with retooling the school for unaccredited status (curriculum, communications, etc.). Its first- and second-year students may be inclined to transfer, causing additional financial strain, thus reversing its previous improvements. And its third- and fourth-year students will be faced with the choice to either transfer to an accredited school and lose credits earned (the transferee school is unlikely to accept credits beyond a

certain number), or stay with the school and be subject to the effects of the same financial strains that caused the Committee to put the school on probation in the first place.

If the logic makes sense with respect to a school's fiscal responsibility, it makes sense with respect to its Bar Pass Rate. To the extent a school can demonstrate that the underlying problem has been corrected and it is merely dealing with the lingering effects of its prior circumstances, it makes little sense to dampen (or, more likely, deter) the school's progress by revoking its accreditation and turning its attention to the administrative matters attendant thereto, and away from the activities that have been responsible for the improvement in its Bar Pass Rate. The more responsible choice would be to continue to monitor the progress if compliance is within immediate reach.

Rule 4.172(E) was included in the Rules for a reason. Setting time limitations for compliance is obviously important. But there are extraordinary circumstances when the strict adherence to those limitations would have a deleterious effect on the Committee's consumer protection goal. As set forth above, and in the Initial Application, those circumstances are present here.

VIII. Rule 4.172(E) contains no restrictions on its applicability.

Though this Supplemental Application provides an alternative to extending Lincoln's initial two-year probation period by requesting only that the Committee allow Lincoln the full two years provided in Rule 4.172(C), Lincoln is not conceding the point that Rule 4.172(E) should not apply here. Obviously, from an administrative standpoint, both Lincoln and the State Bar would be better served by extending Lincoln's probationary period through at least July 2023, to coincide with Lincoln's Academic Year and the State Bar's standard Reporting Period for Bar Pass Rates. There is, in fact, no sound reason not to grant the requested extension to July 2023. A plain reading of Rule 4.172(E) provides no legal basis to believe that the Rule should not be applied to probations based on non-compliant Bar Pass Rates. Nowhere does it say that schools with non-compliant Bar Pass Rates are prevented from obtaining relief in extraordinary circumstances. Moreover, excluding schools with non-compliant Bar Pass Rates from access to this relief would not be fair, or reasonable under the circumstances currently before the Committee.

As set forth in the Accredited Law School Rules:

Rule 4.172 addresses the subject of Probation.

Rule 4.172(C) provides that if the Committee finds that an accredited law school has not complied with the Rules, the Committee may place the law school on probation for a period not to exceed two years.

Rule 4.172(E) then allows the Committee to extend a period of probation under the Rules upon a showing of "extraordinary circumstances."

Guidelines have been issued interpreting the Rules, but none addresses Rule 4.172.

There are clearly no limitations in Rule 4.172(E), or indeed in any provision of Rule 4.172, that would limit the applicability of Rule 4.172(E) to probationary periods initiated as a result of non-compliance with some provisions of the Rules but not others. Indeed, it defies the rules of statutory interpretation to suggest that Rule 4.172(E), as worded, would allow the Committee to extend probation for a school that was put on probation because its finances (or any other issue) concerned the Committee where great progress has been shown even under extraordinary circumstances, but deny the same extension to a

school that was put on probation because its Bar Pass Rate was concerning where great progress has been shown even under extraordinary circumstances.

IX. No precedent would be set by extension under these circumstances.

It is understood that the Committee does not want to set a precedent that schools with noncompliant Bar Pass Rates may expect unlimited time to correct the problem so long as they are making “progress.” There would no precedent set here if the Committee were to grant the extension request. The requirement that the Committee find extraordinary circumstances prevents that. Also, Lincoln has not just shown progress, but extraordinary improvement in Bar Pass Rates and is not asking for unlimited time, just a reasonable time after making broad curriculum changes.

If the Committee grants Lincoln’s Application, any other school wishing to be treated similarly would need to show that its entire probationary period was hobbled by a worldwide pandemic causing the format of the Bar Exam, and the circumstances and motivations of those taking it, to be changed multiple times. Such a school would also have to show that its number of students passing the Bar Exam improved **six times over** during its probationary period as compared to the previous two years, as Lincoln has shown. We are aware of no other school having accomplished what Lincoln has accomplished with its curriculum changes over a very short period of time during a pandemic.

X. Conclusion.

The decision to place a school on probation may be appropriate for non-compliance with core requirements, even if a school has “just missed” the mark. But revoking the accreditation of a school on the brink of compliance invokes far more significant consequences. In situations such as the one before the Committee, where herculean efforts have been made to correct the Bar Pass Rate and imminent compliance may be shown with statistical certainty, revocation of accreditation serves no consumer protection purpose and instead has the unwanted effect of halting momentum and diverting precious resources.

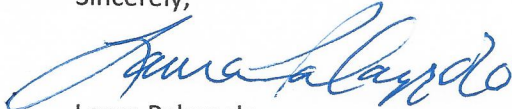
In hindsight, Lincoln’s decision five years ago to rely on a commercial Bar review course geared towards full-time students caused a considerable drop in its working students’ Bar Pass Rates. The school has learned that Lincoln’s students are better served by an in-house Bar Review system taught throughout all four school years. The fruits of that new system have already resulted in a 31% improvement in the Bar Pass Rate for recent Lincoln classes. What we are doing is working, and class year results are returning to their historic success trajectories. See charts submitted with the Initial Applications.

It took three years for Lincoln’s Bar Pass Rate to fall from 54% to 31% as the results of pre-2017 classes fell out of the MBPR calculation. And it will take a similar amount of time for the results of curriculum changes made in 2021 and 2022 to return the Bar Pass Rate to previous levels. This is an unfortunate reality. But revoking accreditation will not serve to speed Lincoln’s progress toward spectacular results. Instead, Lincoln will spend the next year addressing matters related to registered school compliance and an immediate application to return to accredited school status. For small independent schools like Lincoln, what should be an “and” must sometimes be an “or.” If the past few years have taught us anything, it is that we cannot do everything all at once. Our success comes from laser focus on the most important thing. We would like that thing to continue to be our students’ success on the Bar Exam.

It took three years for Lincoln to fall into non-compliance. But it is possible for Lincoln to show compliance to a statistical certainty within a full two-year probationary period and thereby preserve its significant momentum. And we ask that the Committee give us that opportunity.

For the reasons set forth above, Lincoln hereby requests that the Committee extend its probation through July of 2023 or, in the alternative, defer its decision on revoking Lincoln's accreditation until the December 2022 Committee meeting to allow Lincoln an opportunity to review additional progress and more accurately demonstrate the statistical probability of compliance without undue disruption to student learning.

Sincerely,



Laura Palazzolo

Dean



The State Bar of California

OFFICE OF ADMISSIONS

APPLICATION FOR REGISTRATION AS A CALIFORNIA UNACCREDITED LAW SCHOOL

PROPOSED SCHOOL NAME: LINCOLN LAW SCHOOL OF SAN JOSE

Indicate the type of law school you are seeking to register (check only one):

☒ Fixed-Facility (classroom) ☐ Distance-Learning (online) ☐ Correspondence (mail)

Name: LINCOLN LAW SCHOOL OF SAN JOSE
Street Address: 384 S 2ND ST
City, State, Zip: SAN JOSE, CA 94113
Phone Number: 408-977-7227
Website Address: www.lincolnlawschool.edu

The law school is established as (check one): ☐ For-Profit ☒ Not-For-Profit
Type of Entity: Public Benefit Corporation

PRINCIPAL CONTACT FOR THIS APPLICATION

Name: LAURA PALAZZOLO
Street Address: 384 S 2ND St
City, State, Zip: San Jose, CA 95113
Phone Number: 408-977-7227
Website Address: N/A

PRIMARY ADMINISTRATIVE OFFICE OF THE LAW SCHOOL

Name: LINCOLN LAW SCHOOL OF SAN JOSE
Street Address: 384 S 2ND St
City, State, Zip: San Jose, CA 95113
Phone Number: 408-977-7227
Website Address: www.lincolnlawschool.edu

ADMINISTRATIVE CONTACT, IF DIFFERENT FROM PRINCIPAL CONTACT ABOVE

Name:
Street Address:
City, State, Zip:
Phone Number:
Website Address:

OWNER(S), SHAREHOLDER(S) AND/OR PARTNER(S) CONTACT INFORMATION

Add additional sheets if needed to include all owners or partners.

Name:
Street Address:
City, State, Zip:
Phone Number:
Website Address:

Name:
Street Address:
City, State, Zip:
Phone Number:
Website Address:

Name:
Street Address:
City, State, Zip:
Phone Number:
Website Address:

Name:
Street Address:
City, State, Zip:
Phone Number:
Website Address:

Name:
Street Address:
City, State, Zip:
Phone Number:
Website Address:

FILING INSTRUCTIONS

Send one electronic copy of the application and all attachments to admissions@calbar.ca.gov and also mail a hard copy of the application, payment page, and fee to:

Department of Educational Standards
Office of Admissions
The State Bar of California
180 Howard Street
San Francisco, CA 94105-1639

ACKNOWLEDGEMENT AND AGREEMENT

I hereby declare that I am authorized to sign on behalf of the school applying for registration as an unaccredited law school. The school understands that there are additional costs associated with the registration of a school as set forth in the list of charges and deadlines and that failure to pay these fees timely may result in delay, denial, or termination of registration. The school further agrees that additional information may be requested by the State Bar in connection with this application in order for consideration of the application to proceed. The school understands that the State Bar operates subject to the California Public Record Act, and all documents submitted to the State Bar or created by the State Bar become public documents unless they are within an exception to that Act.

The school understands that this is an application for registration as an unaccredited law school and all students attending the law school will be required to take and pass the First Year Law Students' Examination in accordance with the Rules and Guidelines for Unaccredited Law Schools as part of the process of completing their JD degrees.

The school agrees not to solicit applications or otherwise present itself to the public or students until it has earned registration.

I hereby declare under penalty of perjury under the laws of the State of California that the information provided in this application for registration of an unaccredited law school is true and correct.

SIGNATURE OF AUTHORIZED REPRESENTATIVE

Signature: 
Print Name: Laura Palazzolo
Title: Dean
Phone Number: 408-977-7227
Email Address: dean@lincolnlawschool.edu



July 26, 2022

Office of Admissions
State Bar of California
180 Howard Street
San Francisco, CA 94105

RE: Request for Extension of Waiver to Continue Synchronous Distance Education as the Covid-19 Pandemic Continues

Dear Office of Admissions:

On March 17, 2020, the County of Santa Clara issued its first Shelter in Place Order in response to the then-emerging Covid-19 pandemic. In May of 2020, the Committee of Bar Examiners issued a Waiver Allowing Temporary Transition to Online Classes at Accredited and Unaccredited Law Schools to Address Circumstances Related to Covid 19 (the "Waiver"). On June 19, 2020, the Waiver was extended through August 31, 2021. This allowed schools forced to pivot to online instruction at the beginning of the school year to continue with the same method of instruction through the end of the academic year.

In May of 2021, State and County restrictions began to ease, and Lincoln began to plan for return to in-person instruction in the Fall of 2021. Faculty prepared syllabi with the understanding that students would be in the classroom. However, by mid-summer, there were reports of the "Delta variant" of the Covid-19 virus, and indoor mask mandates returned, even for vaccinated persons. The County's largest employers announced that they would be extending their work-from-home policies through at least January of 2022, and many have extended that time again through the summer of 2022.

Faculty and students who, just weeks before classes were set to begin in Fall of 2021, had been looking forward to returning to the classroom, were no longer willing to expose themselves and their families to the reportedly highly contagious Delta variant. By the time Fall classes started, there were only three first year students who were willing to appear on campus, and in August of 2021 the school was forced to amend syllabi to accommodate another fully online semester. Thankfully, the Committee had also been following the news and had already announced that it would extend the Waiver through December 31, 2021. October 1, 2021 Lincoln requested a further extension to allow it to complete the 2021-2022 school year in the same modality to ensure continuity of instruction. The Committee approved Lincoln's waiver to continue synchronous remote instruction through June 30, 2022.

So far in 2022, only a handful of students and faculty have appeared on campus for regular on-site instruction. Most opted to continue teaching and learning by remote video technology, as local County health officials continued to warn of new subvariants of the Covid-19 virus, and businesses continued to extend their work-from-home protocols.

In the Spring of 2022, Lincoln announced to both students and faculty that it intended to resume full in-person on-campus instruction in the Fall of 2022. But, this Summer seems to be mimicking last Summer in that there has emerged new highly-transmissible Covid-19 variants (including BA.5) that are causing Covid-19 cases and hospitalizations to rise. Los Angeles County announced that it will be renewing its indoor mask mandate on Thursday, July 28, 2022 if the hospitalization rate does not decline.

While Santa Clara County has yet to announce a renewed mask mandate, the data this week suggests that one may soon be forthcoming. Santa Clara County cases continue to rise, with 3401 new cases this week, and a positivity rate currently at 14%. See <https://covid19.ca.gov/state-dashboard/#location-santa-clara>. Fully-vaccinated faculty, staff, and students who were unaffected by previous Covid-19 variants are reporting BA.5 variant infections. For this reason, Lincoln seeks an additional extension of its Covid-19 waiver to allow for synchronous instruction by Zoom for those students and faculty who, because of personal health issues, or work-related quarantines, cannot personally appear in class.

Rule 4.109.

Pursuant to Rule 4.109(A) of the Accredited Law School Rules, a law school may request that the Committee temporarily waive any rule. ***Lincoln requests a temporary waiver of Rule 4.160(B)(12)(e) such that the school may verify academic engagement either by on-site attendance or synchronous video participation through June 30, 2023.***

Rule 4.160(B)(12)(e) requires schools to verify academic engagement, which at an onsite school is measured by classroom attendance together with a calculation of homework hours. Rule 4.160(B)(12)(e) further provides that: "It is presumptively sufficient to have a policy requiring completion of at least 80 percent of the academic engagement required by each course in which the student is enrolled." Lincoln has such a policy, requiring that Lincoln students attend in person at least 80% of the classes for each course. The in-person requirement is necessary because Lincoln is only accredited as a fixed-facility school. It has not yet decided to apply by way of Major Change Application for a permanent online or hybrid program.

As an on-site institution, Lincoln students are limited to 12 units of remote learning instruction absent a waiver. Full year courses at Lincoln consist of fifteen classes each semester, so students cannot miss more than three classes in a semester and still meet the academic engagement requirements.

As children return to on-site public schools next month, and parents return to their offices for work, it is anticipated that Lincoln students and professors, most of whom are working parents, will be managing multiple home-quarantine periods mandated by Covid-19 exposure notices in the wake of the highly transmissible BA.5 variant currently in circulation, as well as other variants that may follow. These mandated quarantines make it difficult for Lincoln students and faculty to consistently attend classes in person.

Requiring Lincoln students to appear physically in Lincoln classrooms for at least 80% of their classes during a time when health orders issued by the County of Santa Clara continue to require lengthy quarantine periods after potential exposure to Covid-19 puts Lincoln students between the proverbial "rock and a hard place." Both the quarantine requirements and the potential exposures are entirely out of the students' control, so to interrupt their program of education as a consequence of their required compliance with legal mandates seems both improper and unnecessary.

Lincoln seeks a full year waiver on the understanding that if the waiver is only extended for the upcoming semester (through December 31, 2022), and the Covid-19 variants continue, law students who miss more than 3 classes in the Spring semester of a full year course will not receive a grade for that course (because of residency requirements) and will thereby lose the work completed in the Fall. Sacrificing a full-year class due to unavoidable absences in the context of a very compact four-year curriculum would be a considerable hardship on students. Students may be hesitant to begin a full year curriculum if the flexibility provided for distance learning is only extended for the first half of each course.

To be clear, Lincoln still intends to return to on-site instruction for the 2022-2023 Academic Year, and the majority of students and faculty are excited to return to the classroom. But health and safety remain a concern for some, and the risk of new County directives in response to this or other variants remains significant. So, providing some flexibility to allow for extended absences from the physical classroom on a moment's notice (including for Covid isolation or quarantine as recommended by the California Department of Public Health) will be a critical component in providing some peace of mind to students and faculty in the context of an otherwise on-campus directive.

It is for these reasons that Lincoln Law School of San Jose requests a waiver to continue synchronous video instruction (in addition to on-site classroom instruction) through the end of the 2022-23 school year. This will provide faculty with continuity in their method of instruction for full year courses, and provide students with the flexibility they still need to deal with the vicissitudes of a virus and accompanying health orders and guidance over which they have no control.

Conclusion.

Lincoln submits this petition as a request for an extension of the Waiver, rather than as a Major Change Request, because Lincoln does not at this time seek to make distance education a permanent part of its JD program. It simply seeks a temporary acquiescence to the continuation of the successful synchronous online instruction instituted in response to local Covid-19 mandates. Since the current Covid-19 virus risks are very high, Lincoln seeks to provide concerned students with peace of mind that their program of instruction will not be interrupted by potential absences resulting from required compliance with local quarantine and other health-related orders or guidance, as well as school-related isolation notices.

In light of the continuing threat of Covid-19 variants, and, in particular, the sudden and marked increase in BA.5 variant positivity rates both locally and statewide, Lincoln implores the Committee to recognize the need to allow professors and students Lincoln's diverse community additional time to ease back into in-person instruction while public pandemic-related quarantine measures remain in place, and requests that the Committee approve a waiver allowing for the temporary continuation of synchronous online classes to address circumstances related to Covid-19 through the end of Lincoln's Academic Year on June 30, 2023.

Sincerely,



Laura Palazzolo
Dean