

COMMITTEE OF BAR EXAMINERS OPEN SESSION AGENDA ITEM

AGENDA ITEM NUMBER: August 2016 – 0-404

DATE: August 19, 2016

TO: Subcommittee on Educational Standards

FROM: George C. Leal, Director for Educational Standards

SUBJECT: **Monterey College of Law – Request for Approval of Major Change and Establishment of Branch Campus - Bakersfield**

BACKGROUND

Attachment A is a Major Change Request submitted by Monterey College of Law (MCL) seeking approval from the Committee of Bar Examiners (Committee) to open a branch campus in Bakersfield in July, 2017. As required by Rule 4.164 and as defined by Rule 4.165(B) of the *Accredited Law School Rules* (Rules), a California-Accredited Law School (CALs) must request and obtain the Committee's prior approval before it makes any major change, which, as defined, includes the "opening a new branch" campus.

As noted in its submission and confirmed in his correspondence dated August 10th, MCL Dean Winick is requesting that the Committee consider and approve the proposed Bakersfield campus under the process provided by the pending new amendments to Rules 4.160 and 4.165(B) and Guidelines 15.1 – 15.4 (Division 15. Opening and Operating a Branch or Satellite Campus) of *Guidelines for Accredited Law Schools Rules* (Guidelines). Taken together, the new amendments are intended to simplify the approval process, most significantly by no longer requiring a pre-opening inspection as was done with the Committee's approval of MCL's branch campus in San Luis Obispo. All of the pending amendments have been approved by the Committee, in principle, and along with several associated amendments to the Rules, are currently subject to a period of public comment that is scheduled to end September 15th. If the Committee grants MCL's request, the Committee's approval should be based upon the following requirements and procedures:

1. Guideline 15.2(A) establishes the process and timing for the Committee to approve CALs's request to open a new branch campus. As provided therein: "No less than 180 days before the proposed first day of classes of a branch or satellite campus, the law school must provide the Committee with notice of its intention to open a new branch or satellite campus." In doing so, the law school must confirm the type of campus it wishes to open, its proposed location and the anticipated date of its opening. The notice must also provide the Committee with a "comprehensive explanation" for its

decision to open the new campus, plus “any research or planning regarding the new campus,” any projected “fiscal impact of the new campus on the law school,” and the resources the law school plans on allocating to the new campus. Finally, the notice is to include copies of all academic and operational documents to be used by the staff, faculty and students once the new campus opens.

2. Guideline 15.2(B) requires that “[n]o less than 120 days before the proposed first day of classes at the branch or satellite campus, the Committee must approve or deny the law school’s proposal.” The written materials submitted by the law school, which must now be “certified by the Dean,” should confirm that the new campus will be in “substantial compliance” with the *Accredited Law School Rules* (Rules) and all relevant Guidelines “as of the date of its opening.” Once certified as such, the Committee may then provide its pre-opening approval. Finally, “within 90 days of the first day of classes of the branch or satellite campus,” the law school must again submit a statement, “certified by the Dean,” to confirm that the new campus is, in fact, then in “substantial compliance.”

3. As provided by Guideline 15.3, an approved branch campus is to be considered “provisionally approved” until the law school is able to demonstrate that the campus is in compliance with “all accreditation standards and operational requirements” found in both the Rules and Guidelines. Moreover, each new branch campus will now be required to operate with a qualified administrator who, under Guideline 4.1(B), must be a graduate of either an ABA-approved or Committee-accredited law school.

4. Lastly, as now proposed under Guideline 15.4, “[w]ithin two years of operating as a provisionally-approved branch campus, the law school must seek confirmation from the Committee that the campus is, operating compliantly by means of an inspection “to determine whether the campus is to be “deemed approved, continue to be provisionally approved or denied continued provisional approval.”

PROPOSED, NEW BRANCH CAMPUS

MCL is a non-profit, tax-exempt CALS founded in 1972 that was accredited by the Committee in 1981. It operates its main campus in Seaside, a small community north of Monterey where it offers a part-time, four-year day and evening program leading to the award of the Juris Doctor degree. MCL also offers two other law degrees, a Master of Legal Studies (M.L.S.) and a LL.M. degree in international law.

In 2010, MCL received Committee approval to open and operate a satellite campus in Santa Cruz that offers only its first-year curriculum. Once they complete their first year studies, students from the Santa Cruz campus must matriculate at the Seaside campus. In 2015, the law school applied for and received Committee approval to open a branch campus in San Luis Obispo. That campus opened in the fall of 2015 and recently completed its first academic year. MCL was last inspected in September 2012 and was found operationally compliant; its next periodic inspection has been set for 2018.

As described in its proposal, MCL seeks to expand its educational program by opening a new branch campus in Bakersfield, to be named the Kern County College of Law (KCCL). The new campus is expected to open on July 1, 2017, in time to start fall semester classes. As proposed, MCL intends to open the campus with only a first-year curriculum and then eventually offer the same, four-year Juris Doctor Degree curriculum that it offers at its Seaside and San Luis Obispo campuses, a program found compliant with both the *Accredited Law School Rules* and the *Guidelines for Accredited Law School Rules* during its last periodic inspection. As such, all students admitted and enrolled at KCCL will be instructed, graded and, eventually, be judged qualified to graduate under the same scholastic standards, grading policies and be subject to the same operational procedures as those used by MCL at its main campus and Santa Cruz and San Luis Obispo.

Students attending KCCL, even those admitted during its initial year of operations, will also be offered the same program of academic support MCL students receive from its other campuses, although many of the existing academic support services offered to MCL students in Seaside, administered by its Dean of Student Success Elizabeth Xyr, will be made available at KCCL through online technology.

MCL has identified what appears to be a suitable location for the branch campus in downtown Bakersfield, 1112 Truxtun Avenue, a commercial building owned by the Kern County Bar Association. After its first year and expected growth in its enrollment, MCL expects to move the campus into a larger suite of offices located nearby in the Bank of America building located at 1440 Truxtun Avenue. Both locations are in close proximity to the Kern County Courthouse and Law Library.

Prior to its opening, MCL has confirmed that it will hire a part-time administrator, denominated “campus dean” for KCCL, Mr. C.M. Starr, a recently retired and well respected Kern County deputy district attorney with almost thirty years of experience practicing law. The law school is also committed, prior to its opening, to hire a full-time “campus administrator who, although not in possession of a J.D. degree will also act as the assistant registrar and business manager for the campus.

As is permitted under the Guidelines, as a branch of MCL, Dean Winick will exercise his authority as such at KCCL and MCL’s full-time registrar, MS. Shashi Chand will act as the registrar of the branch campus from her office in Seaside.

As to its future faculty, the proposal identifies a number of candidates who are committed to begin teaching as part-time adjunct professors once KCCL opens. They future faculty is expected to include several experienced practicing attorneys who are members of the Kern County bar and at least two members of the Kern County Superior Court, the Honorable Steven Katz, slated to teach Criminal Law, and the Honorable Jennifer Thurston, who is expected to teach a first-year mediation class. As noted in the proposal, MCL expects to be able to retain all additional, well-qualified faculty as its enrollment grows and the KCCL curriculum expands to a full, four-year program.

MCL has represented that, once approved, it will establish and maintain a compliant law library at KCCL. As initially submitted, MCL proposed requesting a library waiver to allow it to open the branch campus without a compliant library and, instead, offering its students access to the nearby Kern County Library. After a discussion with staff, and as confirmed in Dean Winick's letter of August 10th, the law school has been able to acquire all of the mandatory hardcopy legal authorities so that the branch campus will open with a law library that meets all relevant Guidelines requirements.

Finally, MCL's submission provides, as is now required, a relatively comprehensive "market analysis" that provides data and a narrative discussion to support the MCL's assumption that KCCL will grow into a self-sustaining and growing institution. In its analysis, Kern County and the Bakersfield metropolitan area represent a underserved community for an accredited legal education. As noted therein, the closest accredited law schools, all CALS, are located in excess of 110 miles from downtown Bakersfield.

The market analysis also notes the number of local undergraduate institutions, including California State University at Bakersfield, that are expected to be the source future applicants, and the expectation that the local bar association, Superior Court and public legal departments, such as the Offices of the local District Attorney and Public Defender both welcome and will support KCCL and offer its students valuable clinical and externship opportunities and a future willingness to hire its future graduates.

DISCUSSION

Based upon the contents of its entire submission (including all hardcopy exhibits to Attachment A that will be made available for viewing when the proposal is considered), it appears that MCL has provided the Committee sufficient information to receive the Committee's approval of KCCL as a provisionally-approved branch campus of MCL. As discussed above, the law school has already taken and will continue to take all efforts needed, as certified by Dean Winick, such that within 90 days of the first day of classes, KCCL will be in substantial compliance with all relevant Rules and Guidelines related to the operation of a branch campus.

RECOMMENDATION

It is recommended that the request of the Monterey College of Law (MCL) for approval of a major change, which would allow it establish and open the Kern County College of Law (KCCL) as branch campus of MCL in Bakersfield, California, be received and filed; that the major change request be approved; that KCCL be permitted to open and operate as a provisionally-approved branch campus under the accreditation standards and operational requirements found in *Accredited Law School Rules* and the *Guidelines for Accredited Law School Rules*; that no less than 90 days before the expected first day of classes at KCCL, MCL submit a further certification to confirm that KCCL is at that time in substantial compliance with the *Accredited Law School Rules* and the *Guidelines for Accredited Law School Rules*; and, that following receipt of said certification, the branch campus may open and begin offering classes.

PROPOSED MOTION

Should the Subcommittee agree with the recommendation, the following motion is suggested:

Move, that the request of the Monterey College of Law (MCL) for approval of a major change, which would allow it establish and open the Kern County College of Law (KCCL) as branch campus of MCL in Bakersfield, California, be received and filed; that the major change request be approved; that KCCL will be permitted to open and operate as a provisionally-approved branch campus under the accreditation standards and operational requirements found in *Accredited Law School Rules* and the *Guidelines for Accredited Law School Rules*; that no less than 90 days before the expected first day of classes at KCCL, MCL submit a further certification to confirm that KCCL is at that tie in substantial compliance with the *Accredited Law School Rules* and the *Guidelines for Accredited Law School Rules*; and, that following receipt of said certification, the branch campus may open and begin offering classes.