

COMMITTEE OF BAR EXAMINERS OPEN SESSION AGENDA ITEM

AGENDA ITEM NUMBER: October 2016 – O-406

DATE: October 6, 2016

TO: Subcommittee on Educational Standards

FROM: George Leal, Director for Educational Standards

SUBJECT: **Pacific West College of Law – Response to Notice of Noncompliance**

BACKGROUND

During its meeting on August 26th, the Committee of Bar Examiners (Committee) received a Periodic Inspection Report of an inspection conducted of the Pacific West College of Law (PWCOL). Subsequently, a response submitted by the law school was received. The Committee adopted the Report's mandatory recommendations and, pursuant to Rule 4.260 of the *Unaccredited Law School Rules* (Rules), issued the law school a Notice of Noncompliance (NNC).

Attachment A is the response timely submitted by PWCOL's Dean, Kevin O'Connell, to the NNC dated August 26, 2016, which is intended to address the findings of the law school's noncompliance noted in the Inspection Report and, as required by the Rules, "demonstrating that it is in compliance or is taking steps to achieve compliance."

PWCOL is a small registered fixed-facility law school operating in the city of Orange. It operates adjacent to the law offices of Dean O'Connell; its J.D. enrollment at the time of the inspection consisted of only 10 students. Despite its small enrollment and the good faith effort of its Dean and administrator to achieve and maintain compliance with the *Guidelines for Unaccredited Law School Rules* (Guidelines), PWCOL has a history of operating non-compliantly. Its most recent inspection, conducted on March 29-30, 2016 by Educational Standards Consultant Sally Perring, was its second periodic inspection but its fourth since 2010, including two interim inspections conducted in 2012 and 2014.

PWCOL's response is intended to address the following issues:

- 1) To comply with Guidelines 2.3 (A), (B), (C) and (F) and 5.19, the law school's catalog, student handbook and website must be reviewed and revised to provide: a clear and compliant statement of the law school's admission procedures for those admitted after being academically disqualified; a clear and compliant statement of the its academic good standing policy, academic dismissal and all

graduation requirements; and it must eliminate completely, the current stated policy (as found in the student handbook) that allows the law school dean to retain or dismiss students on academic grounds at his sole discretion.

2) To comply with Guideline 2.9 (C), all course syllabi must be revised to provide students with notice of all factors used to determine the all final grades given.

3) To comply with Guidelines 3.1 and 3.2, the law school must begin scheduling at least one annual meeting of its Board of Directors and, in preparation of each such meeting, provide each Board member with an accurate and current report of the law school's current operations and the status of its ongoing duty to operate compliantly and each member should also receive a copy of all inspection reports submitted to the Committee of Bar Examiners since 2010.

4) To comply with Rule 4.243 and Guidelines 4.1 and 4.2, the Dean must demonstrably devote more time and effort to oversee the administration of the law school or resign as its administrator and retain a qualified administrator.

5) To comply with Guideline 4.3 and 5.19 the law school must form a committee of faculty members to aid in policy formulation, curriculum review and decision-making.

6) To comply with Guidelines 4.8 and 4.9, the law school must institute a compliant faculty evaluation process comprised of a process that relies on more than only classroom observations.

7) To comply with Guidelines 5.1, 5.2, 5.7, 5.9, 5.17, 5.18 and 5.25, the law school must conduct an objective evaluation of its program of legal education by engaging its faculty, through regular meetings, to improve the overall qualitative soundness of its program of legal education by improving the effectiveness of the instruction offered students, the quality of its final examinations and the effectiveness its academic and examination grading standards to better identify all students who are not qualified to succeed and graduate so that better correlation with students' pass rates on both the FYLSX and the California Bar Examination (CBX).

8) To comply with Guidelines 2.2 and 8.3 the law school must obtain and submit an audited report of its current financial status, including a statement of its current assets, liabilities, revenues and profits or losses, prepared by an independent certified public accountant.

9) To comply with Guideline 5.34 and Guideline 9.1 subsections (B), (C), and (D), the law school must conduct a review of the files of all currently-enrolled student to confirm that each contains a transcript of all course work completed by each student, including the dates on which the student took the FYLSX and whether they passed or failed; the number of units earned at other law schools

for which credit has been transferred; a memorandum signed by the Dean supporting the admission of each previously disqualified law student, whether or not the student is admitted after being academically dismissed from any law school, including PWCOL, or after his/her failure to pass the FYLSX timely and who then subsequently passes or is restarting his/her law studies as a first-year student at the law school.

10) To comply with Guideline 9.1 (G), the law school must create and then maintain compliant files of all administrative personnel.

11) To comply with Guideline 9.1 (H), the law school must create and maintain a compliant file for each faculty member to include all evaluations received from students or peers, as well as a copy of their law school transcripts.

12) To comply with Guideline 9.1 (O), the law school must ensure accurate and current data is submitted with its Annual Compliance Report including, but not limited to, each attachment, including its audited financial report.

DISCUSSION

A review of the PWCOL response confirms that Dean O'Connell appears to have taken action to address most, if not all, of the issues noted above. For example, on page one of the response regarding the recommendation relative to requiring the law school to revise its website and hardcopy written materials to confirm that applicants and students receive a clear and compliant statement of the law school's admission procedures, its academic good standing policy, academic dismissal and all graduation requirements, Dean O'Connell responded by stating that "PWCOL is currently reviewing its publications to simplify its academic good standing policy and to revise and correct the issues found during the periodic inspection." He goes on to assert that this review was "in progress and expected completion of the revised version will be on November 30, 2016."

Another example of its ongoing efforts to take steps to achieve compliance is found in PWCOL's response to the important issue regarding its finances. As required by mandatory recommendation no. 8, the law school is to obtain and submit to the Committee a report of its current financial status, including a statement of its current assets, liabilities, revenues and profits or losses, prepared by an independent certified public accountant. In response, on page seven, Dean O'Connell responded as follows: "PWCOL's accounting year is a fiscal year which ends on February 28, 2017." As a result, Dean O'Connell represents that he will be able to submit an audited financial statement for 2016 only after the close of its fiscal year at the end of next February.

Based upon these and the other actions taken by Dean O'Connell, a fair reading of the PWCOL response provides sufficient evidence that the Dean and the school's faculty and administrative staff are working to bring the law school into compliance by

addressing the issues identified during the inspection. As such, and as provided by Rule 4.262(A), the response may be considered satisfactory.

Given the ongoing nature of some efforts, however, and the need to complete others, it appears that it is not reasonable to determine whether the law school is now compliant solely from a reading of the response. Instead, to confirm whether compliance with the issues above have been achieved, an interim inspection is recommended. Such an inspection should provide the law school a last opportunity to show that it has achieved compliance, while providing the Committee the opportunity to determine whether the law school should either be placed on probation or the process of withdrawal of registration should be initiated. If either of those decisions are made, the law school “may request a hearing before the Committee within fifteen days of being sent a notice that the Committee is recommending probation or withdrawal of registration,” as provided by Rule 4.264.

RECOMMENDATION:

It is recommended that the response submitted by PWCOL to the Notice of Noncompliance dated August 26, 2016 be received and filed and that the response be deemed satisfactory under Rule 4.262(A), subject to confirmation of the school’s compliance by an interim inspection of the law school by April 14, 2017.

PROPOSED MOTION:

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

Move that the response of submitted by Pacific West College of Law to the Notice of Noncompliance dated August 26, 2016 be received and filed and that the response be deemed satisfactory, subject to confirmation of the school’s compliance by an interim inspection of the law school by April 14, 2017.