

#### 4.4 Action on Inspection Report - Southern California Institute of Law (Kramer/Leonard)



# The State Bar *of California*

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## **OPEN SESSION AGENDA ITEM 4.4 OCTOBER 2024 COMMITTEE OF BAR EXAMINERS**

**DATE:** October 11, 2024

**TO:** Members, Committee of Bar Examiners

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

**SUBJECT:** Action on Inspection Report - Southern California Institute of Law

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### **EXECUTIVE SUMMARY**

The State Bar conducted an inspection of Southern California Institute of Law (SCIL) on August 18 and 25, 2023. The inspection team's report of conditions at the time are set forth in Attachment A and the law school's response to the inspection report is set forth in Attachment B. Staff recommends that the Committee of Bar Examiners (CBE) adopt the inspection report in full, and the law school's registration as a fixed-facility, distance law school be renewed, with its next inspection to be set in summer 2026.

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### **RECOMMENDED ACTION**

It is recommended that the report and its recommendations be adopted in full, that the law school document evidence of completion of the recommendations in its 2024 Annual Report, and that the law school's registration as an unaccredited distance law school be renewed, with the next inspection set for 2026.

### **DISCUSSION**

Southern California Institute of Law is a for-profit law school operating since 1986, first as an unaccredited fixed-facility law school and later as a California Accredited Law School. In 2020, the CBE terminated the law school's accreditation after it did not meet the minimum, cumulative five-year bar exam pass rate of 40 percent or more required of accredited law schools. In fall 2020, SCIL began operation as a registered, unaccredited law school in the

distance learning category. This inspection is the law school's first inspection since its transition to the registered, unaccredited category.

The inspection team's report is attached (Attachment A), as is the law school's timely filed response (Attachment B).

The inspection team was composed of Educational Standards Consultants David Kelley and Greg Shin, and State Bar staff Theresa Solenski. The inspection report reflects the law school's compliance with the Rules and Guidelines for Unaccredited Law Schools observed at the inspection in August 2023 and through the self-study provided by the law school prior to the inspection, its annual reports, and required disclosures leading up to that inspection.

Subsequent to the response period, the law school also provided additional updates that may be considered by the CBE today.

The inspection report identifies seventeen areas to be addressed, summarized in Attachment A. The report, along with the law school's response in Attachment B and subsequent updates referenced below should all be considered by the CBE in assessing the law school's compliance. For the purposes of this staff report and its recommendation it may be helpful to draw attention to two key issues: 1) Financial Resources; and 2) State Bar Exam Results.

#### **Rule 4.240(K) Financial Resources**

Financial resources were identified as an issue at the inspection. Guideline 8.1 requires that a law school have current and anticipated resources sufficient to support its programs and operations. The law school's financial position demonstrated at the inspection raised a concern regarding this standard. Continued solvency was based on a projection of a significant increase in enrollment that was not consistent with recent enrollment trends. In addition, the law school, a for-profit entity, does not currently pay its faculty; it is anticipated that this could need to change in the future, increasing expenses.<sup>1</sup> The adequacy of the law school's finances is a factor that the CBE may consider when evaluating whether a law school has a sound program of legal education. (Guideline 5.2 (J)).

Subsequent to the inspection, in September 2024, SCIL provided staff with a contract stating that a single investor will purchase stock in the amount of \$150,000 on November 15, 2024. Should that transaction complete as planned, the law school will be able to update its financial projections and document how that investment may affect the law school's financial status.

#### **Rule 4.240(E) State Bar Exam Results and Opportunity for Licensure**

A law school is required to provide a sound legal education under Rule 4.240(E) and Guideline 5.1. When assessing a law school's ability to provide a sound education, one factor to consider

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<sup>1</sup> SCIL noted that its faculty were provided with a book entry that entitled them to compensation if the law school is sold. Subsequent to the inspection, the law school clarified that one faculty member received stock as a one-time bonus for a special project, but not for standard faculty work.

is the “cumulative success of the law school’s graduates on the California Bar Exam over such period of time as the Committee determines is appropriate.” (Guideline 5.2(K)). Here, the State Bar has been in communication with the law school about the need to improve its bar exam results since at least 2015, but they remain of concern.

The law school’s cumulative five-year bar exam pass rate reported in its 2024 Business and Professions Code section 6061.7(a) disclosure is 15.4 percent, and the pass rates on the July 2023 and February 2024 bar exams were 6 percent and 9 percent respectively.<sup>2</sup>

Since the law school’s transition to unaccredited status in 2020, nine applicants have passed the First-Year Law Students’ Examination. Six of these applicants passed the June 2024 exam. The school’s overall pass rate for that exam was 6 of 13 takers or 45 percent. These results are encouraging for the most recent exam, and results can be monitored to determine if this is the beginning of an upward trend.

SCIL has been informed of the opportunity to add additional State Bar exam preparation support as allowed under Guideline 1.11 and to have its applicants participate in the free State Bar exam preparation resources available to law students and applicants including the Bar Strategies and Stories Program and the Bar Retaker Support Group.

In September 2024, the law school advised that it will be adding additional State Bar Exam preparation classes during the 2024-2025 school year and provided the course titles. SCIL projects that the law school’s recent results in the June 2024 First-Year Law Students’ Examination, coupled with this additional examination preparation support, will result in improvement on State Bar exams.

The law school team demonstrates significant pride in its mission and achievements, and provided strong testimonials from several satisfied graduates who have licensed. No feedback was provided from the majority of students who have not licensed.

Due to the significant nature of the financial concerns, and state exam results viewed over time, it is recommended that SCIL’s registration be renewed and that its next inspection be set for summer 2026. The law school should also include in its 2024 Annual Report evidence of completion of each recommendation or a timeline for completion.

SCIL has requested renewal through 2028, with the next inspection to be set in 2028, contingent upon the closing of the stock investment planned for November. The law school has not advised how the investment will be allocated if received. Staff notes that the CBE will have the opportunity to evaluate the law school’s full progress report on all recommendations and financial projections included with its 2024 Annual Report and may evaluate at that time, whether a change to the inspection schedule is appropriate.

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<sup>2</sup> Since February 2021, REDACTED SCIL graduates have passed the CBX. Pass results were as follows: February 2021 – 0 percent of 13 takers; July 2021 – 4 percent of 27 takers; February 2022 – 15 percent of 13 takers; July 2022 – 4 percent of 23 takers; and February 2023 – 7 percent of 14 takers; July 2023 – 6 percent of 17 takers. Subsequent to the inspection, results were released for the February 2024 bar exam as follows – 9 percent of 11 takers.

## PREVIOUS ACTION

- [Application for Registration as an Unaccredited Law School, Committee of Bar Examiners Meeting, 8/20/20, Item V.F.](#)
- [Action on Termination of Accreditation, 8/24/20, Item V.G.](#)

## FISCAL/PERSONNEL IMPACT

None

## AMENDMENTS TO RULES

None

## AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

## STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS

None – core business operations

## RESOLUTIONS

If the Committee agrees with the recommendation, the following resolution should be made.

**RESOLVED**, that the Committee of Bar Examiners receives and adopts the inspection report of Southern California Institute of Law including all of its recommendations and receives and files the law school's response; and it is

**FURTHER RESOLVED**, that the law school submit as part of its 2024 Annual Report, documentary evidence of the completion of all recommendations set forth in the report or, if not fully complete, to explain why they were not completed, and provide the timeline and plan for completion of each; and it is

**FURTHER RESOLVED**, that the law school's registration as an unaccredited, distance law school be renewed, and its next inspection set for summer 2026.

## ATTACHMENTS LIST

- A. Inspection Report – Southern California Institute of Law
- B. Southern California Institute of Law's Response to Inspection Report



# The State Bar of California

## Southern California Institute of Law

### Periodic Inspection Report

Inspection conducted  
Pursuant to Rule 4.244(A) of the  
Unaccredited Law School Rules on:

**August 18 & 25, 2023**

***Visitation Team:***

David Kelley,  
Educational Standards Consultant

Greg Shin,  
Educational Standards Consultant

Theresa Solenski,  
State Bar of California Staff, Educational Standards

# **SOUTHERN CALIFORNIA INSTITUTE OF LAW**

## **REPORT OF SITE VISIT FOR PERIODIC INSPECTION**

**Santa Barbara, California**

### **INTRODUCTION**

The State Bar conducted a periodic inspection of the Southern California Institute of Law (SCIL) on August 18 and 25, 2023 via a Zoom videoconference. The team consisted of educational standards consultants David Kelley and Greg Shin, supported by State Bar staff Theresa Solenski, Natalie Leonard, and Cody Hounanian.

#### **Background**

This inspection is the law school's first periodic inspection as an unaccredited, distance category law school. The purpose of the inspection is to evaluate SCIL's compliance with the Unaccredited Law School Rules (Rules) and Guidelines for Unaccredited Law School Rules (Guidelines).

Dean Stanislaus Pulle founded SCIL in 1986 as a registered, unaccredited fixed-facility category law school. He continues to serve as the law school's dean. In 1995, the law school was accredited by the State Bar. In 2020, the committee terminated the law school's accreditation after it was unable to demonstrate a Minimum, Cumulative Five-Year Bar Exam Pass Rate (MPR) of 40 percent or more from the period of 2015 through 2020 (Prior Accredited Law School Rule 4.160(N); Current Accredited Law School Rule 4.160(D)(6)).

While the law school was unable to meet the MPR required by Accredited Law School Rule 4.160(N), which was the effective rule at the time, the law school was able to demonstrate that it planned to comply with the Unaccredited Law School Rules and Guidelines, which do not have a minimum pass rate requirement. Therefore, the committee approved SCIL's application to register as an unaccredited law school and change its teaching modality to distance learning.

In fall 2020, SCIL enrolled its first registered, unaccredited distance learning class. As part of the transition, the law school closed its Santa Barbara branch but retained its Ventura branch as its sole campus.

The law school's administration includes Vice Dean Eric Pommer, Director of Admissions Kevin Mauseth, Director of Distance Learning Laurel Fielden, and Registrar Vianney Ambriz. Dean Pulle holds a Ph.D. from Kings College, University of London. He is not licensed to practice law in California or any other jurisdiction. Vice Dean Pommer, and Director Mauseth are licensees of the State Bar of California. Dean Pulle, Registrar Ambriz, and Director Fielden are full-time employees, while Vice Dean Pommer and Director Kevin Mauseth work part-time. Director Mauseth works on a volunteer basis. Currently, 11 faculty members, including members of the administrative staff Dean Pulle, Director Fielden, Director Mauseth and Vice Dean Pommer, teach classes. With the exception of Dean Pulle and Director Fielden, all faculty work part-time.

SCIL is organized as a for-profit corporation. The law school offers a four-year, Juris Doctor (JD) degree program that qualifies students to meet the legal education requirement to establish eligibility to take the California Bar Exam (CBX). According to the law school's 2023 Annual Compliance Report—data the State Bar received shortly after the inspection and spanning the 52 weeks ending September 15, 2023—the law school enrolled 32 students, though the law school advised that 33 students were enrolled. For the fall 2023 semester, 30 students applied for admission, and 25 were admitted.

Since June 2021, a total of REDACTED students have passed the First-Year Law Students' Examination (FYLSE). Pass results were as follows: June 2021 – no takers; October 2021 – REDACTED percent of REDACTED takers; June 2022 – REDACTED percent of REDACTED takers; October 2022 - REDACTED percent of REDACTED takers; June 2023 – REDACTED percent of REDACTED takers; October 2023 – REDACTED percent of REDACTED takers.

Since February 2021, REDACTED SCIL graduates have passed the CBX. Pass results were as follows: February 2021 – 0 percent of 13 takers; July 2021 – 4 percent of 27 takers; February 2022 – 15 percent of 13 takers; July 2022 – 4 percent of 23 takers; and February 2023 – 7 percent of 14 takers; July 2023 – 6 percent of 17 takers. Subsequent to the inspection, results were released for the February 2024 bar exam as follows – 9 percent of 11 takers.

### **Submission of Self-Study Materials**

SCIL submitted a 2020 self-study shortly after it transitioned to registered, unaccredited law school status. SCIL updated the self-study in 2022 to assist the inspection team in its assessment of the law school's compliance with the Unaccredited Rules and Guidelines and confirmed that the information provided in the updated 2022 self-study was still current. The team reviewed those documents along with the law school's 2021–2023 Annual Compliance Reports. Administrators responded to requests for additional information from the inspection team, and the information provided was considered when drafting this report.

### **Conduct of Site Visit**

The inspection took place via videoconference on August 18 and 25, 2023. Before the visit, the inspection team reviewed all materials described above. Subsequent to the inspection, the team incorporated data from the law school's 2023 Annual Compliance Report submitted in November 2023 and the results of the July 2023 CBX and October 2023 FYLSE.

During the visit, the inspection team met with administrators, faculty members, and about 20 students, and performed a virtual tour of the law school's administrative headquarters.

After the visit, the team reviewed course materials and completed a review of law school records from the self-study and those requested during the inspection process, including various SCIL committee meeting minutes, student faculty evaluations, and course syllabi, and observed Vice Dean Pommer's Critical Skills course. At the consultants' request, SCIL invited students to send comments about the law school; one student comment was received and reviewed.

## INSPECTION OBSERVATIONS

### Compliance Issues Observed in August 2023

**1. Rule 4.241(A)–(B), Guideline 9.1(C)(2):** At the time of the inspection, the law school was not fully compliant with Rule 4.241 and Guideline 9.1(C)(2) because the law school’s required disclosures did not disclose that the law school had received a Notice of Noncompliance terminating its accreditation in 2020 and it did not produce Rule 4.241 Disclosures signed by the student as required by Rule 4.241(C) for all currently enrolled students.

At the time of the inspection, the law school’s Rule 4.241 Disclosure listed the dates it operated as an unaccredited law school and the dates it operated as an accredited law school. While it did not include its loss of accreditation in 2020, it reached back to 2017 to extract a quote from its 2017 report that stated “[O]verall SCIL’s curriculum, admissions, scholastic standards, faculty, library, facilities, Dean and administrators [are] all compliant in offering students a sound program of legal education,” without disclosing to current or prospective students that its performance had changed and that the committee issued the law school a Notice of Noncompliance terminating its accreditation, as required by Rule 4.241(A)(9).

Subsequent to the inspection, the law school added a statement regarding the Notice of Noncompliance and termination of accreditation to its disclosure as required by Rule 4.241(A)(9), explaining that the committee terminated its accreditation for failure to meet the MPR required under Accredited Rule 4.160(D)(6).

Furthermore, at the time of inspection, SCIL was noncompliant with Guideline 9.1(C)(2) which states that the law school must maintain, “[f]or each person admitted who did register or attend,” a “permanent file containing . . . [s]igned disclosure statements” in the proper format. At the time of inspection, signed Rule 4.241 Disclosure statements were not provided to the State Bar for all currently enrolled students.

The law school advised that students occasionally forget to return the document timely. Subsequent to the inspection, and at the State Bar’s request for further investigation, SCIL produced signed disclosure statements for all students, including those whose disclosures were initially missing.

It is the law school’s burden to establish compliance with the rules and its obligation to maintain adequate records of its operations (Rule 4.265(B); 4.240(L)). Although the law school addressed Rule 4.241 and Guideline 9.1(C)(2) compliance issues after the inspection, observations at the time demonstrated noncompliance. Moving forward, the law school must affirmatively manage this process in a compliant manner, including in its Rule 4.241 Disclosure statements the information required by Rules 4.241(A)(1)–(10), and its Notice of Noncompliance. The law school must also actively maintain a complete set of records containing Rule 4.241 Disclosures signed by the student for all currently enrolled students as required by Guideline 9.1(C)(2).

**2. California Business and Professions Code section 6061.7 and Guideline 2.3(D)(2):** At the time of the inspection, the law school was not compliant with Business and Professions Code section 6061.7, which states that a law school not approved by the American Bar Association shall publicly disclose a set of specific information detailed in the code on its website. Business and Professions Code section 6061.7(b) requires schools to provide the required information in a standardized information report (Business and Professions Code section 6061.7 Disclosure), which the State Bar provides annually. Subsequent to the inspection, the law school fixed some, but not all of the compliance issues in the disclosure, as described below.

At the time of inspection, the law school failed to accurately disclose the 75th, 50th, and 25th percentile undergraduate GPAs of enrolled students as required in the 2023 Business and Professions Code section 6061.7 Disclosure. This required data was also inaccurate in the 2024 Business and Professions Code section 6061.7 Disclosure. It appears the law school may have included the number of individuals with GPAs in the 75th, 50th, and 25th percentile, rather than the GPA itself. The State Bar requested that SCIL revise this portion of the disclosure on January 26, 2024, February 12, 2024, and March 19, 2024. On March 26, 2024, the law school advised that it had revised this section of the disclosure, and the State Bar confirmed its accuracy. Currently, the 2024 Business and Professions Code section 6061.7 Disclosure still does not provide the dates when it conducted a survey of its 2020 graduates to contextualize its Employment Outcomes section, as required in the form. Rather, it altered the form to remove the survey date range field from the form in violation of the statutory requirement. The missing survey date range is a violation of Guideline 2.3(D), which requires that all information in the standardized report be “complete” and “accurate.”

At the time of the inspection, the school failed to include attrition data in section 4.C of its 2023 Business and Professions Code section 6061.7 Disclosure, and instead included “N/A”. This description was inaccurate given the school’s enrollment figures by year as recorded in section 4.A of the disclosure, which shows that the school did have attrition. SCIL updated this section in its 2024 Business and Professions Code section 6061.7 Disclosure after this omission was identified at the inspection.

In addition, at the time of the inspection and at the time this report was written, SCIL was not in compliance with section 6061.7(a) which requires that the school “publicly disclose [the required data] on its Internet Web Site, with a link from the Internet home page under ‘Admissions.’” At the time of the inspection and currently, there are multiple paths to reach SCIL’s 2023 and 2024 Business and Professions Code section 6061.7 Disclosures. However, none of them comply with the Code and Rule, the purpose of which is to ensure that this information is easily accessible to consumers and in a consistent location for all unaccredited law schools.

To reach the Business and Professions Code section 6061.7 Disclosures, a current or prospective student may click “Admissions and Program Information -Click here,” on the homepage followed by “Admissions” on the next page. Alternatively, they could scroll to the bottom of the home page, click the link “Accreditation” under the heading “About,” and then scroll to the bottom of that page and click the link “CA Bus & Prof Codes 6061.7 Law Schools’ Annual Compliance Form.” In all the paths to the Business and Professions Code section 6061.7 Disclosures, a user must

route through multiple webpages before finding the disclosure, rather than linking directly from the homepage under the heading “Admissions” as required by Business and Professions Code section 6061.7(a) and Guideline 2.3(D)(2).

While SCIL has corrected some elements of this disclosure, it must fully update its 2024 Business and Professions Code section 6061.7 Disclosure for completeness, accuracy, and accessibility by including the date range for the employment survey of its 2020 graduates and make it accessible through a link from the law school’s home page titled “Admissions,” and also refrain from deleting questions on the form.

**3. Rule 4.240(B); Guidelines 2.1 and 2.3:** SCIL is not compliant with Guidelines 2.1 and 2.3, which state a law school must be honest and forthright in all of its activities, including communication with its students, applicants, and prospective students. While some instances of noncompliance have been corrected, other forms of noncompliance continue, as detailed below.

Under Guideline 2.1, a law school must establish and maintain procedures and practices that demonstrate an ongoing commitment to ensuring that every law school activity is conducted honestly and in a forthright manner. Further, Guideline 2.3 requires that a law school communicate honestly with students, prospective students, and applicants regarding their prospects of obtaining a degree and having a reasonable opportunity to become licensed by the State Bar. At the time of the inspection, SCIL’s disclosure webpage included incorrect FYLSX pass rates and CBX pass rates that were higher than the actual rates. The disclosure webpage also included the 2017 statement “[O]verall SCIL’s curriculum, admissions, scholastic standards, faculty, library, facilities, Dean and administrators [are] all compliant in offering students a sound program of legal education.” without advising of the 2020 termination of its accreditation as described above. The law school failed to provide the context that this quote was taken from a 2017 State Bar Accreditation Inspection Team report, before SCIL lost its accreditation.

SCIL initially revised the disclosure on its website in fall 2023 by correcting incorrect CBX and FYLSX pass rates. However, the law school still did not contextualize the above statement by including the law school’s termination of accreditation, so the disclosure remained noncompliant and did not fully advise students of the law school’s performance. Subsequent to an additional State Bar reminder on February 12, 2024, SCIL revised its disclosure on February 17, 2024, by including the context that the quote describing SCIL as offering a “sound program of legal education” was from a 2017 State Bar inspection report, before it lost its accreditation. These failures to comply with Guidelines 2.1 and 2.3 have thus been corrected, and the law school must put procedures in place to maintain compliance in the future.

The law school has not been and continues to be noncompliant with Guidelines 2.1 and 2.3 with respect to its representations regarding course offerings. For example, the Catalog includes a long list of courses that are not offered, or offered so infrequently that a student cannot expect to have the opportunity to take the course during four years of study. The law school should update its Catalog to more accurately reflect the current course offerings to prospective students,

including adding the most recent version of practical skills courses it is offering<sup>1</sup> and revising the long list of elective courses to only those that will be offered in the next four years.

Finally, SCIL has not been honest and forthright in communication with prospective students in its 2023 and 2024 California Business and Professions Code section 6061.7 Disclosures in that it failed to provide the required survey dates regarding 2020 employment outcomes. SCIL continues to fail to provide full context regarding its employment outcomes, as the survey date range is still missing. This omission thus violates 2.1 and 2.3.

The law school must maintain accurate and complete information in its Rule 4.241 Disclosure, Catalog, and California Business and Professions Code section 6061.7 Disclosures to comply with Guidelines 2.1 and 2.3. With respect to the previously inaccurate exam data and missing attrition data, accurate and complete information is necessary to ensure that the law school does not mislead prospective students about their ability to obtain a degree and be admitted to the bar as stated in Guideline 2.3(C). Given the law school's time in operation, it should be able to comply fully with this statutory requirement without multiple State Bar reminders.

**4. Rule 4.240(C); Guideline 2.8(B):** SCIL is not compliant with Guideline 2.8(B) because its student discipline policy does not contain all of the components required by the guideline.

SCIL's student discipline policy (honor code) is set forth in the Student Manual. While it states expectations for student conduct, it does not indicate whether students receive a written notice and opportunity for a hearing, as required by Guideline 2.8(B). The law school must adopt, publish, and implement a written policy on student discipline that fulfills each requirement enumerated in Guideline 2.8.

**5. Rule 4.240(C)(L); Guideline 2.9(C):** The law school is not compliant with Guideline 2.9(C), which states that a law school must provide each student with a written statement explaining the extent to which components outlined in the Guideline will be used in determining a final grade.

SCIL's Catalog states that course grades are calculated based on course content and final examinations, however, neither the Catalog nor course syllabi meet Guideline 2.9(C)'s requirement to include a written statement explaining the extent to which examinations and participation will be used to determine the final grade.

Moreover, several courses are graded only by Dean Pulle, rather than the designated course instructor, but this is not specified in the course syllabi. Guideline 2.9(C)(4) requires that a law school provide a written statement explaining the extent to which evaluation by individuals other than the course instructor will be used to determine a final grade.

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<sup>1</sup> The syllabus reviewed was called "Discovery Law," however, the Catalog lists a course called "Legal Skills Training: Critical Thinking Skills" to be taken at that point in the curriculum.

Further, to comply with Guideline 2.9(C)'s requirement to explain the extent to which examinations and class performance are used in determining grades, students must be informed clearly as to the number and relative weight of each graded assignment in their courses, whether drafted by the school or a third-party content provider and how much class performance is weighted. Discussions with faculty indicated that instructors may adjust grades by as much as 10 percent for participation, but this appears to be ad hoc and is not communicated in written format to students although it would fall under the purview of Guideline 2.9(C)(3). To comply with Guideline 2.9(C), the law school must revise course syllabi to clearly state the breakdown of course grading and provide copies to the State Bar.

**6. Rule 4.240(C)(L); Guideline 2.9(G):** SCIL did not demonstrate compliance with Guideline 2.9(G), which requires the law school to establish a committee consisting of faculty, and, if the law school chooses, one or more members of the administrative staff and one or more students, to handle student requests for grade reviews.

SCIL indicated it does have a Faculty Grade Review and Grade Correlation Committee; however, it did not provide any evidence to support this assertion. For example, none of the faculty members who met with the inspection team knew which faculty members participated in the Faculty Grade Review and Grade Correlation Committee or how often these committees met, and none were a part of the groups, though they were identified as key faculty. Further, the school did not provide any written procedures governing the committee. To comply with Guideline 2.9(G), the law school must demonstrate and document that it has an active grade review committee, providing minutes and other evidence of its progress and operation.

**7. Rule 4.240(D); Guideline 4.8 and 4.9:** SCIL is not compliant with Guidelines 4.8 and 4.9, which state that a law school must adopt written procedures for the regular evaluation of instructor competence (Guideline 4.8), and the basis for instructor evaluations should include observation in the classroom and review of course materials and grades (Guideline 4.9). The most recent evaluations provided were from 2021 and contained only faculty-peer evaluations, which did not include consideration of the quality, nature, and type of examinations as required by Guideline 4.8(E). The length of the evaluations was frequently under 30 minutes, and written observations as to the other factors in Guideline 4.8 were brief. Some of these evaluations also lacked faculty signatures, leaving the team unsure as to whether the evaluations were delivered to the observed faculty member.

Moreover, the handbook lacked a written policy on the regular evaluation of instructors required by Guideline 4.8. In practice, faculty evaluation at SCIL consists of two parts: 1) anonymous forms submitted by students at the end of a course; and 2) faculty-peer evaluations last submitted in 2021. While the dean indicated new faculty members are evaluated within their first year and all other faculty members are evaluated every two to three years, and this is also reiterated in its 2023 Annual Compliance Report, the law school's records indicate that this policy has not been implemented for the last several years.

To comply with Guideline 4.8 and Guideline 4.9, the law school's administration must formalize and adopt written procedures providing for regular evaluation of instructor competence,

including routine, meaningful, and timely evaluations of all instructors. SCIL must demonstrate that it has and follows a schedule delivering meaningful evaluations and be able to document the evaluations provided in 2024 and when each faculty member's next evaluation is due. A meaningful evaluation is one that includes the consideration factors listed in Guideline 4.8.

Also, without proper evaluation of faculty and instructor competence, the law school cannot meet its obligation to demonstrate that it has competent faculty as required by Rule 4.240(D).

**8. Rule 4.240(E); Guideline 5.1 and 5.2:** The law school is not compliant with Guidelines 5.1 and 5.2. Guideline 5.1 states that a law school must maintain a qualitatively and quantitatively sound program of legal education. Guideline 5.2 states that in assessing the soundness of the law school's program the committee can consider, among other criteria: the content and scope of the curriculum; the subject matter knowledge and teaching competence of instructors; the materials used, including syllabi; the effectiveness of instructional methods; and the quality of exams and assignments.

With advance notice given to the law school, the inspection team audited Vice Dean Pommer's Critical Skills class. In the observed class, the Vice Dean discussed the IRAC method and applied it to a practice exam that the students had in a workbook. He took questions and encouraged the students to use Populi for resources related to the FYLSX. Overall, the inspection team found Vice Dean Pommer's instruction relevant, accessible, interesting, and interactive. However, while Vice Dean Pommer's class appeared comprehensive to the inspection team, the overall program appears unsound for the reasons described in the following paragraphs.

Below is a list of determining criteria, provided by Guideline 5.2, where the law school failed to demonstrate compliance thus putting the soundness of the legal program in question:

Guideline 5.2(A): The law school failed to demonstrate the soundness of the content and scope of its curriculum for all six of its divisions. When SCIL applied to begin a distance learning program, it requested only one division. Without seeking a pre-approved major change to modify its operations, the law school began offering six divisions with courses in various orders. This is the second time the law school added a division without seeking a major change. After the law school began an additional division in March 2020 without preapproval, the law school was admonished verbally; no further action was taken because the law school's accreditation was already being terminated on other grounds, despite the law school starting another cohort just a few weeks prior to the end of its accreditation.

SCIL must demonstrate to the committee that all six divisions, each of which provides classes in different orders, offer courses that are logically sequenced to meet the requirement that the content and scope of the curricula in all of these divisions are sound, and that the law school has sufficient staffing and support to operate all divisions, timely evaluate students, and timely provide academic support as needed. The law school identified in its own application to start a distance program that significant academic support for students would be needed, and the law school must demonstrate sufficient capacity to implement across all divisions these steps identified as necessary by the law school.

To demonstrate the soundness of all six of its divisions, a major change application is requested with the following information: 1) 52-week academic calendar for each division including the division start and end date; 2) evidence of academic support such as student orientation and bar exam preparation in each division.

Guideline 5.2(B): The law school failed to demonstrate qualitatively the competency of the instructors, a criterion for assessing the soundness of the program, due to the fact that it lacked timely and informative faculty evaluations that considered all of the factors in Guideline 4.8 as described above in the section related to Guidelines 4.8 and 4.9.

Guideline 5.2(K): The law school failed to demonstrate quantitatively that the program is sound, due to the long-term low pass rates for the law school's graduates on the CBX. SCIL's 2023 five-year cumulative CBX pass rate is 15.4 percent, the lowest of any law school regulated by the State Bar of California. Moreover, in the two years (last six administrations) of the FYLSX, only REDACTED students passed. None of the 11 students who took the FYLSX in 2023 passed. While the law school has redesigned its curriculum multiple times in recent years, exam outcomes remain very low. Though the law school advises that students benefit from the conferral of a JD degree and downplays these outcomes, the degree must represent a level of knowledge and achievement such that students have a meaningful opportunity to pass the CBX.

Guideline 5.2(E): The law school failed to demonstrate qualitatively the soundness of its admissions requirements including minimum levels of prior education, preparation, or training.

As discussed in detail in section 13 regarding Rule 4.240(H) and Guidelines 5.26 and 5.27, SCIL did not produce written admissions criteria and does not evaluate any admissions criteria against eventual student performance. SCIL holds brief pre-admission meetings with prospective students during which time SCIL's Director of Admissions assesses the prospective student and decides whether to encourage the applicant to apply for the JD program. SCIL asserts that this process discourages applicants unlikely to be accepted from investing time and money in the process. However, these meetings are informational and do not utilize a standardized admission policy or procedure, and few of those accepted are able to graduate and license. There is no evidence that SCIL applies any admission requirements that attempt to assess whether an applicant has the minimum level of prior education, preparation, training to complete the degree program, or become licensed. This conclusion is reinforced by SCIL's high first-year 2023 attrition rate of 35 percent, low five-year cumulative CBX pass rate (15.4 percent), and low FYLSX pass rate of 11 percent for 2021 - 2023.

Guideline 5.2(H): The law school failed to demonstrate qualitatively the soundness of its grading system as described in the section on Rule 4.240(E) and Guideline 5.25.

As described in section 12, the law school appears to employ inconsistent grading methods, and, as described in sections 6 and 10, the school's grade correlation efforts appear ad hoc at best; together, these limitations result in grading standards that do not sufficiently ensure accuracy, validity, reliability, and consistency in the evaluation of student performance.

In summary, SCIL has failed to demonstrate quantitatively and qualitatively the soundness of its education. SCIL's addition of multiple divisions with no demonstration that the courses in those divisions are logically sequenced, failure to demonstrate the competency of its instructors, lack of a proper faculty evaluation system, inadequate admissions policies, lack of an intelligible and useful grading system along with its high attrition and poor exam outcomes constitute numerous violations of applicable Rules and Guidelines and establish that SCIL has failed to maintain a sound program of legal education. To address this, the law school must update its faculty evaluation, grading and admissions policies, and it must demonstrate that it has a curriculum that is sound and offers students a reasonable opportunity to license, no matter which of the six divisions they select. The law school must also take steps to evaluate its curriculum and continue to revise it for improved outcomes and file a major change request if it wishes to offer multiple divisions of its JD program. The law school was asked to file a major change request on January 12, 2024, and after several reminders provided additional information in March 2024 in the form of an email, but a full motion is still required.

**9. Rule 4.240(E); Guidelines 5.11:** The law school is not compliant with Guideline 5.11, which requires a law school to offer a balanced and comprehensive curriculum including the opportunity to take elective courses in a variety of subjects and with materials presented in an organized and logical manner and sequence.

The various order of courses, depending on the divisions, as described above in Section 8, is one example of noncompliance with Guideline 5.11. The law school has not demonstrated whether courses are offered in a logical manner and sequence across all six divisions, or that the law school has a competent plan to take on this additional administration, because the law school did not file a major change request.

Another example of SCIL's noncompliance with Guideline 5.11 is the lack of availability of elective courses. While SCIL's Catalog lists many one-unit elective courses, these are not available each year as they are determined by faculty availability. SCIL's course schedule only allows students the opportunity to take up to one elective during their four-year JD degree program. To comply fully with Guidelines 5.11, the law school must review its curriculum and consider ways to incorporate more opportunities to take electives, and also update its Catalog to fairly alert students as to which courses will reasonably be offered during their time of study and the frequency with which they will be offered.

**10. Rule 4.240(E); Guideline 5.17:** The law school is not compliant with Guideline 5.17, which states that a law school must adopt written grading standards that ensure accuracy, validity, reliability, and consistency in the evaluation of student performance. While SCIL does have a written grade correlation policy that states it attempts to ensure the scores of all instructors who teach the same group of students have a "reasonable" correlation to one another, and a grading correlation committee to help it achieve this goal, the policy and committee are insufficient. The procedures used to correlate grades appear ad hoc, without following a specific written procedure, as described below. Moreover, most grades are awarded in multiple subjects by just the law school's dean; as such, it is challenging to correlate grades of multiple instructors in light

of the fact that grades across multiple subjects for the same group of students are awarded by one person, the law school's dean. Despite good grades, students are not passing State Bar exams, suggesting grades are inflated and/or course content is insufficient.

The dean stated that if a student's raw grade in one course is five or more points above their raw grade in two other courses, the dean will reduce the higher grade by a few points.<sup>2</sup> This procedure is not documented in any materials SCIL shared with the State Bar and does not appear reasonably calculated to inform the student of their progress toward licensure in that subject. To comply with Guideline 5.17, the law school must formalize its grade correlation policy in writing and institute clear procedures for how grades should be adjusted in a manner designed to inform students of their progress. The law school must document that it has created and implemented an effective policy.

**11. Rule 4.240(G); Guideline 5.18:** SCIL is not compliant with Guideline 5.18 which states that a law school must adopt sound written scholastic standards and must as soon as possible identify and disqualify those students who have demonstrated they are not qualified to continue under these standards.

SCIL does have written scholastic standards, however they appear unsound. The law school's current standards result in very low advancement rates for students, as well as low CBX pass and licensure rates. The law school is not disqualifying in a timely manner those students who are unlikely to be able to license, causing them to invest time and tuition without the benefit of licensure. The law school does have a policy that disqualifies first-year students who receive a cumulative grade of less than 67, and upper-classmen who receive a cumulative grade of less than 70, however SCIL's five-year cumulative CBX pass rate of 15.4 percent suggests this standard is unsound. This is not an individual pass rate per exam, but rather the percentage of exam takers who took and passed the exam over a five-year period. In addition, the law school's practice of having the dean grade most student work may reduce the faculty's ability to realistically assess student progress.

To satisfy Guideline 5.18, the law school must improve its ability to assess student progress and provide constructive feedback to students, timely dismissing those who are not qualified to continue, rather than graduating such students without meaningful opportunity to license. It must document the policy and its implementation. The law school must create relevant metrics to evaluate the policy's effectiveness and make changes as needed to demonstrate that its standard is effective and that students are timely dismissed when appropriate. The law school's need to adjust its admissions policy is also discussed in item 13.

**12. Rule 4.240(E); Guideline 5.25:** SCIL is not compliant with Guideline 5.25, which sets out the criteria for evaluating the quality of examinations and accuracy and reliability of grading, including

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<sup>2</sup> Specifically, the dean stated: "there is a calculation process when raw grades are submitted [and] any course grade that is five or more points above another two course grades means they need to take a look at their [student's] exam and bring it down a couple of points."

the degree of correlation between the grades received by students in the first-year courses of Torts, Contracts, and Criminal Law and their passage or failure of the FYLSX.

Of the four students who took the June 2023 FYLSX, none passed, despite all being in good standing with a weighted GPA in Torts, Criminal law, and Contracts, ranging from a C+ to a B. This lack of correlation between final grades and passage of the FYLSX suggests the law school may suffer from grade inflation and/or insufficient course content. While similar correlation information is not yet available for the October 2023 FYLSX, the law school's pass rate for that exam was zero percent.

Moreover, the law school's grading methods appear to be inconsistent. Some faculty members stated they grade the coursework relating to the courses they teach, and others indicated that the dean, rather than the professors graded the students' coursework. Faculty stated they did not know why they were not responsible for their own grading and did not know the standards used for grading, such as whether the courses were graded on a curve. The dean suggested that he grades some courses because he can provide richer feedback than his faculty, but a review of graded exams did not display significant feedback and the dean did not explain why his faculty was not trained to provide sufficient feedback. In courses where the dean does the grading, faculty indicated they are not aware of how their students are doing in the course.

To comply with the Guideline, the law school must review its grading policies to standardize its grading approach and implement a strategy to reduce grade inflation. The law school must document the use of a sound and effective grading policy and strategy to reduce grade inflation and ensure proper course content and demonstrate that the policy has been implemented and is being monitored effectively. The committee may assess the effectiveness of the policy using the correlation between first-year course grades and FYLSX pass rates as one criterion.

**13. Rule 4.240(H); Guidelines 5.26 and 5.27:** The law school is not compliant with Guideline 5.26, which states that the law school must adopt and maintain a sound written admissions policy, or with Guideline 5.27, which states a law school must adopt adequate and appropriate screening procedures to ensure that persons who clearly lack the ability or the educational background to study law are not admitted or allowed to continue as students. A law school must not admit any student who is obviously unqualified or who does not appear to have a reasonable prospect of completing the degree program.

SCIL holds a brief pre-admission meeting with prospective students who plan to submit an admission application. These meetings are informational and do not utilize a standardized admissions policy or procedure, thus failing to meet the requirements of Guideline 5.27. SCIL's Director of Admissions assesses the prospective student and decides whether to encourage the applicant to submit an application for the JD program or not. The school states this process discourages applicants unlikely to be accepted from investing time and money in the process and explains the law school's high admission rate. Yet, this process does not appear effective because the law school experiences high attrition and the lowest performance on State Bar exams of all schools, with over four out of five graduates unable to license according to its 2023 five-year cumulative pass rate, suggesting that the policy is not sound.

The law school did not produce written admissions criteria and it is not evaluated against eventual student performance. Student outcomes of high attrition and low pass rates on State Bar exams over a multi-year period suggest that the admissions policy is not sound and lacks the appropriate screening procedures to ensure that admitted students are qualified and have a reasonable prospect of completing the degree program, and/or that the law school's curriculum fails to provide adequate support for the students that the law school accepts. In the past three years and six administrations of the CBX, SCIL's highest pass rate was 15 percent in February 2022. Its five-year cumulative CBX pass rate (2017-2022) included on its January 2023 Business and Professions Code section 6061.7 disclosures was just 16.7 percent; this decreased to 15.4 percent for the January 2024 disclosure<sup>3</sup>, whereas the average pass rate across California unaccredited distance learning schools was 42 percent for the same period.

For the February 2024 bar exam, one of eleven takers passed, while one of 17 exam takers passed the July 2023 bar exam. Similarly, SCIL's FYSLX pass rates are low and have decreased from 2022 to 2023. From 2021 to 2023, there were six administrations of the CBX and only three out of 20 students passed the exam. In the last two administrations of the FYSLX—June and October 2023—none of the 11 takers passed.

Despite these outcomes, and several curriculum changes, the law school has not formally studied the factors contributing to low CBX and FYSLX exam pass rates nor has the school implemented evidence-based policies to improve outcomes on State Bar exams. Instead, outcomes continue to decline. Subsequent to the inspection, in its 2023 Annual Compliance Report, SCIL outlined new practices to improve exam outcomes such as a course focused on taking the multiple-choice portion of the CBX, an upper-division advanced writing course, and mandatory academic counseling for struggling students, but these new practices are untested and therefore the school must closely and timely evaluate outcomes once these programs are implemented. They also do not sound significantly different from the policies implemented in recent years.

To comply with Guidelines 5.26 and 5.27, the law school must create and continuously evaluate a written set of criteria for admission to ensure that its admissions policy is sound.

**14. Rule 4.240(L); Guideline 6.6(A):** SCIL is not compliant with Guideline 6.6(A), which requires a law school to keep a record of all expenditures for hard copy and electronic library material and all other electronic legal research resources available to students. The SCIL administration could not provide records of library expenditures, as required by Guideline 6.6. To remedy this, the law school must document all expenditures since the last inspection in 2016, and provide documentation to the State Bar, as well as keeping track of these expenditures on a forward basis, ensuring that all required materials are available.

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<sup>3</sup> The January 2024 Business and Professions Code section 6061.7(a) disclosure was submitted to the State Bar with SCIL's annual compliance report package in November 2023. It utilizes data from 2018 to 2023.

**15. Rule 4.240(K); Guideline 8.1:** The law school is not compliant with Guideline 8.1, which requires that a law school must have adequate present and anticipated financial resources to support its programs and operations. The law school's audited balance sheets for 2020 and 2021, shared in its 2022 Annual Compliance Report, show it operated in a deficit of \$4,129 in 2021. This is true even though some faculty members are not paid cash compensation. Some are volunteers, while others are paid at least partially with stock in the law school, which was described in SCIL's financial audits as having no "fair market value". Most recently, its 2023 Annual Compliance Report shows the law school's deficit increased significantly in 2022 to \$72,327.

All revenue is derived from per-student total JD tuition of \$8,500 and per-student total fees of \$4,800. The law school offers interest-free financing, allowing students to make tuition payments of \$280 per month over an entire year. With small cohorts, low tuition rates, attrition, and occasional non-repayment (because of the deferred tuition plan offered to all students<sup>4</sup>), the school has not been profitable. In particular, the school's financial statements state that over \$30,000 of tuition and fees were written off in 2020 and 2022, due to the inability to collect funds from students. These write-offs appear to be a significant portion of expected income, as the school's total gross revenue during this period was less than \$150,000 in 2022. Thus, due to the deferred tuition plan, an increase in enrollment will not necessarily increase SCIL's revenue proportionately or improve its overall financial situation.

Dean Pulle has reduced expenses by reducing the rent. It was also reported during the inspection that at least one faculty member received payment in the form of shares of the law school instead of cash.<sup>5</sup> Moreover, Kevin Mauseth indicated that he receives no payment for his services in his role as Chair of the Admissions Committee and as faculty of the law school. The law school must take reasonable steps to have a competent legal evaluation of the compensation policies for its faculty, including the use of unpaid volunteer labor and shares that lack monetary value, and demonstrate that its policies comply with all applicable laws as required by Rule 4.240(A).

Further, SCIL did not submit requested financial records or otherwise demonstrate it has adequate anticipated financial resources to provide the services it advertises. For example, in its 2022 Annual Compliance Report, SCIL submitted a budget for 2021 and 2022. The 2022 budget appeared identical to the one submitted for 2021, except that the dates on the top had been changed, rather than adjusted to fit the changing circumstances for each year. Further, a three-year financial projection was requested on August 2, 2023, again on August 18, 2023, and a third time on August 28, 2023, but was not delivered to State Bar staff until the 2023 Annual Compliance Report was filed on November 15, 2023, after the inspection visit was over. However, the assumptions behind these projections were not provided, and they appear unrealistic. For

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<sup>4</sup> All students are defaulted into a monthly payment plan of approximately \$280 over 48 months.

<sup>5</sup> Payment in the form of shares was mentioned by board members and in the financial materials sent by the dean with the self-study, while the dean verbally advised that the staff and faculty were not paid via shares. The law school is encouraged to ensure that it is classifying and paying its faculty appropriately under California and federal law.

example, SCIL projects gross educational revenue in 2024 of \$235,000, when its 2023 revenue equaled \$126,000.

This financial uncertainty, considered in conjunction with the law school's educational outcomes discussed above, raises concern as to whether it is able to offer a sound educational program that offers students a meaningful opportunity to graduate and license.

The law school must produce reasonable, evidence-based three-year financial projections and explain its underlying assumptions, demonstrating how it can continue to operate to provide a sound legal education to students and ensure all enrolled students have a reasonable opportunity to graduate with a degree and license. SCIL must also demonstrate that it properly classifies and compensates its faculty and administrators in a manner that complies with all applicable laws.

## CONCLUSION AND RECOMMENDATION

The law school has operated for a significant period of time with consistent leadership and the students scheduled by the law school to speak with the State Bar complimented their JD program. While the school operates as a for-profit school, it charges tuition and fees that are comparatively quite low, to the point that there is a question as to whether it can afford to provide the services promised. While the modest tuition is noted, it must be balanced against the very low licensure rates of the law school's graduates. Although the school expresses great care for its students, it is unable to demonstrate that it provides those students with a sound program of education.

Since the time of the inspection, the law school reacted to State Bar feedback to correct (or partially correct) compliance issues in the following two areas:

- Rule 4.241(A)-(B), Guideline 9.1(C)(2)
- California Business and Professions Code section 6061.7 and Guideline 2.3(D)(2)

Compliance issues remain in the following nine standards of Rule 4.240 as described in the report:

- (A) Lawful Operation, with further demonstration required as to classification and the methods of payment for its administrators and staff.
- (B) Integrity, based on misleading communications on its website, errors in its disclosures, and misrepresentations in its catalog as to courses available to students.
- (C) Governance, based on the assertion that faculty committees exist for important purposes, but the committees were unknown to the faculty members.
- (D) Dean and Faculty, based on lack of completed and regularly scheduled faculty evaluations to assess competency.
- (E) Educational Program, due to very low cumulative success on the CBX, contributed by unsound admissions and grading policies, lack of student authentication protocols, and unapproved JD curriculum divisions
- (G) Scholastic Standards by not disqualifying in a timely manner those students who are unlikely to be able to license.
- (H) Admissions, due to a non-standardized admissions process, high attrition, poor FYLSX

results, and the lowest CBX pass rate of any law school regulated by the State Bar of California.

- (K) Financial Resources, based on the documentation showing the law school is operating in deficit, and unrealistic three-year financial projections to bring the school back to profitability.
- (L) Records, because the law school could not provide records of library expenditures or the existence of an active grade review committee.

SCIL is also noncompliant with 17 Unaccredited Law School Guidelines: Guidelines 2.1, 2.3, 2.8(B), 2.9(C)(G), 4.8, 4.9, 5.1, 5.2, 5.11, 5.17, 5.18, 5.25, 5.26, 5.27, 6.6(A), 8.1, and 9.1(C)(2).

While SCIL has only been operating as a registered law school since 2020, it has been operating as a law school since 1986 and has had decades to become familiar with its responsibilities as a law school in California. Against this backdrop, the inspection team has serious concerns about the compliance issues observed, and the law school's ability to address them.

*SOUTHERN CALIFORNIA INSTITUTE OF LAW*

RESPONSE

TO

PERIODIC  
INSPECTION VISITATION  
(AUGUST 18-25, 2023)

REPORT RECEIVED: MAY13, 2024  
RESPONSE SENT: MAY 28, 2024

Team Composition:

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1. INTRODUCTION

This is a Response (“Response”) to the periodic accreditation inspection Report (“Report”) of May 13, 2024, following the online inspection that was held between August 18-25, 2023.

Before we turn to our substantive response, at the outset, we wish to thank the Team members for having visited with us and for their courtesy and professionalism. We mean well here, despite our spirited and bold response. We extend our heartfelt thanks to Ms. Natalie Leonard who generously extended her time to clarify issues as we transitioned in June 2020 from a fixed facility state accredited law school with campuses in the cities of Santa Barbara and Ventura to a distance learning law school. Her patience, understanding, explanations, and feedback were nothing short of exceptional. The school that began with two fixed facility campuses in 1986 was an accredited law school for nearly 25 years. Currently it is in its 38th year of operation.

The same driving spirit that energized SCIL’s early establishment, and during each of the succeeding decades, prevails today among the deans and faculty, and now of over 100 alumni attorneys nearly all of whom are from low-middle income social economic groups that is consistent with the mission of the school.

In the early days, faculty and deans were working for practically free to instruct our students. As before, our faculty work long and hard, often during weekends without additional compensation. In short, they view law school instruction as a labor of love. Not a single penny has been distributed as dividends. This is why during every single accreditation inspection, bar none, the students have spoken enthusiastically about the legal education they received, even those who were unsuccessful at the State Bar examination. Several of our graduates have earned postgraduate professional law degrees at ABA-accredited law schools, and some are admitted to practice law in more than one state. Following a review of the school’s curriculum, standards, grading, deans and faculty credentials as pre-condition factors considered for eligibility to take these bar exams one of our alumni has been admitted to the state bars of MI, OR, and Washington state,

Among our attorney alumni are a superior court judge, a Hispanic, who was the first in her generation to become a lawyer, another, an Afro-American who was in a homeless shelter in another state. Others who worked in the strawberry fields, several of whom are single parents. One who is a quadriplegic, and we have a fair number of foreign-born immigrants from China, Russia and the Middle East. Another, an Assistant Public Defender. Others who are deputy D.A.’s. Some of attorney graduates had pre-law Ph.Ds. and master’s degrees. This includes a CPA who is state Comptroller in New Mexico.

A small cross-section: <https://lawdegree.com/profiles-of-alumni/>

On June 1, 2020, the law school’s accreditation was terminated. The sole and singular basis for this was that the school did not meet the litmus test of the Minimum Pass Rate at a

time when the cut-score for passing the bar exam was 1440. It was later reduced by the California Supreme Court to 1390 beginning at the October 2020 general bar examination.

The school, founded in 1986, appealed the accreditation termination decision of the Committee of Bar Examiners to the State Supreme Court in accordance with the State Bar Accreditation Rules. As part of the required mandatory process of judicial review, under Rule 4.178, “A law school may seek review of termination of its accreditation before the Supreme Court of California pursuant to its rules.” This proved to be illusory. Review was denied. Yet, “[T]he right to due process is conferred not by legislative grace, but by constitutional guarantee.” *Cleveland Board of Education v. Loudermill*, 470 U.S. 532,541 (1985).

The Supreme Court, we are informed by the State Bar, is the only court of original and final jurisdiction for judicial review of law schools whose accreditation/registration is terminated. The State Bar bases its theory on its understanding that it acts as an administrative arm of the Supreme Court, following the notion that the Supreme Court has “inherent” jurisdiction over accreditation/registration issues, in addition to licensing, discipline, and suspension of lawyers. The authority of the Supreme Court to deny review makes sense. The Court’s original jurisdiction is conferred via the State constitution or by State statute and does *not* extend to original review of law school accreditation/registration termination. To that extent, Rule 4.178 is a misrepresentation of law.

The Committee of Bar Examiners frames the regulations, implements, and executes and interprets them, and it acts as the sole judge of its validity without judicial accountability and its actions, based on a concept of inherent authority, are clothed with the same absolute immunity attached to the Supreme Court. We will revisit this issue as a postscript to this Response.

In September 2020, the Southern California Institute of Law (“Institute”) began its classes as a registered, unaccredited distance learning law school, subject to a new modality of delivering legal education. It did so while maintaining its same standards applicable to accredited law schools with its managerial directors, faculty, and deans staying on board, and added an alumni attorney as its director of distance learning.

Many of the judgments, assumptions, and conclusions reached in the Report appear to draw their inferences from bar pass rates including those when the Institute was a fixed facility law school. Many are simple technical errors of omissions that, when brought to the Institute’s attention were corrected in short order.

We have already addressed matters that relate to its academic tracks, admissions, post-admissions, syllabi, grade correlations, sequence of electives, and moved forward to apply instructional emphasis on FYLSX and upper-division MBEs to enhance pass rates.

State Bar sponsored research studies make it abundantly clear that bar pass rates are tied to high LSAT scores, pre-law GPA, and law school ranking. However, the target demographic for schools like the Institute, as reflected in its mission statement, is to reach society's low-middle income socio-economic groups. Most of them are working adults, they possess minimum eligibility standards, and for several of whom, English is not their first language. They have no access to federal tuition assistance.

For these students, as the State Bar research would suggest, passing examinations is often a combination of aptitude, motivation, and perseverance. The Report does not contain a single word about this context.

The Report's inferences and conclusions are at odds with the very purpose of unaccredited law schools, whose students are subject to the FYLSX. In *Bib'le v. Committee of Bar Examiners* (1980) 26 Cal.3d 548, 554-555 (*Bib'le*) The Supreme Court addressed this vital distinction. The Court exercised its inherent authority in reviewing the question as to "who" may be certified to sit for the bar examination. It upheld a requirement whereby students at unaccredited law schools take California's First Year Law Student Examination as a precondition of eligibility to take the California bar exam.

It rejected the petitioner's argument that the requirement impermissibly discriminated "against persons required to study law in unaccredited schools." The Court reasoned "there is a rational basis for the different treatment of students receiving instruction at [CBE] accredited [schools] and [those receiving instruction at] unaccredited schools" in determining eligibility to take the California bar exam." This is because the CBE, "by setting standards for accreditation, can impose minimum standards on the quality of education at accredited schools." (*Id.*)

In practice, that minimum standard for advancement in unaccredited law schools is the FYLSX. Students are provided three opportunities to take and pass that exam after they first become eligible to do so upon completing 1L studies. If they pass within any of their three tries, they receive credit beyond the first year provided the students. Many students do. And statistics demonstrate that those who pass the FYLSX have an appreciably higher potential for passing the GBX.

Unfortunately, the Report, would use the same or similar metrics and yardsticks, as applied to accredited law schools for drawing its conclusions as to whether the Guidelines at unaccredited law schools were satisfied.

It uses mostly first-time triers of the FYLSX, and a small cohort of previous graduates over five years to paint its narrative. Even by the lights of the State Bar, it does not report statistics when there are fewer than eleven first time takers as these are considered "unreliable" statistics. Yet this is what the Report does.

Of course, the *Bib'le* court did not address the altogether different issue as to “who” may properly accredit such law programs.

Whether it properly belongs to one of the myriad functions of the State Bar or whether this must be a function of a programmatic accreditor within the executive branch, as is the case of all other accreditation of first professional degrees both in California and every sister state in the nation, is a different question.

For now, we respectfully submit to the Board of Trustees that it should take up the issue of whether the Committee of Bar Examiners possesses the “inherent” authority, as an extension of the Supreme Court’s inherent power, to regulate law schools.

We agree with the State Bar sponsored *Parker-Walton* Report, that this matter of accreditation is not an inherent function of the state Supreme Court and must be exercised by an agency within the state’s executive branch or delegated to a private entity subject to executive rather than Supreme Court oversight. Its principal author, Elizabeth Rindskopf Parker was a former ABA law school dean and Executive Director of the State Bar. We will take up this issue of “inherent authority” as a postscript to this Response.

Without exception, all prior accreditation Reports have found the school to be providing a sound legal education, even while properly requesting that corrections be made. But none have gone so far as to pile inference upon inference from dubious premises. Based often on factually incorrect data, erroneous conclusions have been drawn that are unwarranted and lopsided in tone, tenor, and substance.

## **2. REPORT’S FINDINGS AND RESPONSE**

### **BACKGROUND DETAILS**

To be sure, Dean Stanislaus Pulle was not “the” founder but just one of many founders of the school following his departure as Academic Dean and Vice President, for over seven years, from what is now named the Colleges of Law. Prof. Laurel Fieldman is an attorney, and since the Institute transitioned into a fully distance learning law school in 2020, she has functioned as a full-time faculty employee, received a DEAC training certificate, and has received extraordinarily laudatory comments from students and faculty for her day-to-management of the Learning Management Platform and its multi-faced aspects with virtually round the clock supervision and response to student inquiries.

If anything, students have faulted the school for the demanding rigor in which she implements the Guidelines.

Among its first faculty members, who still instruct to this day, are Prof. Helen Zajic and Vice Dean Eric Pommer. The Dean, Vice Dean Pommer, Prof. Horowitz, and Prof. Verdun have advanced degrees. These faculty members have been peer and faculty evaluated multiple

times and often by prior State Bar inspectors. Many faculty have been instructing for over 15 years. All the above have at various times been voted as the Professor of the Year by the Student Bar Association.

### **3. INSPECTION OBSERVATIONS**

We begin by identifying those Rules and Guideline that are the basis for compliance issues raised in the Report followed by a Response.

1. REPORT (p.4): Rule 4.241(A)-(B) Guideline 9.1(c) (2): Record of Admissions and Disclosure Requirements for Students Admitted but did not register.

#### **RESPONSE:**

As in all law schools, to reduce paperwork we maintain all admissions-related documents in each student's hard copy student file. This includes a packet of disclosure statements where student signature is required in more than one place. As the report notes, some (in reality, some three-five students) forgot to sign on all pages, that included the disclosure statement. This has since been remedied and as the Report notes, "SCIL produced signed disclosure statements for all students, including those whose disclosures were initially missing." We appreciate the confirmation.

We did not segregate files for those who were admitted but did not register. All applicants, accepted, rejected, or who apply and do not follow through, are stored in Populi. Further, at a meeting of the Faculty Senate on May 21, 2024, a Faculty Compliance Committee was established to monitor document compliance.

2. REPORT (p.5) CA Bus and Prof. Code section 6061.7; Guideline 2.3(D)(2). Rather than reporting percentile, the law school used the number of individual students admitted in the various 75<sup>th</sup>, 50<sup>th</sup>, and 25<sup>th</sup> percentiles rather than the GPA itself. That was on one query as part of a whole set of inquiries. Multiple web paths must be accessed to reach section 6061.7. The same with respect to some attrition data. Findings include data on survey data fields that were not included, and attrition numbers that were slightly off.

#### **RESPONSE**

The Institute misunderstood the query in the State Bar's disclosure form on how student GPA must be reported. It forthrightly admits to this reporting mistake.

The Institute promptly corrected the mistake and as the Report states, "the law school advised that it had revised this section of the disclosure, and the State Bar

confirmed its accuracy.”

As for the multiple paths to reach section 6061.7, this is not an entirely accurate characterization.

The Admission Information with the disclosure statement was always found in the drop tab of the hamburger menu in the upper right hand corner.

It is not unusual for some law schools to do so. Other search references in the drop-down menus were added in 2021-2022. Not a single student has reported any difficulty in finding the disclosure statement. The disclosure statement was placed in more than one section. Thus, locating it at some other points on the website may have taken some extra clicks.

Nevertheless, we address the point made in the Report. Remedial action has been taken. It is now on the Admissions Tab on the Homepage as one scrolls down to the footer at bottom of the same page.

3. REPORT: (p.7) Rule 4.240(B) Guidelines 2.1 and 2.3 Context of the 2017 inspection team report about its statement that “[O]verall SCIL curriculum, admissions, scholastic standards, faculty, library, faculties, Dean and administrators [are] all complaint in offering students a sound program of legal education.” The Institute did not include the context that its accreditation was terminated in 2020, Course offerings not sequenced, Graduates from 2020 (just three students) survey dates on employment not completely reported.

### RESPONSE

The authors of the 2017 Report were aware of the Institute’s bar pass rates at the time and the high improbability of the Institute being able to meet the MPR. But importantly, they did not fall into the trap of automatically linking low bar pass rates to the absence of a sound legal education as this Report does.

Normally, such a summary affirmation of a “sound legal education,” would automatically lead to a five-year extension. But they wisely decided not to do so on account of what they knew at the time off the odds against the school’s prospects of pulling out of a stretch of low pass rates. The Institute, unlike many other state accredited law schools, eschewed the notion of “teaching to the Bar,” and did not impress the services of third-party commercial bar review providers to supplement a year-by-year curriculum.

Had it done so it would have transformed its instructional pedagogy into a glorified four-year bar review course. The Institute graduates only a small number of students per year that often results in less than five first-time takers per examination. For this reason, the pass rates are statistically meaningless. If one out of five first-time takers pass the GBX it's a 20% pass rate. If two of five first-time takers pass, it doubles the percentage to a 40% pass rate.

The Institute's own study at the time found that if just one more first-timer student had passed the GBX during each of the prior ten administrations of the exam it would have complied with the 40% MPR.

To describe in a website or catalog all relevant context, would have required a discussion of the highly controversial nature of the MPR that led to the school's accreditation termination. The MPR came to be established as a "negotiated," rule, and therefore an arbitrary metric via a since dismantled unconstitutionally created Rules Advisory Committee (RAC). A description of such factors to provide "context" would turn a law school's website into a veritable vehicle for a thesis.

Besides, the Institute carried over to its distance learning operation all its past admissions and academic standards, faculty, and deans. In the 2024 February GBX, we had only one first-time taker who passed the GBX. Would we trumpet a 100% bar pass rate? No self-respecting school would do so, and neither would the Institute. Yet, like drawing solar energy from the sun, the Report's authors channel their energy from past bar pass rates, involving a small number of students - including those pass rates from the time when the Institute was an accredited fixed facility law school- to fire up its findings into an incandescent glow.

State Bar statistics are replete with both state and non-ABA but federally accredited law schools, where on some administrations of the Bar Exam, pass rates have dipped into single or low double digits for first/repeat-takers. Does this mean that the faculty at ABA law schools that had their ABA accreditation terminated, no longer provide a sound legal education—federal tuition assistance notwithstanding? The question answers itself.

We believe these formerly ABA- accredited law schools continue to provide a sound legal education for the same reasons the Institute has been providing a sound legal education through nearly four decades.

Jerome Braun, a long-serving and former Executive Director of the State Bar once remarked to the *Daily Journal*, that student success on the GBX is an "individual thing."

It is not uncommon, even among accredited law schools, to display on their

websites good bar pass rates on a given administration and ignore abysmal pass rates recorded at the immediate prior or subsequent administration of the GBX. Must these schools be compelled to provide the good and the bad pass rates to assure context?

With discretion being the better part of valor, rather than engage in a debate over the matter, the Institute has affected a modification, remedied the issue, and included the required context.

See, [https://admissions.na2.documents.adobe.com/public/esignWidget?wid=CBFCIBAA3AAABLb1qZhD0LFUiwJU70kveTWcVJwlPYexZOiKg6aXJJgckeZeghICoE7Nb96j2oc6tO93FK1g\\*](https://admissions.na2.documents.adobe.com/public/esignWidget?wid=CBFCIBAA3AAABLb1qZhD0LFUiwJU70kveTWcVJwlPYexZOiKg6aXJJgckeZeghICoE7Nb96j2oc6tO93FK1g*)

Every law school has a broad menu of electives. No law school assures that students will be allowed to take all or many of the electives through four years of law school. These are described because they have been offered in the recent past (five-ten years) The faculty has the responsibility to decide what electives, with its pre-written course description, as to when it would be prudent to offer based on student interest, enrollment, and specialized faculty.

All law school administrators are aware this. Much depends on the size of the student body and availability of instructors specialized to instruct such courses.

Respectfully, it is emphatically not the province and function of accreditors, especially those with no real experience of administering or teaching at law schools, acting as proxies of the Supreme Court, to provide over-the-shoulder guidance to law school administrators on core matters of faculty governance. This transgresses what the California Supreme Court wrote in *Paulsen v. Golden Gate University-School of Law* (1989) 25 Cal 3d 803, 809: “There is a widely accepted rule of judicial nonintervention into the academic affairs of schools.”

The Report is so far gone into its belief of the malleable practices of how law school curriculums are structured. It suggests the Institute entrains and synchronizes its upper division course offerings assuming north star type coordinates are available for such an arrangement.

On its own accord, the Institute has reviewed the menu of listed electives for purposes of what may reasonably and feasibly be offered in any six-year period. Incoming students will be on notice that some courses may not be offered as electives within any given four-year period. We have identified a plate of electives that students will have an opportunity to take in a four-year period.

The Institute apparently left out/incorrectly filled out survey data of 2020 graduates requested in the annual disclosure form. We received just two responses. This was not done intentionally. Why would any law school intentionally mislead prospective students on survey data about two responses- one from an attorney and another a non-bar passer working at a paralegal law firm?

The correction to this line of the disclosure statement was made with dispatch.  
<https://lawdegree.com/admissions/>

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4. REPORT: (p.7). Rule 4.240 (C) Guideline 2.8(B): No written notice and opportunity for disciplinary hearings.

RESPONSE

To be sure, no student yet has been subject to any disciplinary proceeding. However, the finding that students do not have to be informed in writing of the alleged charges is *factually incorrect*.

Section 1044.2 of the Student Policy Manual, Honor Code recites:

STUDENT RIGHTS FOR ALLEGED HONOR CODE VIOLATIONS

Where, as determined by the Dean or Vice Dean, a credible basis in fact exists for a violation of the Honor Code, the student will have a right to be informed *in writing* of the specific violation alleged as part of the right to notice, and a hearing before an independent and impartial disciplinary committee as established by the Dean and faculty senate, consisting of impartial members of the faculty and/or administration or third-party professionals. (Emphasis added.)

5. REPORT: (p.7). Rule 4.240(C)(L): Guideline 2.9(C): Grade components on final grade. Several courses are graded by Dean Pulle rather than instructor. Grade weighting and whether class participation counts.

RESPONSE

Each of the findings on grade components, as well as the reference to “several courses” taught by the Dean are *factually incorrect* and constitute an undue exaggeration of the reality.

At p. 91 of the Student Policy Manual titled, Section 1039.7 –

#### GRADING RUBRICS

“The following scoring rubrics are applied to key issues in an essay question” and what follows, is a detailed breakdown of the various metrics used to grade essay exam answers that extend to all of *three* pages. Descriptions of this detail are not included in a course syllabus.

The Institute is among the few, if not the only law school that we know of, that has defined the basic “C” (70) grade describing components of the grading system with crystalline clarity.

1039.5 - BENCHMARK ‘C’ (70) GRADE DEFINED It recites:

“To receive a “C” grade (70), the basic format, content, and structure, of essay writing is essential. A student must, at a minimum, (a) state the relevant cause of action (sub-titling is recommended), and (b) identify at least some of the major issues that form the basis for the cause of action or remedy, and (c) state in a reasonably accurate manner the governing law, and (d) make an intelligent application of each of the pertinent facts of the examination question to the appropriate legal rule to arrive at a conclusion.”

The Learning Management Platform course page references the “C” grade. And so are the weightings on mid-term and final exams. The structural content of these syllabi was approved during prior State Bar inspections that included a law dean as a member of the Team.

Dean Pulle does not grade “several” courses in which he does not instruct. He grades only 1L Torts and Criminal law. There is a good reason for this. The Dean instructs in Legal Analysis and Writing I and II, a course he instructs.

He has received numerous “Professor of the Year” awards from Student Bar Association at other accredited law schools, for both instructing in that course, and in Torts and Criminal Law. A former state appeals court judge (now retired), who is a former student of the Dean, visited the Dean’s office and handed him a book that she co-authored, “California Civil Jury Instruction Companion Handbook.” On the blank page before the prefatory page, she wrote the opening lines, “this book is dedicated to the Dean. It began with line: “for his excellent teaching...” during her days as a law

student.

This background experience with scores of 1L students spanning many decades is to assist students in good law school exam writing. Students are provided exam writing frameworks for answering major areas of Criminal Law (murder-manslaughter, conspiracy, self-defense, entrapment) and Torts (negligence, products liability, defamation). These frameworks distill what is common to the best model answers on these topics written by law school valedictorians and bar passers. They are supplemented with over 15 selected topics in all 1L subjects with questions and answers written at length. These exemplars, instruct students on how to write *model* exam answers by interconnecting grading rubrics with structured exam writing frameworks.

Contrary to what the Report would suggest, extensive comments are included in all graded exams. These grading comments are then summarized and sent to the faculty instructing these courses. Perhaps, the Team would have fared better if it made the effort, as prior instruction teams have done, to address such inquiries direct to the students themselves.

During the inspectors meeting with the Institute's Student Bar Association, a meeting that was attended by nearly all the student body, and conducted out of the presence of any administrators is telling. Based on the accreditors' own verbal feedback, there was not a filament of dissatisfaction expressed by any single student relating to the benefits of the academic program. If they did, given the zealous hunt for real and perceived violations, this matter would surely have been noted.

There are non-ABA federally accredited law schools, with nearly ten times the student body as the Institute. They have only three full-time faculty inclusive of the Dean. One DEAC accredited law with over 300 students is reported as having a staff of two full-time faculty. The Institute's students, especially 1L deserve extensive feedback preferably by a full-time staff member. Written feedback, properly done, takes an enormous amount of time doing so, weekends included.

The Institute categorically and unequivocally rejects the Report's attempt to repeatedly dispense over-the-shoulder guidance on pedagogical matters that would override core faculty governance in accordance with the cardinal "non-intervention" principle enunciated by the California Supreme Court. Any self-respecting law school jealously guards its core prerogatives, and no law school should be browbeaten into docile subservience when these are threatened.

The Report takes syllabi description on how exams will be graded and how faculty are informed on student learning outcomes to a granular level that no prior inspections (that included law deans) ever found to constitute a deficiency.

Regardless of the Report's suggestion, the Institute will in the future be providing sample graded answers to faculty instructing in the two 1L courses in Torts and Criminal Law. This remedial action would supplement what is on the school's learning management platform where 1L faculty have access to review and comment on students' critiqued exams.

The Student Policy Manual recites with abundant clarity the following.  
Section 1040.4 - NO GRADES FOR CLASS PARTICIPATION

Unless the Instructor's course syllabus expressly states otherwise, there are no points allocated for class participation as part of any grade on any written exams. Again, no student has questioned how grades are allocated because the information is clear.

The Report's conclusion that students are not so informed is *factually inaccurate*. If an instructor decides to weigh an exam differently than what is stated in the Policy Manual below, this is allowed. Often, as anyone who administers a law school knows, an instructor usually approaches the Dean and/or Academic Standards Committee to inquire if a such change is proper before announcing it to students. ABA law deans call this "faculty prerogative."

As for weighting of exams, the Student Policy Manual explains:

#### 1040.0 - WEIGHTING OF MID-TERM EXAMINATIONS

"At the discretion of the instructor, mid-term exams in graded two term courses may count to 20% of the final grade. Generally, the mid-term grade of all two term (6-unit) courses in 2L, 3L, and 4L will count as 20% toward the student's final course grade unless as otherwise indicated by the professor."

"In 1L courses, 20% of the mid-term grade will be computed into the student's final course grade only if such a grade will increase the final course grade for the subject."

The Report displays an almost unbridgeable gap in theory and reality of the operations of a law school. Experienced deans and faculty understand this. An accreditation inspection is not meant to take on the dark role of a spelunking odyssey seeking out potential "theoretical" issues where in reality none exist. When issues of communication arise, these are immediately addressed by deans and faculty.

We believe part of the problem is that the drafters of this section of the Report reviewed, not the relevant portion of the Student Policy Manual, but instead confined their search to the school catalog. Then, erroneously compared Catalog information to certain course syllabi and concluded, “neither the Catalog nor course syllabi meet Guideline 2.9(C)’s...” when the information is right there in the Student Policy Manual.

The conclusion is based on *factually incorrect* data.

However, The Institute’s Academic Standards Committee consisting of Dean Pommer, Dean Pulle, and Prof. Mauseth who serve on the Academic Standards Committee will secure input from faculty and make recommendations to faculty on evaluating pertinent grading information on course syllabi as well. To the extent such remedial action is needed, a draft revamp of the syllabus will reflect detailed textual reference on how exams will be graded with the assigned weights for mid-term and final exams.

6. REPORT (p.8) Rule 4.240(C)(L), Guideline 2.9(G) Faculty Grade Review-Grade Correlations Committee: Faculty members not identified. The Report states that the Institute “indicated it does have a Faculty Grade Review and Grade Review Committee: however, it did not provide any evidence to support this assertion.”

### RESPONSE

There could not be a clearer case of a *factual error* that adds to the demonstrable litany of factual errors. Section 1040.5-1040.6 of the Student Policy Manual sets out in detail a step-by-step process of how grade challenges are allowed, processed, and determined.

The same kind of *factual error* applies in relation to grade correlation.

Here is a reproduction of the precise text in the Student Policy Manual.

#### 1039.6 - GRADE CORRELATION

“A Grade Correlation Committee consisting of at least one Dean and one Faculty Member shall examine all mid-term and final examinations in order to establish whether a reasonable correlation among the grades of all instructors teaching the same class of students has been established.

The purpose of the Grade Correlation Committee is to avoid aberrational grading patterns, and to ensure compliance with Faculty instituted grading policies. Under the applicable Rules governing the California State Bar, it is required of all law schools to establish proper oversight over the distribution and correlation of academic grades to insure fairness, consistency, and balance. A

wide disparity of the grades, or grade distribution, among the several instructors teaching the same class of students is prima facie evidence of aberrational grading. Thus, all scores submitted are considered raw scores, and may, with the consultation and approval of the instructor grading the course, be subject to either an upward or downward adjustment by the Grade Correlation Committee.

A student taking three final examinations, who secures two high scores and one low score, with a significant disparity, may have the low score adjusted upward and vice-versa, based on a re-read of that examination. Any adjustment of any grade in any subject that would result in academic exclusion will not be made unless all examinations of that student taken at the same term are re-read by the instructors.”

The Institute maintains a hard copy file on grade correlations and has been implementing this policy for over 35 years. Past inspections, that included a law dean, were satisfied with how correlations were performed.

The only reason why formal grade correlations were not conducted in the prior year’s grade distributions were because except for one score, grades were fairly distributed among less than ten students.

7. REPORT (p.8). Rule.4.240(D); Guidelines 4.8-4.9 Faculty Peer Evaluations. Policy not been evaluated “for the last several years.”

### RESPONSE

Again, this is demonstrably and *factually incorrect*. In past inspections, a file of past examinations, included extensive issue sheets. Often entire answers to exam questions were included. These were reviewed by inspection teams and no deficiencies were found.

It is not as if the Institute has an increasing rotation or revolving door of faculty. Exams written by every single faculty member have been reviewed by past inspection teams, which included law deans. No deficiency was found. The Institute performs mid-term/final student faculty evaluations.

Every mid-term and final exam in every course is reviewed by either the Dean or Vice Dean or another faculty member, and is edited for format, structure, and content, before being approved by the faculty member instructing the course, prior to being administered. Why would this not be a key factor of inquiry before a rush to make unsupportable conclusions?

At least seven faculty who instruct the bulk of the courses were peer evaluated from 2021-2022. Many have been evaluated several times, and by accreditation

inspectors going back decades. Unlike at the time the school was a fixed facility where faculty signatures were found in each completed peer evaluation, the Institute emails the correlation to the faculty. The Report faults the Institute because of some absent signatures.

In future, to remedy this misunderstanding, we plan to have either the faculty's actual signatures or via DocuSign or an Adobe generated e-signature.

8. REPORT (p.9) Rule 4.240(E) Guidelines 5.1 and 5.2. Various tracks—Soundness of instruction. 5.2K, first year high attrition rate 35%. And low cum GBX pass rates, Grading correlation not systematic and ad hoc.

### RESPONSE

The law school has only one division with two terms. Simply adding a mere two extra “start” dates before the commencement of each term in which substantive 1L courses begins provides a soft landing for students who enter ahead of time with courses such as American Legal Systems or a course in Critical Skills Thinking. Doing so, does not create a “new” division. Essentially, there are two preceding start dates immediately prior to the beginning of each term. These six start dates we call Tracks. Courses common to all students in all 1L Tracks are two terms of Criminal Law I and II, Torts I and II, Contracts I and II, Legal Analysis I and II, Critical Skills Thinking, and 1L MBE I and II.

A “major change” is one of the changes specified in Rule 4.246.

[https://www.calbar.ca.gov/Portals/0/documents/rules/Rules\\_Title4\\_Div3-UnAcc-Law-Sch.pdf](https://www.calbar.ca.gov/Portals/0/documents/rules/Rules_Title4_Div3-UnAcc-Law-Sch.pdf)

The changes that qualify as a “major” change are specifically defined, except for Rule 4.246(A) which lists the establishment of a “new division” as a major change. If the current program structure is a “division,” mere earlier starting points for 1L students cannot by this yardstick be viewed as a “new” division.

Adding extra start date points for 1L students in the same degree program, with the same class times, same length of terms, same substantive law curriculum, and taught by the same professors, and with four-year graduation dates in the same graduating year, cannot conceivably be branded as a new division. Consistent with the Guidelines, each Track complies with the 48–52- consecutive weeks of instruction requirement. There is no overlap in the Tracks. All that the new beginning start dates do is to enable students to take some introductory elective classes prior to being enrolled with those who begin their start dates head on with

substantive 1L classes.

Perhaps it is a matter of labeling. Had we referred to them as optional start dates for entry into any one of two defined terms (September-February) and (March-August) as part of two tracks, it likely would not have mattered.

Law schools are known to do this. Prospective students who apply to a particular track and are accepted, are provided with an acceptance letter student that is crafted to that specific track. Prior to enrollment, they are advised of when they would be first eligible to take the FYLSX and their graduation.

The term “tracks” must be differentiated from what constitutes new “division.” The term “new division” as accepted in academia connotes something significantly different and contradicts basic canons of interpretation. In [academia](#), a division functions an independent unit with a unique and defined mission or purpose.

Adding new start dates to an existing division does not make for a new division as defined above. No administrator can recall a conversation with staff where adding a few extra start dates, that are pedagogically sound, were questioned.

The extra two start dates (July and August) before the typical Fall Term (September) and (January and February) before the typical Spring Term (March) do not impact 1L course duration. They are consistent with the quantitative requirements of the Guidelines and is not the equivalent of a new “division” based on how major changes are specifically defined in the Rule.

They are not analogous to new ownership, or a change in location or a legal change from non-profit to for-profit or vice versa.

Canons of interpretation such as *ejusdem generis* or *noscitur a sociis*, help assist in clarifying ambiguous terms. *Ejusdem generis*, literally “of the same kind or class,” is a long-standing interpretative device.

It provides that, where a general word or phrase follows a list of specific terms, the general word will be interpreted to include only items of a similar nature to the terms specified and according to *noscitur a sociis*, (meaning known by association) tells us that “a word is known by the company it keeps.” [*S. D. Warren Co. v. Maine Bd. of Environmental Protection*, [547 U. S. 370](#), 378 (2006)]

These canons help extract a clarifying interpretation.

And of course, if an asserted ambiguity is not eliminated by the language and context of a list of factors, courts invoke the principle that ambiguities are generally construed *against* the party responsible for drafting the language.

Issues like change of name, change of ownership, change of campus location, mergers, new degree offerings, new programs like adding on a day program to an existing evening program involve *differently* tailored curricula and faculty, *distinctive* staffing, *separate* set of students are matters, or like a change of ownership, that give rise to *legal* consequences. These may properly be considered “new divisions.”

Under no circumstances would a calibrated curriculum with mere different times of entry into the same first year stream that operates on the same 24-26 consecutive weeks per term or on a 48-52 consecutive weeks per two terms for all students, as part of “tracks” labeled to identify student date of admissions be considered as a, order-of-magnitude, rupture from an existing division.

The stream of instruction assures uniform sequence taught by the same faculty, as part of the same program, administered by the same deans, same faculty and staff, with classes starting and ending in the same year. The tracks end within the requisite time frames in accordance with the Guidelines and are subject to the same admissions and same academic standards.

Indeed, the few extra tracks have proved helpful in instructing some types of beginning students where introductory type courses were found helpful at an earlier stage prior to a deep dive into substantive bar tested subjects. The tracks do not detract in any form, shape, or manner of the rigorous 1L curriculum in preparing students for the FYLSX.

*Transfer* students seeking to enroll in upper division classes are better accommodated with optional entry dates and that help a smooth transition. This is especially helpful for those seeking upper division admission following the closure of another law school. In such cases the school’s policy is to accommodate as much transfer units as possible to help these students. Different start points involve elective courses and allow transfer students to be pick up necessary units to graduate within the additional one or two years remaining for them to complete their four years degree.

These are not the kinds of major changes envisaged by a capacious and undefined phrase such as a “new division.” A division is marked by significant consequences on account of *severance* from the main program.

The academic track in our context has no break, disconnection, or segmentation from the regular two term tracks. They all require 48-52 consecutive weeks of instruction. Nor are the courses in “different orders” as characterized by the Report. The sequence is the same for all substantive courses except for certain electives, such as Critical Skills Thinking and American Legal Systems, that may be taken at different points in time.

As currently structured, bar exam preparation, and MBE assignments are a part of each track. Each track has a 1L review page that include 15 essays per 1L subject.

However, following the radical change in the composition of the FYLSX, where beginning June 2024, the FYLSX will be a graded on 200 question-MBE tests only, our instructional emphasis and focus has shifted from emphasis on essay writing to MBE. This dilutes the need for a specific form of exactitude in 1L course sequence.

This change came without advance notice and input to law schools. One student, who plans to transfer from a DEAC-accredited law school to the Institute, informs us, that all final exams in that school were suddenly changed from essay exams to all MBEs although the relevant Guidelines require written assignments. So much for unintended consequences to instructional pedagogy.

Viewed through the prism of judicially recognized canons of interpretation as referenced above, we respectfully submit that the addition of early “start dates,” although labeled as separate “tracks,” is not a “new” division either through textual or contextual analysis.

The Report, without prior consultation with the school, rushes in headlong to conclude that courses are not offered in a logical manner.

Maybe the ABA needs to pull its accreditation from Michigan, Yale, and other law schools under this test. ABA law schools, including such law schools as Michigan and Yale, except for certain mandatory 1L offerings, students are free to roam the curriculum and take whatever courses needed to complete the program.

<https://michigan.law.umich.edu/resource-center/degree-requirements>

As for logical sequence, whenever Crim Pro is offered, the Institute plans to offer courses in MBE Crim Pro, and Crim Pro Practice. Likewise, when Civ Pro is offered we plan to provide students with courses in Civ Pro MBE and Civil Discovery. The Institute with experienced deans and faculty believe this pairing makes for sound sequential instruction, if such is required, without the need for over the shoulder guidance on form and content.

No law school faculty straightjackets its elective curriculum. Despite, the Supreme Court's firm reminder of judicial non-intervention in the core governance of law schools, the Report assumes to possess a far superior knowledge to experienced faculty and deans in the structuring of the curriculum and one gets a disturbing sense of micromanagement in key issues of faculty governance. Programmatic accreditors properly leave such issues to be determined by those in charge of academic administration in the context of its student body.

Having audited one class of Dean Pommer and having found the instructor "accessible, interesting and interactive," the Report again veers off to the different tracks offered by the Institute, having never inquired from the students how the program works nor sought faculty feedback. Instead, the Report searches for inadequacies based on conjecture about supporting "tracks" with different start dates.

This is a Report that cannot find a single empirical piece of data to support its sweeping conclusions that the Institute lacks a sound legal education. This time the issue is one of sequence of instruction. Applying this yardstick, Michigan University's law school should be deemed to lack a sound legal education.

Instead, the Report anchors onto its fallback position on poor bar pass rates to defend its unsupportable conclusions and advises the school to incorporate a series of actions as if this would be the magic wand to improve bar pass rates, when studies have demonstrated time and time again that low pass rates are tied to far more complex factors. One must think that it is not unreasonable to assume that accreditation inspectors are conversant with the research and conclusions of State Bar studies.

If the inspectors had approached the issue with the benefit of some background perspective as to nature of the Institute's student demographic, drawn largely from a low-middle income socio-economic groups, and had consulted with its past graduates, and sought feedback from alumni, this conclusion even if at odds when prior Inspection Teams, would be entitled to a measure of credence.

However, it chose not to do so. It operates in a sphere of drawing inferences and deductions that are far removed from relevant and established State Bar published research. Indeed, the Team conclusions are in direct opposition to psychometric studies conducted by the State Bar.

One gets the impression that the Team never consulted or reviewed any the

studies referenced below.

In a comprehensive State Bar study of 2017 conducted by Roger Bolus, he points to other factors at play in learning outcomes. Here is what that Report states:

“From the available data, we cannot discern the degree to which these student-related factors have changed. However, some of the differences that were observed in this study between performances at the various levels of the CA ABA schools point to possible decreases. It is also possible that other qualitative factors such as *poorer student study habits and decreased motivation* may have played a role. Assessment of the nature, size and directionality of such factors require additional data.” (emphasis).

The above finding confirms a recent 2021 study that even if law school GPA (LGPA) + undergraduate GPA (UGPA) are a reasonable predictor of passing the bar exam, it is less a reflection of curriculum and has more to do with student habit and demographic. According to this study: “Graduates who spent *more than 21 hours per week* on responsibilities such as caring for dependents or working a non-law-related job had *lower* third year (3L) LGPAs and lower bar passage odds than their peers who spent 0 to 5 hours on these activities.” (emphasis)

See: [https://www.accesslex.org/sites/default/files/202103/LSSSE%20National\\_Report.pdf](https://www.accesslex.org/sites/default/files/202103/LSSSE%20National_Report.pdf)

The Institute’s mission statement, and demographic are interrelated. Operating on this matrix, our experience is that nearly all the Institute’s students spend *double* those numbers of hours per week on precisely the factors identified above. Several are employed in a normal 40-hour work week. Must a law school be forced to abandon its mission statement based on these factors where law study is off limits to working students or those who must attend to family obligations or health needs?

The early data “reveals that applicants from “high-challenge colleges” are 2.5 times more likely to be *first-generation college students* compared to those from “low-challenge colleges.” Graduates from *high-challenge* colleges typically have lower graduation rates, less per-student spending, and more Pell Grant recipients. In contrast, nearly all applicants from low-challenge colleges are accepted into law schools, whereas *fewer than two-thirds of those from high-challenge colleges gain admission*. (emphasis)

Working backwards from low GBX bar pass rates inevitably color what appears to be a predetermined conclusion and completely ignores the Institute’s applicant pool drawn from applicants who have graduated from “high challenge” colleges.

Had the Institute invested a hefty sum of money in outsourcing its core educational instruction to commercial bar preparers, raised tuition and ploughed more money into commercial bar review credit courses, and transformed the school into a *bar-mill* type law school, its bar pass rates are likely to have improved.

We suspect the Report would then have picked up a different lens to justify the school's educational programs or at most found deficiencies at the periphery.

Never mind Justice Holmes' call that law schools should be a place for instructing law in the "grand manner." Apparently, like many state-accredited law schools who fall prey to the siren call of bar pass rates *über alles*, the Institute as well must subordinate providing a sound legal education to the overriding priority of rote test preparation.

This compels the queries, is there a place in state law schools for law professors and administrators who practice and preach the ideals of a law school education, of students eager to absorb and participate in jurisprudential concepts that deepens the intellect and broadens the mind, thus exposing our charges to ideas that challenge them?

Is not America's greatness to be nurtured in the character of its leaders and people to understand the underpinnings of our constitution?

Or must we flatten our legal education to meet the wooden constructs of converting law school instruction into definitional precipitates that channel the mind to regurgitate rules toward earning points on a bar exam?

Reading the Team Report, our mission, we are told, is preferably, to do the latter. To yield to this temptation is to validate the bigotry of soft expectations.

Here's what the prestigious Society of American Law Teachers (SALT) that included former Harvard law dean (now Justice Kagan), wrote in its Study Paper of April 11, 2011, addressing why assessing the soundness of legal education by stand-alone accreditation measure is deficient. It is "because the bar examination itself measures only a small portion of the knowledge, skills, and values" that a legal education offers.

For all the State Bar's commitment to diversity, equity, and inclusion, one would think the inspection team would have commended the Institute for the type of alumni-attorneys it has educated as referenced in the introduction to this Response. Getting critical feedback from the ground up—the actual consumers of legal education—was apparently what not on the Team authors' minds.

After 38 years of providing legal education, one would think the Institute's academic program, through experience, data, student, and alumni feedback, has improved, as it has by drawing upon critical psychometric studies conducted by the State Bar on bar pass rates, law school admissions, and instructional pedagogy.

Here's what an accreditation inspection of 2005 chaired by a former law school dean wrote: Its Team Report found The Institute's faculty generally "competent" and "very engaging" who "generally practice in the subject-matter of their respective courses." Most of them being "very well prepared" with a "very good command of the subject-matter" who took "policy considerations" into account as part of their instruction. These observations were objectively made and reported, despite the Institute's students' bar pass rates.

That 2005 Team found the Institute's faculty was generally "competent," "very engaging," who "generally practice in the subject-matter of their respective courses," and with most of them being "very well prepared" with a "very good command of the subject-matter" who took "policy considerations" into account as part of their instruction.

The 2005 Team Report went on to add that the Institute's instructors employed "excellent use of hypothetical questions." Students were "actively involved" in this process of instruction.

The Team noted "the dedication and enthusiasm the students have for the school," with some driving close to 100 miles one-way to attend the school. It concluded that "overall, grading seemed reasonable."

On the issue of the board of directors' governance, the 2005 Team Report found the resumes of the Institute's board members "impressive," with annual meetings, and the Board Chairman conferring with the Dean on a "weekly basis.

On faculty governance, the 2005 Team found instructors available to students for "advisement and counseling, particularly on campus before and after class." It found: "Members of the faculty participate in the formulation of academic policy through standing committees, ad hoc committees, and participation in two full meetings annually plus an additional faculty retreat."

The Team of 2005 found: "Members of the faculty participate in the formulation of academic policy through standing committees, ad hoc committees, and participation in two full meetings annually plus an additional faculty retreat."

These observations echo what another Team earlier reported during a 2000

inspection. It found the faculty to be “knowledgeable, energetic and patient with students” and concluded thus: “[T]he site team found the teaching to range from adequate to excellent.” This same Team, a mere five years after the Institute’s two fixed facility campuses in Santa Barbara and Ventura received state accreditation, wrote:

“A review of faculty meeting minutes reveals discussion of faculty evaluation, exams and other school policies.” The faculty with whom the site team met were “enthusiastic” about their role in the joint governance of the law school.

Even the Team Report of 2011, under the then Director of Ed. Standards, Mr. George Leal, concluded:

- (1) The school is in compliance with scholastic standards.
- (2) The school is in compliance with the requirement of a sound admissions policy.
- (3) The school’s branch campus is compliance with the multiple location’s standard.
- (4) The school is in compliance with the library standards.
- (5) The school is in compliance with the physical resources standard.
- (6) The school is in sound financial condition and complies with the “financial resources” standard.
- (7) The school is in compliance with the Equal Education and Non-Discrimination standard.
- (8) Compliance with Committee Requirements

And of course, the Team Report of 2017 led by a former Chair of the Committee of Bar Examiners, who was Chair of the Educational Standards Committee, expressed in no uncertain terms, that despite their knowledge of the low bar pass rates at the time, following a comprehensive examination of hard copy grade correlation files, course offerings, faculty, and alumni feedback, concluded that the Institute was compliant on offering a “sound legal education.”

The Team Report of 2024, having gone on to assemble a roster of palpably and demonstrably inaccurate factual conclusions, would freewheel its advice by dispensing academic constructs that, in its opinion, would help improve bar pass rates, rather than candidly attributing low bar pass rates, as have State Bar studies repeatedly confirm, to a complex of interrelated factors.

We will offer a remedy to this disconnect in our conclusion, and will argue in a postscript, as to why the State Bar must initiate an inquiry into how these conclusions came to be and must consider programmatic accreditors in lieu of institutional accreditors. The latter, are mostly, and understandably, unversed in the complex issues that law schools must confront and are properly address through experienced deans and faculty governance that make for programmatic accreditors.

9. REPORT (p.11). Rule 4.240(E), Guideline 5.11. Lack of opportunity to take elective courses.

RESPONSE

When electives in law school catalogs are listed, as any law school dean and faculty know, this does not mean that students are entitled to be offered many of these electives. In a structured curriculum as found in non-ABA accredited law schools, elective offerings are made possible based on the overall size of a law school's student body.

There is a difference between law schools with 25 students, 50 students, 100 students and 200 students and those with 500 students. The Report fails to appreciate this basic fact.

With the advent of the MPR, law schools, including the Institute, have aligned their curriculum to having their students pass the GBX with bar-tested subjects and electives related to special problems in within these courses.

This, in turn, directs students to courses that enhance bar pass rates and have thus narrowed student options further by the minimum number of units defining skills courses that are required under the Guidelines.

By according the standard number of units usually extended to all fourteen courses examined on the State Bar, coupled with several one-unit courses to meet a minimum skills training requirement, in a small student body, there is not much play at the joints of the curriculum for students to accommodate a slew of elective courses. If the Institute had the benefit of an Inspection Team with reasonable law school administrative experience, this point would have been readily acknowledged.

Nevertheless, as a remedy to any perceived issues of advance student notice, the Institute plans to consult with faculty and have a core list of elective courses that students may receive in any given six period, with a caveat that under the curriculum offered, it is possible that several of courses listed may not be available.

10. REPORT (p. 12) Rule 4.240(E); Guidelines 5.17. Reasonable Grade Correlations.

RESPONSE

This issue has been previously canvassed under item #5.

The Report makes the *egregious factual error* that “most grades awarded in multiple subjects (are) by just the law school’s dean...” The short answer is no, except for graded 1L courses in Torts and Criminal Law.

The Dean grades substantive upper division courses. These are limited to a 6-unit graded Constitutional Law and a 4-unit graded Remedies Class. This is markedly less, than at prior time at a different state accredited law school, when in addition to Constitutional Law, the Dean would instruct in either Criminal Law and Evidence. This was not different than when he was the Academic Dean at the Colleges of Law or when he taught, at what is now, the San Fernando Valley campus of the University of West Los Angeles.

The Team members train of logic leads to another round of *factually incorrect statements* and arrives at its now familiar destination of non-compliance.

Given the context of findings in every single prior inspection report, a fair-minded reader must be forgiven for concluding that the engine driving these conclusions have their coordinates robotically pre-programmed to arrive at a predetermined destination.

The grade correlation is relatively straightforward. Regardless of who the instructor is, the grades via students ID# number only are inputted into a grid of generally three courses taught by different instructor.

If there is a discrepancy of a sigma or more (5 or more points) between the grades for a student, the instructor is contacted and is asked to review the grade for possible up or down adjustment, and usually a suggested movement of three-five points is advised as may be warranted. In such situations, an instructor is free to assert that there will be no change (as some do for good reason) or may make less than the suggested change or find reasons to accommodate the suggested change.

The rationale for this simple. When dealing with mostly adjunct faculty, it is vital that all instructors have the same concept of what constitutes a C grade, less than or above a C grade. Grades that tend to have a student be academically excluded, are subject to mandatory re-read.

But then here comes the howler. If somehow, the bar pass rates are low, then *ipso facto* there is grading inflation. This nexus relationship would startle state bar psychometricians and law deans. There is no logical stopping point to these deductions.

The State Bar could have done itself a favor and saved tens of thousands of

dollars in paying for psychometric analyses of bar exam results by insisting that law school faculties simply tighten up its grade correlations exercises, for therein lies the elixir to resuscitate the moribund state of low bar pass rates.

The Inspection Report appears unaware that law school exams may involve two or more essay questions, that students have a fair idea of what will be tested, and that usually a single test day is allocated per separate subject.

No worries should a student performance sink in one question. There is always a ready lifeboat on hand to ride in the other question. And of course, there are usually mid-terms grades as well in those two-semester subjects. All this makes for a significant cushion as compared to a single question on a subject that may or may not appear in an essay writing bar examination.

Overlooking this simple aspect of law school exam testing is cause for serious concern, not so much for the law school but as to the qualitative nature of law school inspections conducted by those unfamiliar with academic governance and who make no endeavor to be informed by official State Bar studies.

11. REPORT: (p. 12). Rule 4.240(G); Guideline 5.18. Scholastic standards unsound.

#### RESPONSE

As referenced earlier in the Report, the Institute moved into the distance-learning market with the decided advantage that it did so with its prior academic standards as an accredited law school fully intact, as it was in 2017, except for the singular reason that it did not meet a MPR negotiated between deans and state bar officials. Few, if any online law schools have had that unique prior experience to build on.

The Report's deductions and conclusions, as in other areas of faculty governance are bar-pass rate centric, and yet this central premise has been repeatedly belied by experts who have researched and studied this matter for years.

An article published in the Los Angeles Daily Journal of Wednesday, March 22, 2017, had the byline: "*Lower-Tier ABA Schools See Sharper Drop In Bar Exam Passage*" which recounts a study recently completed for the State Bar of California. It confirms that American Bar Association-accredited schools with lower median LSAT scores found their average pass rates on the California bar exam plummet at a far greater clip than their counterparts with higher median LSAT scores.

The study, conducted by Dr. Roger Bolus, the Committee of Bar Examiners'

own psychometrician, found that even the eight ABA schools in the state with the highest LSAT scores saw their bar pass rate decline from 83 to 72 percent. Those schools were listed as Level III institutions on account of their LSAT scores.

Six ABA schools designated as Level II saw their average bar pass rate decline from 77 percent to 56 percent between 2008 and 2016. *This is a staggering decline of 21 points.* These schools have taxpayer-funded Title IV eligibility.

Dr. Bolus wrote that although all three levels of ABA schools saw decreases in their pass rates in the last eight years, “the fact that the changes are more pronounced in the Level I and II schools may suggest that *the quality (and possible ability level) of students from those schools* have changed at a more *rapid pace* than students from the Level III schools.”

According to Dr. Bolus, that while the change in the composition of test takers has contributed to the decline in bar pass rates, there were also likely other elements in play. (emphasis)

He wrote:

“Institutional factors such as changes in curriculum and/or variation in student characteristics such as *motivation, preparation and/or latent legal ability* and law school performance may be operating.” He added: “In the absence of additional data, however, we cannot assess the impacts of such variables.”

The 2018 California State Bar sponsored study examining the decline in the State’s bar pass rates noted the following:

[B]ar examination scores have been in steady decline for the past decade both nation-wide and within California, [which] is indisputable. What has been the focus of debate are the reasons for this decline. Suffice it to say, there are a *multitude of complex and interrelated social, behavioral, and economic factors involved, all most likely playing some direct or indirect role.* (emphasis)

<http://www.calbar.ca.gov/Portals/0/documents/admissions/Examinations/Bar-Exam-Report-Final.pdf> (p. ix)

Now to another State Bar sponsored study that cannot be more emphatic. It highlights the egregious error of judging the soundness of a law school’s curriculum through the exclusive lens of bar pass rates:

“One of the primary purposes of a professional licensure examination is to provide independent evidence that candidates possess sufficient competency for entry-level practice. It would be inappropriate to confound that intent with the purposes of educational training programs or accreditation activities with that program.... *“Although often misused for such purposes, licensure testing program scores are not intended to serve as a comprehensive evaluation of a program’s curriculum and instruction.”* Dr. Chad Buckendahl: “Key Factors to Consider When Engaging in A Development or Redevelopment Process For Examinations” July 15, 2013 (PR-13-02). (emphasis).

In a Study of Texas Law Schools, Klein and Bolus, who are the primary psychometric analysts for the State Bar of California, concluded that “*there is a nearly perfect relationship between a law school’s mean total bar exam score and its mean LSAT score (the correlation is 98 out of a possible 100).*”

Here is one veteran researcher who spots the rogue elephant in the room. It is worth highlighting because of its source. It comes from the President of the National Conference of Bar Examiners:

“Bar prep courses now offered within law schools are being outsourced to bar review companies, *defeating* a more reasonable relationship between such courses and sound, semester-long pedagogy with more deeply embedded understandings of the application of law.” Erica Moeser, President NCBE. *The Bar Examiner*, Vol.83, No.4 (2014) 4 at p.6. (emphasis).

<https://thebarexaminer.ncbex.org/article/december-2014/presidents-page-december-2014/>

Several CALS have formally engrafted mandatory Bar Review instruction into their regular curriculum. This has been blessed by the Committee of Bar Examiners by allowing credit for such course. Previously credit for bar review courses were extended only if designed by faculty. For example, Berkeley’s Boalt Hall does this for at-risk graduating students.

Yet, as Moeser points out, this practice is more a reflection of “drill and kill” pedagogy through bar prep instruction, beginning from year one until graduation, rather than a comprehensive reflection of a school’s qualitative instruction. *Id.*, at 7. What is needed, as Moeser recommends, is more academic support services for those in the bottom quartile of the applicant and admissions pool. This is constructive advice.

To this end beginning in 2024, the Institute has in place several online procedures to assist students. This involves faculty-written answers to 1L subjects, extensive answers as opposed to mere issue sheets for law school exams; a minimum completion of *Adaptibar* MBEs, several written assignments on 1L subjects as part of the substantive class; frequent academic counseling with at-risk students; strong advice to students who have ongoing health and employment issues that they take a leave of absence thus allowing them more time address these matters before continuing any further.

Other steps taken by the Institute includes having students engage in a serious introspection of taking a term's leave of absence if they have not found sufficient time to engage past FYLSX and law school exam. Some have done so, and appear better prepared, and their MBE scores on *Adaptibar* have significantly improved. Quite a few have taken the advice and were approved for leave of absence. This is the reality.

More recently, to assist with MBE, the Director of Distance learning in collaboration with faculty, plan to provide an easy-to-use compendium of legal rules in all 1L subjects that would enhance MBE scores. Students with a fractured knowledge of a legal rule are most vulnerable to MBE questions that usually are based on nuanced applications of a rule of law. ESL students are particularly vulnerable to this predicament.

In a nutshell, rather than outsourcing its educational mission to commercial bar review providers, the Institute's faculty invest time on weekend bootcamps, personal one-on-one academic counseling, and providing as much feedback as it takes to have its students succeed. This of course takes time. It takes more than a small window of a few years to monitor such progress.

12. REPORT (p. 12) Rule 4.240(E); Guideline 5.25 (C) Comparing 1L grades to FYLSX suggests grade inflation.

### RESPONSE

The Report repeats its error by concluding the FYLSX (which has been a combination of essay and MBEs equally weighted) is a yardstick of whether grade inflation is found in 1L courses, which in fact are based entirely on midterm and final exams with a small range of points allocated to scoring over 65% on two tries on MBE *Adaptibar* exam questions.

Again, we find the Inspection Team comparing apples and oranges. The Team insinuates that faculty are unaware of “how their students are doing in the course” when after publication, all faculty receive their student grades except this time with names in place of student ID numbers.

This is an extrapolation of what was reportedly said. After raw grades are grade-correlated, finalized, and sent to students, every instructor receives a copy of how the students, with names included, performed on the subjects they instruct. This has been the unbroken practice for nearly four decades.

By now, the Report’s trend is predictable. It drives its findings toward locating irrelevant predicates, often based on factually incorrect findings, and then draw illogical conclusions. One gets the sense that Report engages in a pattern of metronomic regularity that is disturbingly familiar.

Its train of analysis moves to assess compliance from one Rule to the next with the same jaundiced view of low bar pass rates. The die, it seems, has been cast even before the inspection was concluded, as expressed in the Latin: *iacta alea est*. There are two more whistle-stop stations to pass by as it moves towards its inexorable conclusion.

13. REPORT. (p.13) Rule 4.240(H); Guideline: Pre-Admission Screening ineffective-low pass rate for repeat-takers: Change in Exam FYLSX format.

#### RESPONSE

The Institute has a pre-admission screening of candidates in place for filtering out those who are clearly unqualified, or who on account of serious language issues make it clear that they would not be able to read and brief a case (among those dissuaded from applying was a foreign born medical doctor), or on account of work or personal issues that may significantly cut into the minimum time necessary to meet either attendance issues or learning the design of structured law school exam writing or timely keeping up with written assignments.

The reasons are clear. It saves the student the application fees and the time to go through the applications process when in good faith no honest admissions officer would extend clearance to such an applicant to move forward and apply. These prospective applicants who are otherwise qualified, are not outrightly rejected. However, on account of being candidly informed of “what” it takes, they do not move forward with submitting their application.

At the same time, it saves valuable staff time for processing and going through

the surface motions of opening applicant files and attendant record-keeping. Prior inspectors would commend the Institute for honesty and integrity, as would many of the applicants for being frank with their prospects of being successful. To be sure, not all, but many take the advice and forego making the application.

But this is not enough for this Team nor is it effective. Why? Here, is the Team's logic. This is not effective because of its 25% cumulative bar pass rate over five years and therefore "*this*" policy is not sound. Never mind, that small numbers of students sit for any one administration of the bar exam and such percentages are statistically unreliable.

From the Institute's perspective, this process has enabled it to keep its mission statement afloat by successfully graduating disadvantaged minorities in the lower-middle-income socio-economic ladder, who passed the bar exam. Our roster has as previously detailed included a formerly homeless Afro-American woman, a paraplegic, a single parent with disabilities of her own while she was raising a special needs daughter through four years of law study, an unmarried single parent raising her daughter with her parents and who worked at minimum wage at a McDonalds.

Another student who was excluded from her prior law school because of poor grades while enduring an ectopic pregnancy at the time of her exams and while her husband was fighting in Iraq war. And yet another ESL Hispanic woman, the first in her generation to graduate and earn a college degree. Common to all these attorney-alumni, was that they invested much of their time in the study of law and were able to overcome their difficulties. But many do not for a myriad reasons.

This accords with State Bar studies that those with aptitude, perseverance, motivation, and sheer grit, and who put in the effort to make it their field of dreams succeed. Bear in mind, these are students that do have the cushion of federally subsidized student loans assistance. So, if only 25% percent make it, should the remainder be choked off because either they extended minimum effort and/or were beset with various forms of personal struggle or tragedy involving death in the family, accident, illness, divorce, or a sudden loss of employment where almost half their time were devoted to their issues. More recently, we had as many as three students stricken with cancer and one a double amputee from out of state.

Prior inspection Teams would inquire from alumni attorneys and non-attorneys as to their experience at the school and make attempts to understand why they did not pass the bar examination.

Past Teams would ascertain firsthand admissions from those who did not pass who acknowledged that the "fault" in not passing, was all theirs, either for not having the time or resources to enroll in expensive Bar Review classes, to obtain

private tutoring, or to take time off work or family commitments.

Or a repeater-taker who upon passing the bar, speaking to a class of students upon being asked what made the difference, candidly admitted: “This time, I took the advice of the deans and faculty, and the learned the “special skill set needed to pass a bar exam.”

This Team derives its logic from the singular metric of bar pass rates, a form of *post hoc ergo propter hoc* deduction and thus begins its slide into an abyss that ends in fact-free and insupportable conclusions that prior inspectors abjured.

14. REPORT: (p.14) Rule 4.240(L) failure to keep hard copy of all electronic and hardcopy library expenditures.

#### RESPONSE

The march toward its predetermined end continues apace and with overkill. The Team grabs onto a Guideline that, at least since the advent of online library services has been left stranded on the shores of the regulatory handbook, to pile on yet another non-compliant issue.

Apparently, it never accessed the law school’s extensive online law library. Students have shown remarkable appreciation for this benefit. From what we understand, not a single question was asked of any student about library access. The school has the required hornbooks on campus, and any law dean and faculty will confirm that distance learning students forego expending valuable time and expense in making the trip to campus to consult.

The Institute is located right across the street and is about a five-minute walking distance to the county courthouse library that houses an extensive collection of library books. The only electronic expenditure is the annual fee to Westlaw—an item reflected in the budget. We are not counting the factual misstatement that are woven into this Report some, like its library finding, are essentially technical issues.

Yet, this was not enough for a Team that hunt and secures its last brick to throw at the school. It expects detailed records as if these purchases placing could be placed on par with, as one might shelf in a library of a fixed facility law school, with hundreds of law students.

That this so-called “fact-finding” is done in the name of Supreme Court’s “inherent” judicial power exercised through its administrative arm should give

pause for concern to fair minded individuals reading this Report.

15. REPORT (p.15) Rule 4.240K); Guideline 8.1. Financial Projections and proper compensation for faculty.

RESPONSE

The Report ends as it begins with yet another *demonstrable factual error*.

Since 1992, no single member of the faculty has been accorded shares for instructional compensation. A single Board member relayed what “used” to be a past practice. At the very least, one would think that the Team would have sought clarification of this. The Vice Dean, who tracks the accuracy of stock issuances, would have confirmed this in a 10-second phone call.

Budget projections are prepared by a tax attorney who is well familiar with the school’s bookkeeping accounts based on the annual corporate audit.

Faculty compensation is a quintessential issue of internal faculty governance, an area that prior inspection teams, in keeping with the Supreme Court’s admonition of “non-intervention” in the internal affairs of the school, have honored. Not this Team. The Institute’s faculty compensation, as in all law schools, is based on contract and is made consistent with state and federal, notwithstanding a throwaway, gratuitous, and demeaning footnote appended to this section of the Report. We request this footnote be deleted should this Report be published.

Often in a small school, with recurring standard operational expenses, relatively stable student enrollment, budgetary fluctuations in some years are hardly discernible.

Financial projections were delivered at the time of the filing of the annual report only because the school took advantage of the IRS time extensions allowed in 2022 for filing of reports. Again, what is noteworthy here is that not a single inquiry for explanation was made of the school by the Team. The Institute typically has its CPA financial report prepared around July.

The Team raises a valid area of interest about gross revenue and expenditures. The Institute is familiar with such concerns because similar questions were raised, and raised

far more seriously at its nascent stage, some 38 years ago.

At the time, school embarked on challenging a monopoly in the tri-county geographical district spanning San Luis Obispo, Santa Barbara and Ventura counties and parts of northwestern Los Angeles County where only one law school existed that was state accredited.

Despite gloomy budgetary forecasts at the time, the school was accredited in less than 10 years thereafter and survived as an accredited law school for nearly 25 years, graduating over 100 attorneys consistent with its mission statement. This was until its accreditation, a “vested interest,” was terminated in 2020 for the sole reason of not having met the MPR and without any access to the benefit of any judicial review.

The Institute’s financial picture as described in the Report takes no account of the promissory notes signed by students, some with more than \$10,000 owed, who on account of personal circumstances were unable to satisfy their balances at time of graduation. Whereas earlier, law schools could and did lawfully withhold transcripts of such student to expedite clearance of these debts, new legislation would now prevent that. However, payments continue to be made on these promissory notes, with occasional delays. There has never been a time in the school’s history where it was unable to pay its operating expenses.

We have an individual who has committed through a bank guarantee letter to funding any deficits in operational charges. Meanwhile the faculty have identified sources of donor money who would be willing to make significant donations to the school so long as it is a non-profit entity. Accordingly, a team of faculty has agreed to locate or establish a non-profit educational entity that would provide scholarships for the type of students enrolled at the Institute.

As with some recent law school closures, should and when it becomes infeasible for the Institute to meet projected expenses or operational costs, it will make the appropriate decision at that time.

While the Institute’s course offerings are online, it is not a Title IV eligible law school, and hence its budget is not impact by a new U.S. ED [Rule](#) § 668.14(b)(32)(ii). The Rule conditions receipt of Title IV funds involving online instruction to out-of-state students provided the J.D. degree in the law program they are enrolled in qualifies such students to take the licensure exam in the state they reside at time of enrollment.

Unless of course based on the unsupported conclusions in the Report, that contradict all prior inspections, the Committee decides to cut off the only alternative avenue of legal instruction currently available in the tri-county area under a structure of regulations the school believes is unconstitutional. The Institute will address these legal

concerns as a postscript to this Report following its own recommendations to the Board.

## **SUMMATION**

This Team concludes that it alone knows best of whether the school is providing a sound legal rather than the administrators, faculty, or more to the point, of conclusions reached by a series of prior inspection Teams that included deans from other law school, and students (the ultimate consumers of legal education). The Report admits that the school's students, (we think almost the entire student body) attended the meeting with the Team and "complimented their J.D." program yet writes that the school is unable to "demonstrate that it provides those students with a sound program of legal education."

From what student leaders communicated to faculty, they spoke so favorably of the law school's instruction and support programs, that their feedback bordered on the rhapsodic.

Again, the Report's conclusions are based, not on an objective evaluation of the school's current program, but solely on the bar pass performance of a cohort of students, most of them having attended the school prior to its conversion to a distance learning modality, and whose legal study was in the program evaluated by prior inspection teams as sound and compliant.

Since the gravitational and motivating force that impels the Team conclusion, when not based on factually and demonstrably inaccurate data, are derived from low GBX and FYLSX pass rates, the following views should help undermine this nexus that is familiar to the educational landscape in general and to law schools in particular as we have essayed in [Item # 11](#) above.

Indeed, one singular excrescence of the Team Report in evaluating the quality of our law school is its irresistible penchant to work backwards from the Table of GBX pass rates. Unwarranted and indefensible presumptions of quality are drawn from this metric. The Team report constantly pivots on a cliché borrowed from a Manichean type of bipolar world where good GBX pass rates *ipso facto* masquerade as superior quality law schools whereas law schools with not-so-good GBX pass rates are summarily relegated to a lesser or inferior quality.

Governor Jerry Brown on August 28, 2009, wrote to US Education Secretary Arne Duncan where he discusses the issue of top-down numerical goalpost mandates in K-12 schools. What he writes is quite apropos and applies mutatis mutandis with greater force to the idea of setting numerical goalposts in professional law school education as

establishing a template for evaluating the quality of education offered by state law schools.

He wrote:

“The basic assumption of your draft regulations appears to be that top down, Washington driven standardization is best. This is a “one size fit all” approach that ignores the vast diversity of our federal system and the creativity inherent in local communities. *You are not collecting data or devising standards for operating machines or establishing a credit score.*” (emphasis)

The most damning evidence comes from the American Law Institute about the deficiencies GBX testing itself. Among the final recommendations “*Critical Issues Summit*” (2009-See [www.equippingourlawyers.com](http://www.equippingourlawyers.com)) sponsored by the American Law Institute American Bar Association was that:

“Regulatory authorities should consider restructuring one-time bar examinations into phased examinations over time, linked in part to the attainment of legal practice skills, with some parts of the examination occurring as early as in the law school years.” The accompanying comment goes on to observe that “phased examinations are already used in licensing in other professions, such as medicine.”

In May of 2010, Mr. Howard B. Miller, the then President of the State Bar of California wrote: “the Committee of Bar Examiners, in consultation with California-accredited as well as ABA law schools, needs to begin a serious study of what kind of tests will genuinely determine who is qualified to practice law. Even according to those who administer the bar exam, it is at best only a test of minimum competence of one atypical aspect of being a lawyer: the application through recall alone of certain black letter rules under artificial conditions.” (Emphasis)

In their book “The Gathering Peasants’ Revolt in American Legal Education” authors Kurt Olson and Lawrence Velvel cite Professor David Frakt of Western State University College of Law who following an extensive study of these issues writes (at p.65): “There is no automatic correlation between raw bar passage rates and the quality of legal education provided by a law school.”

This is echoed by Professor Lori Roberts who writing in the Drexel Law Review (2011), states:

“A common misconception involves the relationships between grading student work, assessment of student learning outcomes, and the bar examination. While they are related and sometimes reliant on each other, they are not the same. Grading students’ work is not an assessment of student learning outcomes, nor is the bar a complete assessment of a law school’s learning outcomes. Student

assessment is the evaluation of individual student's capabilities in *a* course.”  
(Emphasis)

Other reasons provide a backdrop for plummeting GBX pass rates. Student motivation is the key to passing the General Bar Examination. Robert J. Samuelson writing in the Washington Post (09/06/2010) identifies an absence of student motivation as the central reason why waves of reform in our secondary schools have floundered. Michael Kirst, an emeritus education professor at Stanford estimates that 60% of incoming community college students and 30% of freshmen at four-year colleges need remedial reading and math courses.

In a seminal article written by Edna Wells on “Why Students Fail” and distributed by Professor Vernellia Randall in her class at Dayton University School of Law, Professor Wells writes as one cause for failing is because often in law school “try as they might to improve their low academic performance, their grades remain more or less constant.” She goes on to write, as all law deans will confirm, that the “key” to passing the bar examination is for law students to learn “the difference between the bar exam and law school exams.”

SOUTHERN CALIFORNIA INSTITUTE OF LAW SUBMISSION TO  
RECOMMENDED ACTION IN INSPECTION REPORT FOLLOWING SCHOOL RESPONSE  
October 07, 2024

The Southern California Institute of Law respectfully submits a facial challenge to the structure of due process afforded here respecting a recommended extension of approval for two years following post-consideration of the Inspection Report and Response of May 18, 2024.

The Institute believes that for all reasons submitted as a “Postscript” to the first Response to the Inspection Report (that has since been redacted), that the Committee of Bar Examiners functions not as part of the state Supreme Court’s inherent authority but as an administrative agency of the legislature and therefore its rules, inspections, and decision-making structures as applied to law school evaluations are subject to the state Administrative Procedure Act. We have submitted, what we believe, is conclusive legal evidence to the State Bar in support of this proposition.

Leaving this contention aside for now, on the issue of constitutionally mandated due process, once approval has been granted to a school, the school has a continuing property interest in its approval.

However, based on this facial and structural challenge, the proper basis for evaluating agency decisions is the “substantial evidence” standard under the state Administrative Procedure Act as explicated in court opinions. In our Response of May 18, 2024, we suggested that there were several factual and demonstrably inaccurate items of evidence that formed the basis of a litany of non-compliance findings. In its Response, the school offered to pay the expenses of an independent fact finder appointed by the Committee, if the school was unable to establish the falsity of these conclusions in the Inspection Report.

For due process, our Supreme Court has held that conclusive proof of actual bias is not required. It is enough, if under the circumstances, there is a probability of actual bias on the part of decisionmakers, or there is a bias, where objectively speaking, is too high to be constitutionally tolerable.” *Morongo Band of Mission Indians v. State Water Resources Control Bd.* (2009) 45 Cal.4th 731, 737.

To be sure, the Institute does not contest the fact that the Committee may be charged with both, developing the facts and rendering a final decision. Nor does the Institute have any issue with staff advising a recommended course of action. We digress here to add that the staff of the Chief Program Analyst and others are all exceptional individuals with the highest integrity and are of unimpeachable character.

But that said, it appears from the record of other law schools, that the Committee, as a matter of routine, invariably signs onto and adopts staff recommendations. These staff recommendations include one or more Committee members that participate in the deliberative process. This in effect, is a violation of procedural due process since the school is deprived of the “fair and independent judgment” of the Committee that thus renders the procedure constitutionally defective.

For example, the Institute conceded that while it has never defaulted in any of its financial obligations over a period of thirty-eight years, its year-end balances is not as healthy as it should be on account of students not timely meeting their financial obligations especially with respect to large sum promissory notes. To address this, the school secured a signed promissory note of an investment of \$150k and significant increases in new enrollment. In that light, it requested a five-year extension to 2028 contingent on the school's bank verification of such a deposit within 60-days. In context, the Institute was a state accredited law school with two campuses for nearly twenty-five years until June 2020.

On another matter, the school has two typical terms- one in the Fall (Sept) and another in the Spring (March). Simply because it added some early start dates to accommodate new enrollees in July and August prior to the formal Fall Term, and January and February before the formal start of the Spring Term, to acquaint these early starters with certain introductory/elective courses, this was deemed a new division without any explanation as to why this should be so. These new 1L enrollees are instructed by the same professors who teach the Fall and Spring Classes, and they all have a 52-consecutive week curriculum as per the relevant Guidelines. The term "new division" is undefined in the Rules. This allows for arbitrary interpretation. Accordingly, we take our cue for how the term new division is viewed in academia.

Typically, as in large colleges, unless there is a separate administrative and faculty unit, and at times even a separate budget, this would not be considered a "new" division unlike a day/evening division or a specialized unit within a discipline.

For a school to be accused of non-compliance without an opportunity for an ostensibly independent and fair hearing in which agency conclusions are adopted as presented, and contrary to reasoned arguments are reduced to no more than a *pro forma* exercise and is a form of government tyranny that Americans fought against in the Revolution. It recalls the Shakespearian quote, in *Measure for Measure*, O! it is excellent to have a giant's strength, but it is tyrannous to use it like a giant."

We respectfully request this Committee to consider these submissions.

Thank you,

Stanislaus Pulle Ph.D.  
Dean of Law

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Eric Pommer Esq.  
Vice-Dean of Law