CAAL
09/03/03
Agenda Item 3

September 3, 2003

MEMORANDUM

To: Dr. Vermelle J. Johnson, Chairman, and Members, Committee on Academic Affairs and Licensing

From: Dr. Gail M. Morrison, Director of Academic Affairs and Licensing

Consideration of Request for Initial License
The Charleston School of Law, J.D.

Summary

The Charleston School of Law (CSOL) http://www.charlestonlaw.org requests approval of an initial license to offer a program leading to the Juris Doctor degree. This initial request is for approval to advertise and enroll students beginning in September 2003 for classes beginning in September 2004.

On May 12, 2003, the South Carolina Secretary of State issued a Certificate of Existence to The Charleston School of Law, LLC. Ralph C. McCullough, II, Alex M. Sanders, Jr., and Edward J. Westbrook are the managers listed on the Articles of Organization Limited Liability Company. By letter dated August 15, 2003, Mark C. Tanenbaum, president of the Charleston County Bar Association, wrote to the Commission endorsing the CSOL. By letter dated August 19, 2003, City of Charleston Mayor Joseph P. Riley, Jr., also wrote to the Commission endorsing the CSOL, saying in part, "It will become an important part of the Charleston Digital Corridor, an economic development initiative focused on attracting knowledge-based companies to Charleston and diversifying the City's employment base with additional job opportunities for our citizens."

Upon receipt of the Application for Initial License, the staff contracted with a team of expert examiners. The staff provided to the team members a copy of the application and exhibits. The team was asked to review the proposal for conceptual compliance with the licensing requirements and to arrive at a consensus as to whether the founders of CSOL are developing and implementing a plan to establish the law school in compliance with the licensing

requirements and to position the school to apply for American Bar Association accreditation so that students who enroll will be able to accomplish the objectives of the program. A copy of the team report is attached (**Attachment 1**). It includes descriptions of the education program, finances, facilities, library, student services, organization, administration, and faculty.

The principal goals of the Charleston School of Law are to teach the practice of law as a profession having as its chief aim preparing lawyers for public service; to teach moral character and personal integrity through its program of study; to teach the law as a means of making possible the continued processes of manufacture and commerce; to institute and coordinate legal outreach programs to the South Carolina and American Bars, local, state, and federal governments, and to the general population; and to encourage and foster legal reforms.

To be eligible to take the Bar exam and for admission to the South Carolina Bar Association, attorneys must have graduated from a law school that is accredited by the American Bar Association (ABA). A school in its second year of operation may apply for accreditation. Students who enroll at CSOL will be eligible to take the Bar exam after CSOL attains ABA accreditation. The ABA requires that an unaccredited school must publish the following statement:

> *The Dean is fully informed as to the Standards and Rules of Procedure for the Approval of Law Schools by the American Bar Association. The Administration and the Dean are determined to devote all necessary resources and in other respects to take all necessary steps to present a program of legal education that will qualify for approval by the American Bar Association. The Law School makes no representation to any applicant that it will be approved by the American Bar Association prior to the graduation of any matriculating student. (August 1997)*

As the following table shows, the American Bar Association reported that South Carolina had 7,571 active resident attorneys as of December 31, 2002, or 1.84 for every 1,000 residents, the second lowest in the SREB region. Of the 16 states in the SREB region, South Carolina ranks sixth in the number of law schools per 100,000 residents. The following data is extracted from the American Bar Association, National Lawyer Population by State and the Population Division and from U.S. Census Bureau, Table ST-EST2002-01 - State Population Estimates: April 1, 2000 to July 1, 2002.

	US Census Bureau estimated population, 2002	ABA # Attys residing & active by state, 2002	# ABA law schools		# Attys residing & active per 1,000 population		# Law schools per 100,000 population
AL	4,486,508	9,697	2	AR	0.94273698	TX	0.00459139
AR	5,456,453	5,144	2	SC	1.84335590	NC	0.01201902
DE	807,385	2,118	1	NC	1.98722474	MD	0.01832127

FL	16,713,149	52,967	8	MS	2.14222389	GA	0.03504546
GA	8,560,310	23,698	4	AL	2.16136915	AR	0.03665385
KY	4,092,891	10,722	3	WV	2.31703344	SC	0.04869518
LA	4,482,646	16,357	4	TN	2.33091709	FL	0.05384982
MD	5,458,137	20,855	8	KY	2.61966419	VA	0.06855380
MS	2,871,782	6,152	2	DE	2.62328381	TN	0.06899777
NC	8,320,146	16,534	5	VA	2.71404484	OK	0.08586851
OK	3,493,714	10,633	3	GA	2.76835769	AL	0.08915620
SC	4,107,183	7,571	1	TX	2.96571705	LA	0.15615777
TN	5,797,289	13,513	3	OK	3.04346607	WV	0.16649342
TX	21,779,893	64,593	9	FL	3.16918134	KY	0.19546086
VA	7,293,542	19,795	7	LA	3.64896090	DE	0.24771330
WV	1,801,873	4,175	1	MD	3.82090079	MS	0.27857268

The following information, extracted from the Occupational Outlook Handbook published by the United States Bureau of Labor Statistics, describes the current employment environment for lawyers:

> Employment of lawyers is expected to grow about as fast as average through 2010. Continuing demand will result primarily from growth in the population and in the general level of business activities. Demand also will be spurred by growth of legal action in such areas as healthcare, intellectual property, international law, elder law, environmental law, and sexual harassment. In addition, the wider availability and affordability of legal clinics and prepaid legal service programs should result in increased use of legal services by middle-income people.
>
> Demand will be somewhat mitigated because, in an effort to reduce the money spent on legal fees, many businesses increasingly are using large accounting firms and paralegals to perform some of the same functions that lawyers perform. For example, accounting firms may provide employee-benefit counseling, process documents, or handle various other services previously performed by the law firm. Also, mediation and dispute resolution increasingly are used as alternatives to litigation.
>
> Competition for job openings should continue to be keen because of the large number of students graduating from law school each year. Graduates with superior academic records from well-regarded law schools will have the best job opportunities. Perhaps as a result of job competition for attorney positions, lawyers are increasingly finding work in nontraditional areas for which legal training is an asset, but not normally a requirement—for example, administrative, managerial, and business positions in banks, insurance firms, real estate companies, government agencies, and other organizations. Employment opportunities are expected to continue to arise in these organizations at a growing rate.
>
> As in the past, some graduates may have to accept positions in areas outside of their field of interest or for which they feel overqualified. Some recent law school graduates who have been unable to find permanent positions are turning to the growing number of temporary staffing firms that place attorneys in short-term jobs until they are able to secure full-time positions. This service allows companies to hire lawyers on an "as needed" basis and permits beginning lawyers to develop practical skills while looking for permanent positions.

Due to the competition for jobs, a law graduate's geographic mobility and work experience assume greater importance. The willingness to relocate may be an advantage in getting a job but, to be licensed in another State, a lawyer may have to take an additional State bar examination. In addition, employers increasingly seek graduates who have advanced law degrees and experience in a specialty such as tax, patent, or admiralty law.

Employment growth for lawyers will continue to be concentrated in salaried jobs, as businesses and all levels of government employ a growing number of staff attorneys, and as employment in the legal services industry grows in larger law firms. Most salaried positions are in urban areas where government agencies, law firms, and big corporations are concentrated. The number of self-employed lawyers is expected to decrease slowly, reflecting the difficulty of establishing a profitable new practice in the face of competition from larger, established law firms. Moreover, the growing complexity of law, which encourages specialization, along with the cost of maintaining up-to-date legal research materials, favors larger firms.

For lawyers who wish to work independently, establishing a new practice will probably be easiest in small towns and expanding suburban areas. In such communities, competition from larger established law firms is likely to be less keen than in big cities, and new lawyers may find it easier to become known to potential clients.

Some lawyers are adversely affected by cyclical swings in the economy. During recessions, the demand declines for some discretionary legal services, such as planning estates, drafting wills, and handling real estate transactions. Also, corporations are less likely to litigate cases when declining sales and profits result in budgetary restrictions. Some corporations and law firms will not hire new attorneys until business improves and may even cut staff to contain costs. Several factors, however, mitigate the overall impact of recessions on lawyers. During recessions, for example, individuals and corporations face other legal problems, such as bankruptcies, foreclosures, and divorces requiring legal action.

Median salaries of lawyers 6 months after graduation, 2000	
All graduates	$51,900
Type of work	
Private practice	80,000
Business/industry	60,000
Academe	40,000
Judicial clerkship and government	40,000
Public interest	34,000
SOURCE: National Association for Law Placement	

The following table shows the number of applications selected law schools accepted and of those who applied, the number who matriculated. It also shows the percentages of Bar exam pass rates. Students who aspire to go to law school apply to more than one school. The upper tier schools probably get a lot of wishful-thinking applicants, and those applicants are more likely to matriculate if accepted. The lower-tier schools get “safe applicants” who clearly meet the lesser requirements and would matriculate at the lower-tier schools only if not accepted at upper-tier

institutions. Lower-tiered schools probably admit more students in order to reach their target enrollments.

Selected Law Schools Applicants, Accepted, Matriculated, Bar Pass Rates Academic Year 2002-2003											
		Public Private	Year ABA Aprvd	# Aplcnts	# Acptd	% Acptd	# Mtrcltd	% of Acpt Mtrcltd	% of Aplcnts Mtrcltd	School Grads Bar Pass	State's Bar Pass
Chicago	IL	Private	1923	4,491	735	16%	194	26%	4%	IL 98% NY 95%	83%; 76%
Columbia	NY	Private	1923	8,072	1,174	15%	377	32%	5%	93%	76%
Duke	NC	Private	1931	4,093	839	20%	201	24%	5%	93%	76%
Emory	GA	Private	1923	3,597	1,033	29%	259	25%	7%	GA 94%; NY 96%	86%; 76%
George Washington	DC	Private	1923	10,774	2,061	19%	458	22%	4%	NY 90%	76%
Georgetown	DC	Private	1924	11,512	2,188	19%	578	26%	5%	NY 95%; MD 84%	76%, 72%
Harvard	MA	Private	1923	6,924	871	13%	557	64%	8%	NY 95%	76%
New York	NY	Private	1930	8,123	1,497	18%	408	27%	5%	95%	76%
Stanford	CA	Private	1923	4,653	423	9%	170	40%	4%	92%	66%
Tulane	LA	Private	1925	3,827	1,194	31%	358	30%	9%	NY 88%; LA 80%	76%; 71%
Vanderbilt	TN	Private	1925	3,123	697	22%	194	28%	6%	TN 87%; NY 93%	80%; 76%
Yale	CT	Private	1923	3,610	256	7%	191	75%	5%	NY 98%	76%
Totals Private				**72,799**	**12,968**	**18%**	**3,945**	**30%**	**5%**		
North Carolina	NC	Public	1923	2,954	534	18%	233	44%	8%	NC 87%; NY 100%	79%;76%
South Carolina	SC	Public	1925	1,501	448	30%	240	54%	16%	92%	85%
Virginia	VA	Public	1923	4,417	985	22%	350	36%	8%	VA 88%; NY 93%	73%, 76%
William & Mary	VA	Public	1932	3,383	686	20%	189	28%	6%	82%	73%
Totals Public				**12,255**	**2,653**	**22%**	**1,012**	**38%**	**8%**		

The team of examiners and the staff are concerned about future employment opportunities for graduates of the CSOL and about the earning potential for graduates employed as attorneys in public service positions, especially in an environment in which students incur substantial debt. Charleston School of Law officials have drafted a catalog that thoroughly describes the program and includes appropriate disclosures. Students will be able to make informed decisions based on

the status of the school and the objectives of the curriculum. They will also receive debt counseling.

The staff, and others, are also concerned that in the future the founders of the CSOL may desire to turn over the private CSOL to the State so that it becomes a public institution. The staff recommendation is not an endorsement of the need for the State to support another publically-funded law school; further, the recommendation below is based on the evaluation of the application material for compliance with the standards for licensure. The recommendation should not be interpreted by the officials of the CSOL, the officials of the public institutions, or the Commission as an endorsement or support for creating a second public law school or having a law school affiliated with an existing public institution.

The Commission received from the Honorable Alex Sanders a letter dated August 20, 2003 (**Attachment 2**). The letter suggests that the Commission license the School with a condition that the School "cannot, under any circumstances, become a part of the College of Charleston or any other public institution in South Carolina, and in the event the School, or its officers or agents, should make an attempt to cause the School to become a part of the College of Charleston or any other public institution, the license granted to the School shall be null and void and immediately revoked." Judge Sanders further states that the stockholders in the CSOL have entered into a legally binding agreement with each other that the School will not be transferred to the College of Charleston or any other public institution in South Carolina. Finally, he states that he is assured by both the president and the chairman of the Board of Trustees of the College of Charleston that it has no interest in acquiring the CSOL.

Recommendation

The staff suggests that the Committee on Academic Affairs and Licensing recommend to the Commission that it grant to The Charleston School of Law approval to advertise and enroll students for classes to begin in September 2004, provided that 1) no "unique cost" or other special state funding be required or requested; 2) that CSOL submit to the Commission updated material to document compliance with the licensing requirements and the recommendations of the team as enumerated in the Team Report and shown below; 3) that a team visit the Charleston facility in May 2004 to confirm compliance; 4) that the team and the staff provide updated reporting and final recommendations to the Committee and the Commission in summer 2004; 5) that the institution establish a timeline under which it will gain ABA accreditation; report to the CHE staff on each step in the timeline; provide to the CHE staff a copy of correspondence to and from ABA, and discontinue advertising and enrolling students into the program if it becomes apparent that it is unable to meet its timeline to gain ABA accreditation; and 6) in the event that the school, or its officers or agents, should make an attempt to cause the school to become a part of the College of Charleston or any other public institution, the license granted to the school shall be null and void and immediately revoked.

Compiled Recommendations from
Licensing Team Evaluation Report
Charleston School of Law
Review conducted July/August 2003

The team recommends that the officials of CSOL:

1. Develop a more detailed five-year budget. Include in the budget separate line items for: equipment, utility costs, advertising, marketing and promotion, travel, insurance, fringe benefits, maintenance contracts, printing, etc.
2. Provide to CHE a copy of the final building plan and space requirements once a site is selected. The budget should be revised to include the appropriate building, renovation, and lease costs, if any.
3. Detail in the budget more clearly the line item for instructional equipment.
4. Submit a summary of the library collection implementation plan before the next phase of review in the spring of 2004.
5. Determine how many librarian and staff members are expected to be dedicated to the library over the next few years and submit this information to the Commission before the next phase of review in the spring of 2004.
6. Submit an updated document on library and technology budgetary matters before the review in spring of 2004.
7. Continue to review and increase faculty salary budgets to assure recruitment of qualified and experienced teachers.
8. Include in the budget funding for faculty development such as research, support, and travel to conferences.
9. Include in the budget income and expenses for summer offerings.
10. Hire a comptroller or dean of students who understands law school debt issues and knows how to administer financial aid, in particular education loans. Staff should be in place who will fully disclose the financial challenges to applicants and enrolled students and provide students with sound advice and counseling about managing their education debts.

Attachment 1

LICENSING TEAM EVALUATION REPORT
Charleston School of Law
Review conducted July/August 2003

Review for approval to advertise and enroll students
beginning in September 2003 for classes beginning in September 2004

Introduction

The examining team reviewed the licensing application materials filed with the Commission by the Committee to Establish the Charleston School of Law. The examining team was charged with the responsibility of reviewing a proposal for the Charleston School of Law to offer a program leading to a Juris Doctor degree. This initial review was for "conceptual" compliance with the licensing requirements for the team to make a recommendation to the Commission as to whether the Commission should allow the institution to proceed in September 2003 with advertising and enrolling students for the term beginning September 2004.

The examining team members and their primary areas of responsibility for the review were:

Education program
Charles S. Arberg, Assistant Director
Judicial Education Division, Federal Judicial Center; Washington, DC

John L. Carroll, Dean and Professor
Cumberland School of Law, Samford University; Birmingham, AL

Finance and facilities
Joseph D. Harbaugh, Dean
Shepard Broad Law Center, Nova Southeastern University; Fort Lauderdale, FL

Ronald Ingle, President
Coastal Carolina University; Conway, SC

Library and student services
Sally Wise, Director and Professor of Law
University of Miami School of Law Library; Coral Gables, FL

Organization, administration, and faculty
David Shipley, Professor
University of Georgia School of Law; Athens, GA

Renea Eshleman served as staff liaison for the Commission on Higher

Education. Robert S. Carr served as institution liaison for the Charleston School of Law. The team greatly appreciates the care taken by representatives from the Charleston School of Law in providing supporting documentation.

Educational Program

The education program is traditional in that it includes core requirements as tested on the South Carolina Bar Exam. Students choose electives from the other courses offered to complete the 90 semester-credit hours required for graduation. The following table shows the required courses and the elective courses to be offered.

Course Number	Course Title	Credit hours	Required
510, 515	Contracts	6	6
520, 525	Criminal Law/Procedure	6	6
530, 535	Property	6	6
540, 545	Torts	6	6
550	Legal Research and Writing	3	3
560, 565	Civil Procedure	4	4
570	Professionalism	No credit	No credit
610	Constitutional Law I	3	3
620	Constitutional Law II	3	3
630	Evidence	3	3
640	Business	3	3
650	Criminal Law	3	3
660	Family Law	3	3
670	Equity	3	3
680	Insurance	3	3
685	Advanced Legal Research & Writing	3	3
690	Trial Advocacy	3	3
695	Wills, Trusts, & Estates	3	3
700	Accounting for Lawyers	3	
705	Administrative Law	3	
710	Admiralty	3	
715	Advanced Trial Advocacy	3	
720	Alternative Dispute Resolution	3	
730	Antitrust Law	3	

740	American Legal History	3	
745	Bankruptcy	3	
750	Business Planning	3	
755	Commercial Transactions (Sales)	3	
760	Conflict of Laws	3	
765	Consumer Law	3	
770	Environmental Law	3	
775	Historic Preservation Law	3	
780	Intellectual Property	3	
785	Land Use Planning	3	
790	Poverty Law	3	
795	Products Liability	3	
800	Real Estate Transactions	3	
805	Secured Transactions	3	
810	Securities Regulation	3	
815	Sports Law	3	
820	State and Local Government	3	
825	State and Local Taxation	3	
830	Workers Compensation	3	
835	Interning, Clinics and Lawyering Skills	3	3
		142	67

The catalog includes a description for each course in the curriculum. The application for licensure includes a sample course syllabus for Torts 540. The sample syllabus is comprehensive and it is assumed that the remaining syllabi will be developed as courses are offered.

Recommendation

The team recommends that officials of the CSOL develop course syllabi for the courses to be offered in the first year and submit the syllabi to the Commission before the next phase of review in the spring of 2004.

Response

CSOL will develop and submit to CHE course syllabi for the first-year courses before the spring 2004 review.

Prerequisites for admission are:

1. An undergraduate bachelor's degree, or three-fourths of the work acceptable for

a bachelor's degree from an institution that is accredited by an accrediting agency recognized by the U.S. Department of Education. In an extraordinary case, the CSOL may admit an applicant who does not possess these educational requirements if the experience, ability and other characteristics of the applicant clearly show an aptitude for the study of law.

2. Law School Admission Test (LSAT) score.
3. A personal statement with any information that may be relevant to consideration for acceptance. Outstanding work experience, extracurricular activities, honors or awards, or evidence of overcoming obstacles such as economic hardship are examples of information that may aid in consideration for admission. The statement should include the reasons the applicant is interested in pursuing a legal education.
4. Two letters of recommendation from undergraduate professors or other individuals who are knowledgeable of the academic ability of the applicant. If the applicant has been out of school for some time, letters from an employer may be helpful.

An applicant may transfer from another law school not more than 45 semester credit hours. Only courses completed with a grade of C or better are transferable; all credits must have been earned within two academic years prior to matriculation.

The program will be available to full-time and part-time students. Completion of the program requires 90 semester credit hours of course work. Students must complete a minimum of 45 semester credit hours in residence at the CSOL. It is expected that full-time students will graduate in three years and part-time students will graduate in four years. Tuition is $12,250 for each semester for full-time students enrolling in 13 to16 semester credit hours, $9,188 for each semester for part-time students enrolling in nine to12 semester credit hours, or $850 for each semester credit hour for part-time students enrolling in five to eight semester credit hours.

Finance and Facilities

The licensing application of the Charleston School of Law contains adequate descriptions of the available financial resources, budget information, space requirements, and equipment to be procured. The balance sheet reflects current assets, as of June 9, 2003, to be $1,988,806. The pro forma operating statement indicates expected revenue of $3,062,500 in tuition and fees in the first academic year. The expenses for start-up and first year total $3,928,350. A positive cash flow position is expected by year three, with a cumulative cash flow by year four. Current assets should be adequate to cover cash flow shortfalls until year four.

The financial resources information provided complies with the CHE licensure requirement that the applicant provide evidence of adequate financial resources sufficient to show that the institution possesses adequate liquid assets to make student

refunds, to pay expenses in a timely fashion, and to maintain continuity for an extended period.

The cash reserve amount, combined with the planned collateral pledge of $310,000 (in lieu of a surety bond), fulfill the requirements for a surety bond or collateral pledge of not less than ten percent of the projected annualized gross income of the program. The regulation requires that the bond or pledged collateral is to be used only for payment of a refund of tuition and other instructional fees due a student or potential student.

The salary budget line items appear to be in line with normal academic salary costs.

Recommendation

It is recommended that officials of CSOL develop a more detailed five-year budget. Included in the budget should be separate line items for: equipment, utility costs, advertising, marketing and promotion, travel, insurance, fringe benefits, maintenance contracts, printing, etc.

Response
CSOL will continue to develop the budget.

Facilities and Space

Included with the license application material is information that architects from the architectural firm of Hartman-Cox in Washington, D.C., have evaluated five potential sites for the school. The school has asked for a proposal from three of the five sites, received one proposal at the time the application was submitted to CHE, and will negotiate a long-term lease with one of the three. The three possible locations are (1) Port City Center (currently occupied by Johnson & Wales University) on East Bay Street, (2) the Charleston Chamber of Commerce in the South Carolina Railroad Building between Ann and Mary Streets (with expansion into adjacent King Street properties), and (3) the Roper (Baker) Hospital.

The school officials provided details of the proposed square footage requirements for the school. The space required to accommodate the first year is approximately 23,000 net square feet and space required within three years is approximately 102,000 net square feet.

The space plan provided appears to be well thought out, and includes a three-phased approach, adding space as student, faculty, and other needs increase. The proposed Port City Development Plan included in the Application adequately fulfills the licensure requirement to provide a description of the physical facilities, and a floor plan,

including size of rooms. The applicant indicated that additional information will be provided once a definite facility is selected. The phased approach and the space requirements of the Port City Plan appear to be sound, however. Since only estimates of costs for a facility as well as accompanying possible renovation costs are not known at this time, it is not possible to reconcile the potential budgetary implications if these costs were ultimately to exceed those included in the budget.

Recommendation

A copy of the final building plan and space requirements should be provide once a site is selected. The budget should be revised to include the appropriate building, renovation, and lease costs, if any.

Response

The CSOL will provide updated information to the CHE once a site is selected.

Equipment

In accordance with the CHE licensure requirements, a list of the major items of equipment available for instruction, and whether the equipment will be owned, rented, or leased, is provided. The applicant indicates that all of the equipment will be owned. The equipment listed is an appropriate quantity and type of office equipment, including the copiers, fax machines, printers, computers, scanners, and a/v equipment one would expect for this type of operation. It is not entirely clear whether the equipment purchases are included in the operating budget under either “administration all other,” “instructional all other,” or “library and technology.”

Recommendation

The budget should more clearly detail the line item for this instructional equipment.

Response

The CSOL will provide to the CHE updated and detailed budget as the project evolves.

Library and Student Services

Collection

CHE regulations require the school to document that the institution owns or makes available through formal agreements access to adequate learning resources and services to support the programs offered. In the first two years of its operation CSOL will build a comprehensive law collection that will be equal to and in some areas better than all of the new ABA accredited libraries. CSOL will continue to build its collection as required by ABA standards and will move beyond its initial scope as rapidly as possible.

CSOL is being advised by a consultant who has built several law collections, inspected numerous law libraries for the ABA, and who has 30 years of experience in academic law libraries. It is the intent of CSOL to fully comply with ABA standards for libraries, to hire an experienced law librarian who will build a law library that meets and exceeds these requirements. Listed below is a list of some of the core materials. It shows in general terms the scope of the collection. The list is not intended to be all inclusive of the collection:

South Carolina statutes, annotated code, session laws, administrative regulations, and cases; all South Carolina available appropriate administrative agency-related materials

United States Code and Statutes at Large

State Annotated Codes (other than South Carolina) and state session laws

Code of Federal Regulations Federal Register

West's National Reporter System and pre-NRS, complete; all federal reporters and select specialized reporters as appropriate to the curriculum

Congressional Record (unbound), U.S. Congressional and Administrative news and Congressional Hearings and Reports as appropriate for the curriculum; all federal administrative reports and related materials

U.S. Supreme Court decisions, including official and unofficial formats

A periodicals collection including most leading English language periodicals indexed in Current Law Index and Index to Legal Periodicals and Books

Legal encyclopedias

Shepard's Citations

Indexes including Current Index to Legal Periodicals, Current Law Index, Index to Legal Periodicals, Index to Federal Tax Articles, Index to Foreign Legal Periodicals, Index to Periodical Articles Related to Law, Legal Trac

Copies of all Restatements of the Law, as well as tentative drafts to the Restatements and Model Codes

Casebooks

Hornbooks

General reference material

A complete public international law library, including U.S. and U.N. treaties, appropriate U.N. and other international documents

Significant secondary materials necessary to support the law school program

The School submitted a document titled "General Scope of the Library Collection for the Charleston School of Law." It is a draft policy and part of the planning documents that will be required by the ABA. This document does not address how the Library's collection is to be built. It focuses on the maintenance of the collection once it exists.

The General Scope document states that the there is in place a community membership program for the Library. It does not look like the income expected to be

raised through this program is reflected in the pro forma operating statement.

One library agreement is mentioned in the General Scope document and another is mentioned in a letter. The General Scope document mentions COSELL, the Consortium of South Eastern Law Libraries (http://library.law.unc.edu/cosell/) whose mission is to promote cooperative endeavors among the law school libraries of the Southeastern United States. Joining COSELL will be very straightforward.

At the new 150,000 square foot College of Charleston Library students will have access to a print collection of 450,000 books and 3,200 journal subscriptions and electronic legal and professional research materials. In a letter from David J. Cohn, Dean of Libraries for the College of Charleston, to Mr. Alexander M. Sanders, Jr., Chair, Committee to Establish the Charleston School of Law, Dean Cohen stated that under the current policies of the library the students at the Charleston School of Law will have full access on the premises to all books and other materials. He states that in order to have the privilege of checking out books, individual students would have to obtain special patron status by paying an annual fee of $25. He goes on to say that the College of Charleston Library has already worked out agreements with other institutions in Charleston for all of their students to have the privilege of checking out books.

Recommendation

The team recommends that the officials of the CSOL submit a summary of the collection implementation plan before the next phase of review in the spring of 2004.

Response

This plan is in fact in development. Once the library director has been selected he or she will adjust this plan to reflect planning sessions with regional judges, lawyers, and law faculty already identified. These planning sessions will incorporate subject specialties that will support the law school curriculum. The section of a draft information development policy was provided to show the general level of collection development.

Suggestion

The team suggests that the officials of the CSOL negotiate an agreement for the law students with the College of Charleston Library so that they will not have to pay the annual fee of $25 to check out materials. The officials of the CSOL may also want to be sure that the law students will have access to all electronic subscriptions when they use the College of Charleston Library in person and the CSOL may also want to consider negotiating for the law students to have off-campus access to these electronic subscriptions.

Response:

It is highly likely that this will in fact be done. One must keep in mind that it may be

more advantageous for CSOL to support the undergraduate library with this fee. However, the fee may be passed on to the students, or be optional with the students.

Librarians and Staff

It is the intention of the officials of the CSOL to hire a director of the law library and technology center in the very near future whose responsibility will be to build the library, the staff, and the collection. This person will construct and implement the plan for the development of the staff and collection.

The licensing material indicates that there will be from six to ten librarians hired over the next few years, through 2009, five librarians with JD and MLS degrees or equivalents, including the library director hired in year one. In addition to the library director, the proposal plans for librarians for public services, reference, technical services, catalog, and serials control, plus support staff of assistants in each of those areas, a director of computer services, a computer specialist, and a webmaster.

Recommendation

The team recommends that the officials of the CSOL determine how many librarian and staff members are expected to be dedicated to the library over the next few years and to submit this information to the Commission before the next phase of review in the spring of 2004.

Response

The JD/MLS law library director will begin working the second half of 2003-2004 and in due course will be joined by a JD/MLS public services librarian and head of technical services. They will be assisted by a number of part-time students who will work primarily with sorting, storing, processing, and shelving. In the summer of 2004 a catalog assistant, a serials control assistant, the director of computer services, and additional part-time help will be added. Most student library access during 2004-2005 will be related to doing lawyering-process exercises. The director and public services librarian will provide reference support to the students. They will also be involved in collection development and assist in the cataloging of materials. Contract cataloging will also be used for some materials. In 2005-2006 a JD/MLS reference librarian will be added along with a catalog librarian, serials control librarian, library assistant for circulation, library assistant for collection management, a computer specialist and several part-time staff. At this point, the library will have a 20/1 ratio of students to staff. This will allow ample services to be applied to the cataloging and processing of materials. Again, some contract cataloging will be used and most of the new monographs purchased will be processed by Blackwell - North American. In 2006 an access services manager and a webmaster will be added to the staff, as well as additional part-time staff.

It is also important to note that CSOL will purchase an Innovative Interfaces cataloging system which will have pre-loaded a complete set of basic law library serials and common reprint

records. All staff workstations will be equipped with cataloging software and sufficient port access to the library catalog to allow for the maximum involvement of staff in building records that are not otherwise pre-loaded in the catalog or available through File Transfer Protocol (FTP) from monograph vendors.

Budget

The five-year library and technology budget document states that the Library and Technology Center areas will receive $707,000 for 2004-2005. The brief five-year plan budget document looks reasonable. $300,030 will be provided to the library for both print and electronic acquisitions in year 2004-2005. There is no indication when the fiscal year begins for the CSOL, but it would probably be useful to have those funds available early in the year so that the Library will be ready for the entering class in the fall. In the pro forma operating statement, start-up funds of $85,500 for library and technology salaries and $58,500 for other library and technology items will be available in fiscal year 2002-2003. It would seem that the adequacy of the $85,500 would depend upon the timing of the availability of the monies for the 2004-2005 fiscal years.

Recommendation

The team recommends that the officials of the CSOL submit an updated document on library and technology budgetary matters before the review in spring of 2004.

Response

This will be done. At this juncture the CSOL is seeking acquisition of at least two fully-cataloged law school library collections. Acquisition of these will affect the plan for building the collection. In general, the plan for development includes the acquisition of all reporters, statutes, law journals, and monographs necessary to comply with the ABA standards. In the first six years of operation the CSOL will spend approximately $4,500,000 on acquisitions. The bulk of this material will be delivered in the first two years of operation, with approximately $2,000,000 dedicated to upkeep. In addition, consultation with law librarians will demonstrate that a least $2,000,000 in in-kind contributions of law books will be available. Finally, a total of $1,500,000 will be spent on technology in the first five years of operation.

Student Services

The documents indicate that the associate dean for student affairs will be hired in the middle of the second year. It is assumed that this person will be responsible among other things for working with the students to organize different student organizations depending upon the interest of the student body. The CSOL catalog indicates that there will be a Student Bar Association which will be the student government and service organization, a Moot Court Coordinating Board which will coordinate the Moot Court competitions that the students will have an opportunity to

enter, a Law Review which will publish legal articles, and the Forensic Club which will provide a place for the discussion of forensic exercises and legal science.

Another student service will be the Center for Professional Development. The catalog indicates that this center will provide support and assistance to students in all stages of the career planning process. The documents indicate that two career services staff members will be hired in year two. The descriptions of the staff indicate that the CSOL will be looking for persons with bachelor's and master's or Juris Doctor degrees with experience in career counseling and placement within the legal industry.

Organization, Administration, and Faculty

Organization and Administration

The organization of the proposed Charleston School of Law as described in the institution's application materials and balance sheet is standard for a free-standing law school [one that is not affiliated with a college or university]. There is a governing board and, if the governing board receives approval to move forward with establishing the school, there will be a dean; an associate dean for academic affairs; a six-person faculty in its first year with additional faculty hired in the following years; a director of admissions; an associate dean for student affairs; a registrar; a career services officer; a comptroller; a financial aid director, a law librarian with a professional staff; and a director of computer services with support staff to deal with computer/technology matters. In addition, the application materials and balance sheet call for hiring an adequate support staff of administrative assistants and secretaries in all departments. If key positions like dean, associate dean, law librarian, dean of admissions, and several faculty lines are filled by men and women who have experience in legal education, the new school as described in the application materials should be well administered for the benefit of students, faculty, and staff.

Resources

It is difficult to assess resources that will be dedicated to support the administration and faculty, qualifications for employment in administration, the record-keeping processes that will be used, and how administration and faculty will be evaluated at this preliminary stage of the Charleston School of Law's application process. The application materials describe a full curriculum with more required courses than found at most accredited law schools, and all students will be expected to do some kind of clinical work or have an internship experience in order to develop their lawyering skills. The application indicates that the school plans to hire a highly qualified faculty to teach and advise the students. There will be a Curriculum Committee to review additions to and deletions from the curriculum. There will be an Oversight Committee to review faculty performance. There will be an Academic Planning Committee to evaluate

the school's progress and engage in long-range planning. The school will maintain student records and monitor student performance. The governing board plans to hire an experienced law librarian and build a comprehensive law library collection with materials in hard copy, electronic, and other formats. There will be computer and technology support for students, faculty and staff. The governing board is considering several sites for lease that will house the new school.

The application shows that there are substantial financial resources committed to establish the school. This is important because it is clear that the school will operate at a deficit for the first several years of its existence. Nevertheless, the application is general and no one has been hired but for the dean as reported in the Columbia newspaper. The name of the dean was not disclosed. Only one member of the governing board has experience in legal education. All of this makes it vital for the governing board to have hired, as the founding dean, a person with substantial experience as a legal educator, preferably someone who has played a significant role in getting one of the nation's new law schools up and running and approved by the American Bar Association. Roughly a dozen law schools have been established around the nation in the last decade, so there should be quite a few well-qualified candidates who fit that description.

Response

I. Richard Gershon has accepted the position of dean of the CSOL; his hiring is contingent upon attaining CHE licensure. Dean Gershon has recently completed a five-year term as dean of Texas Wesleyan School of Law. During his tenure, Dean Gershon led the school to full ABA accreditation, applications increased 58 percent, median LSAT scores rose from 149 to 151, median undergraduate GPAs rose from 2.95 to 3.04, and the first-time Bar passage rate increased from 71.57 to 85.71 percent.

The following is biographical information on Dean Gershon: LL.M. 1983 University of Florida; J.D. with honors 1982 University of Tennessee; B.A. 1979 University of Georgia. Dean, Texas Wesleyan University School of Law; professor and associate dean, Stetson University College of Law; director, Institute for Space Law and Commerce; assistant professor, Ohio Northern University College of Law; special assistant general counsel, State Bar of Georgia. Published in the Nova Law Review, the Cumberland Law Review and the Ohio Northern Law Review.

The Charleston School of Law wants to recruit several experienced teachers to join the faculty and must continue to revise its budget based on those negotiations. The school also needs to budget for faculty development such as research support and travel to conferences in order to recruit and retain a strong faculty. In addition, a summer budget should be proposed. The balance sheet states that the summer session will run on its own budget and will net revenue not included in the balance sheet. That is standard but some projections ought to be made. With a tight job market in a slow economy, a new law school like this one should offer its students a range of

summer school offerings. Many of the students will not have summer employment opportunities and might want to attend summer school so that they can graduate a semester early or take a lighter-than-normal load during the regular academic year.

Recommendations

Continue to review and increase faculty salary budgets to assure recruitment of qualified and experienced teachers.

Budget for faculty development such as research, support, and travel to conferences.

Develop a summer budget.

Response

CSOL will revise the budget as needed, will budget for faculty development and travel, and will develop a summer budget.

It is vital for the Charleston School of Law to hire, in addition to a financial aid director, a person in the position of comptroller or dean of students who also understands law school debt issues and knows how to administer financial aid, in particular education loans. Like many if not most private law schools, the Charleston School of Law will be tuition dependent. The proposed annual tuition and fees of $25,000 for 2004-05 is at the current national average for the tuition and fees charged at private law schools. Unlike some well-endowed private law schools, the Charleston School of Law did not budget a significant amount for scholarships. A figure of 10 percent of tuition is used and this would be approximately $300,000 in the first year of operation assuming an enrollment of 125 students with tuition at $24,500 for the academic year. This means the students will likely borrow heavily to finance their legal education. The application materials do not set forth a total estimated annual cost (tuition, fees, books, lodging, meals, transportation etc.) for a student to attend this school while living in Charleston; it is likely that many Charleston School of Law graduates will complete their legal educations with substantial law school loans to repay. The school needs to offer them counseling about handling this debt burden as well as provide assistance in obtaining loans at competitive rates.

Response

Private accredited schools in general only gave 16.22 percent in 2001-2002; it makes our 10 percent for a brand new school pragmatic.

Percent of Tuition Paid by Need and Merit Based Grants 1990-2002 by Accredited Law Schools http://www.abanet.org/legaled/statistics/grants.html

Year	Public	Private	Total
1990-1991	14.28%	10.42%	11.09%
1991-1992	14.50%	11.37%	11.92%
1992-1993	15.65%	10.60%	11.34%

1993-1994	20.45%	11.17%	12.63%
1994-1995	18.02%	11.45%	12.53%
1995-1996	20.81%	12.21%	13.57%
1996-1997	19.72%	12.65%	13.89%
1997-1998	20.99%	12.76%	14.23%
1998-1999	20.36%	13.67%	14.93%
1999-2000	21.33%	14.74%	15.99%
2000-2001	22.60%	15.27%	16.67%
2001-2002	22.96%	16.22%	17.53%

The Charleston School of Law's application materials say that the school wants to prepare its students for employment in positions of public service. This is an admirable goal. We need more public defenders, legal aid lawyers, assistant district attorneys, assistant solicitors and agency lawyers in our region. However, the salaries for most public interest positions are typically not as high as those for attorneys employed in other positions. Applications to law schools rise when the economy cools off. We can hope that the first graduates of the Charleston School of Law will enjoy a booming economy in South Carolina and throughout the Southeast in the summer of 2007, but it still will be difficult for many of them to take a public interest position at a lower rate of pay when they face repaying significant law school loans. Loan repayment assistance programs as are available at some law schools would be of great benefit to graduates of the CSOL. It is essential for the Charleston School of Law to fully disclose the financial challenge to applicants and enrolled students and to provide them with sound advice and counseling about managing their education debts.

The primary goal of South Carolina's licensing standards is consumer protection, and the school must make sure that the school's potential applicants are fully informed when they apply to and then perhaps matriculate at the CSOL. The national applicant pool is very large and may continue to increase. At the same time, the nation's economy is not strong and the job market for the nation's May and June 2003 law school graduates who just took the Bar exam is very tight. Graduates of accredited law schools can look for jobs throughout the United States. On the other hand, graduates of an unaccredited school can seek employment in only a few states. Moreover, the Bar passage rates for graduates of the nation's unaccredited schools are very low. This means that the job prospects for graduates of unaccredited schools are very limited.

Response

CSOL is informed of the Standards and Rules of Procedure for the Approval of Law Schools by the American Bar Association. The administration and the dean are determined to devote all necessary resources and take all necessary steps to present a program of legal education that will qualify for approval by the American Bar Association.

CSOL will not admit applicants who do not appear capable of satisfactorily completing

its educational program and being admitted to the Bar. Further the current assets of CSOL are adequate to cover any cash flow shortfalls to year four of operation, thus limiting the temptation to lower entrance standards in order to raise revenue during the early years of operation.

According to official ABA data posted on the web site of the Law School Admission Council at http://officialguide.lsac.org/OFFGUIDE/pdf/aba5818.pdf, the University of South Carolina School of Law, for the year 2002 graduated 208 students; 188 (92.6 percent) of those are employed; 11 are pursuing graduate degrees; four are unemployed not seeking employment.

The August 2003 electronic newsletter of the South Carolina Bar reported statistics from the National Association of Legal Placement (NALP) that employment of law graduates has contracted from 90 percent in 2001 to 89 percent in 2002, which reflects the economic downtrend. This differs dramatically with the early and mid-nineties employment rates in the 84 – 85 percent range.

Recommendation

Hire a comptroller or dean of students who understands law school debt issues and knows how to administer financial aid, in particular education loans. Staff should be in place who will fully disclose the financial challenges to applicants and enrolled students and provide students with sound advice and counseling about managing their education debts.

Response

CSOL will take reasonable steps to assist students in obtaining student loans at competitive rates, to emphasize and to disclose fully the financial challenge to applicants and enrolled students, and to provide sound advice and counseling about managing education debts during the admissions process, at the inception of a student's loan obligations, during the course of study, and prior to graduation.

Suggestion

Plan and develop a repayment assistance program for future implementation.

Response

CSOL intends to vigorously pursue the establishment of appropriate loan repayment programs to assist its graduates who commit to a minimum term of employment in positions in South Carolina related to public service law.

Conclusion and Recommendations

In the opinion of the reviewers, the founders of the Charleston School of Law have a preliminary plan that, when fully developed and implemented, will meet the licensing requirements and adequately support the purposes and objectives of the curriculum and the needs of the students, faculty, and staff of the institution. However, CSOL officials may be a bit naive about starting up a law school; the review process in which we are engaged is designed to assist and prod the founders to consider some of

the details the reviewers uncovered.

The team members are troubled that students who cannot get admitted to an accredited school (or those geographically or otherwise bound to a particular area) will incur substantial debt for their chance to grab the professional brass ring. A greater investment on the part of the founders coupled with some judicious budgeting may reduce the dependence on vulnerable students.

The recommendation of the review team to the Commission on Higher Education is as follows:

That the Commission allow the Charleston School of Law to advertise and enroll students beginning in September 2003 for the classes beginning in September 2004 conditioned upon:

(A) The founders of the institution proceeding with their plan to develop the program and resources beginning classes in September 2004,

(B) The founders of the institution submitting to the Commission by early May 2004 updated material documenting compliance with licensing requirements and with the recommendations of the team enumerated within this report,

(C) A team of reviewers visiting in mid-May 2004 the Charleston facility,

(D) A team of reviewers and the staff reporting to the Commission on Higher Education at its June 3, 2004, meeting recommending licensure to begin classes in September 2004;

(E) The staff reviewing and visiting in August 2004 to confirm completion of the implementation plan and issuing of the license for classes to begin in September 2004.