



The State Bar of California

**OPEN SESSION
AGENDA ITEM
APRIL 10, 2020
COMMITTEE OF BAR EXAMINERS ITEM O-100**

DATE: April 10, 2020

TO: Members, Committee of Bar Examiners

FROM: Office of Admissions

SUBJECT: Vote to Convene a Special Meeting and Findings of Fact

BACKGROUND

Today's proposed special meeting is scheduled to allow for the Committee of Bar Examiner's prompt action regarding the preparation and administration of the June 2020 First-Year Law Students' Examination and July 2020 California Bar Examination. Discussion of the item will take place in closed session pursuant to Business and Professions Code section 6026.7, subdivision (b)(3), allowing for closed session of meetings relating to the "preparation, approval, grading, or administration of the California Bar Examination or the First-Year Law Students' Examination."

"A special meeting may be called at any time by the presiding officer of the state body or by a majority of the members of the state body ... [t]o consider license examinations and applications." (Gov. Code § 11125.4(a)(6).) "A special meeting may only be called ... when compliance with the 10-day notice provisions [of the Bagley-Keene Act] would impose a substantial hardship on the state body or when immediate action is required to protect the public interest." (*Ibid.*)

In order to begin a special meeting, the state body "must make a finding in open session that the delay necessitated by providing notice 10 days prior to a meeting as required by [the Bagley-Keene Act] would cause a substantial hardship on the body or that immediate action is required to protect the public interest." (Gov. Code § 11125.4(c).) "The finding shall set forth the specific facts that constitute the hardship to the body or the impending harm to the public interest." (*Ibid.*) "The finding shall be adopted by a two-thirds vote of the body, or, if less than two-thirds of the members are present, a unanimous vote of those members present." (*Ibid.*)

Following the meeting, “[t]he finding shall be made available on the Internet.” (*Ibid.*) “Failure to adopt the finding terminates the meeting.” (*Ibid.*)

DISCUSSION

Immediate Committee action is required due to the emergency need to address the preparation and administration of the June 2020 First-Year Law Students’ Examination and July 2020 California Bar Examination in light of the COVID-19 global pandemic. This is necessary to protect the public interest because, in order for an applicant to be certified for admission and a license to practice law in the State of California, they must pass the First-Year Law Students’ Examination, unless they are expressly excused from the requirement to do so, and the California Bar Examination. (Bus. & Prof. Code § 6060(g)-(h).)

Tens of thousands of applicants sit for State Bar-administered licensing examinations each year. In order to accommodate the extraordinarily high volume of test-takers, the State Bar of California begins its preparations for administration of its examinations months in advance. Such preparations include, but are not limited to, contracting with numerous vendors who provide essential printing, lighting, location, computer, and other support services, and coordination with the National Committee of Bar Examiners regarding the multistate portion of the California Bar Examination. As a result, proposed changes to examination administration plans necessarily involve the careful coordination of dozens of outside entities.

The State of California has declared a state of emergency with respect to COVID-19. Effective March 20, 2020, California Governor Gavin Newsom ordered all people in California to stay at home to the extent possible, and to practice social distancing in all outings. The Governor and various cities and counties have also banned or limited gatherings to prevent the risk of exposure to COVID-19. Communities, organizations, and individuals around the State are doing their best to take appropriate action in this quickly evolving situation.

The COVID-19 pandemic threatens the safety and wellbeing of California applicants and is likely to continue to do so. With respect to the June and July examinations, time is of the essence in determining what action the Committee will recommend to the Board of Trustees to ensure the safety and wellbeing of applicants who were due to sit for those examinations.

Immediate action is also required because the Committee must make a recommendation to the State Bar Board of Trustees in advance of the Board’s April 14, 2020 meeting on the same issue. The Board of Trustees will consider the Committee’s recommendation when determining what actions regarding these examinations should be recommended to the California Supreme Court for its imminent consideration.

PROPOSED MOTIONS

Should the Committee find that is appropriate to so move, the following motions are suggested:

1. Move to convene a special meeting because immediate action is required to protect the public interest.
2. Move to adopt the finding that immediate action is required to protect the public interest in the June 2020 First-Year Law Students' Examination and the July 2020 California Bar Examination. Immediate action is necessary in light of the fact that the State of California has declared a state of emergency with respect to COVID-19. Effective March 20, 2020, California Governor Gavin Newsom ordered all people in California to stay at home to the extent possible, and to practice social distancing in all outings. The Governor and various cities and counties have also banned or limited gatherings to prevent the risk of exposure to COVID-19.

Whereas, tens of thousands of applicants sit for State Bar-administered examinations each year; proposed changes to examination administration plans necessarily involve the careful coordination of dozens of outside entities; and the COVID-19 pandemic continues to threaten the safety and wellbeing of California applicants and is likely to continue to do so during the months of June and July, time is of the essence in determining what action the Committee will take to ensure the safety and wellbeing of applicants who had been planning to sit for the June 2020 First-Year Law Students' Examination and the July 2020 California Bar Examination, and immediate action regarding these examinations is required to protect the public interest.