



The State Bar of California

OPEN SESSION AGENDA ITEM O-400 JUNE 2020 COMMITTEE OF BAR EXAMINERS

DATE: June 19, 2020

TO: Members, Committee of Bar Examiners

FROM: Tammy Campbell, Program Manager, Operations and Management
Natalie Leonard, Principal Program Analyst, Educational Standards

SUBJECT: Action on Implementation of Directive from the Supreme Court Regarding the
First-Year Law Students' Examination

EXECUTIVE SUMMARY

The attached proposed amendments to Admissions Rules and Guidelines would implement the California Supreme Court's directive to allow law students to have up to four administrations to pass the First-Year Law Students' Examination (FYLX) and claim credit for law study to the time of passage if the June 2020 FYLX is their first, second, or third opportunity to take that examination. (Attachment A)

BACKGROUND

In response to the circumstances surrounding COVID-19, the California Supreme Court has directed the State Bar to administer the June 2020 FYLX online and to make rule and guideline changes allowing law students for whom the June 2020 FYLX is one of the first three administrations after becoming eligible to take the examination up to *four* administrations to pass the examination and claim credit for all law study to date. (The State Bar Act and Admissions Rules and Guidelines currently allow for only *three* attempts.)

It is recommended that the Committee of Bar Examiners (Committee) adopt the Guideline changes set forth in Attachment A and recommend for adoption to the Board of Trustees the change to Admissions Rule 4.31 also set forth in Attachment A. The changes will not become effective until the Board of Trustees' adoption of the change to Admissions Rule 4.31 and the Legislature's adoption of parallel amendments to the State Bar Act.

DISCUSSION

On April 27, 2020, due to the novel coronavirus pandemic, [the California Supreme Court directed the State Bar to administer the June 2020 FYLSX online](#). The Supreme Court further directed the State Bar to implement rule and guideline changes allowing law students for whom the June 2020 FYLSX is one of the first three administrations of becoming eligible to have up to *four* administrations after becoming eligible to pass the examination and claim credit for all law study taken up to that point.

The State Bar Act, as well as the Admissions Rules and Guidelines, currently allow for only *three* attempts to pass the FYLSX and claim credit for all law study. (See Bus. & Prof. Code § 6060 (h)(1); Admission Rule 4.31; Accredited Law School Guidelines 5.21-5.22; Unaccredited Law School Guidelines 7.5-7.6) To implement the Supreme Court's directive, amendments are needed to the applicable statute, rule, and guidelines. Amendments to California Business and Professions Code Section 6060(h) are intended to be included in AB 3362 (Judiciary), the State Bar's annual licensing fee bill. If approved, these changes would be effective January 1, 2021. Although the rule and guideline changes may not become operative in anticipation of the statutory change, staff believes it is important to begin the rule and guideline change process so that law students will be aware that the change is forthcoming, and students will not be deterred from proceeding with their law school studies if they are not successful on the June 2020 FYLSX.

These changes would not be required to go out for public comment if they are merely implementing the change necessary to be consistent with the amended language in California Business and Professions Code Section 6060(h).

FISCAL/PERSONNEL IMPACT

None

AMENDMENTS TO RULES AND GUIDELINES OF THE STATE BAR

Title 4, Division 1, Chapter 1, Rule 4.31; Guidelines for Accredited Law School Rules 7.5 and 7.6; Guidelines for Unaccredited Law School Rules 5.21 and 5.22

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & OBJECTIVES

None – core business operations

RECOMMENDATION

It is recommended that the Committee adopt the Guideline changes set forth in Attachment A, with an effective date of January 1, 2021 or such date as the statutory changes to B&P 6060(h) become effective. It is further recommended that the Committee recommend to the Board of Trustees for approval and recommendation to the Supreme Court the change to Admissions Rule 4.31, with an effective date of January 1, 2021 or such date as the statutory changes to California Business and Professions Code Section 6060(h) become effective.

PROPOSED MOTION

Should the Committee agree with staff recommendations, the following motion should be made:

MOVE, that the Committee adopt the Guideline changes set forth in Attachment A, with an effective date of January 1, 2021 or such date as the statutory changes to B&P 6060(h) become effective. It is further recommended that the Committee recommend to the Board of Trustees for approval and recommendation to the Supreme Court the change to Admissions Rule 4.31, with an effective date of January 1, 2021 or such date as the statutory changes to California Business and Professions Code Section 6060(h) become effective.

ATTACHMENT A

PROPOSED RULE AND GUIDELINE CHANGES RELATED TO THE JUNE 2020 FIRST-YEAR LAW STUDENTS' EXAMINATION

Proposed additions are underlined below.

PROPOSED CHANGES TO THE STATE BAR ADMISSIONS RULES

Rule 4.31 Credit for law study after passing the First-Year Law Students' Examination

- (1) An applicant who is required to pass the First-Year Law Students' Examination will not receive credit for any law study until the applicant passes the examination. An applicant who passes the examination within three consecutive administrations of first becoming eligible to take the examination, will receive credit for all law study completed to the date of the administration of the examination passed, subject to any restrictions otherwise covered by these rules. An applicant who does not pass the examination within three consecutive administrations of first becoming eligible to take the examination but who subsequently passes the examination will receive credit for his or her first year of law study only.
- (2) If any of the first three administrations of the law students' examination described in paragraph (1) includes the June 2020 administration, that examination shall not be counted towards the requirements set forth in paragraph (1).

PROPOSED CHANGES TO THE GUIDELINES FOR UNACCREDITED LAW SCHOOL RULES

Guideline 5.21 First-Year Law Students' Examination

- (1) An applicant who is required to take the First-Year Law Students' Examination will not receive credit from the Committee for any law study until he or she has passed the examination. Students successfully completing their first year of law study at an unaccredited law school must take and pass the First-Year Law Students' Examination within three (3) administrations after first becoming eligible to take it. Only one year of law study will be granted if the examination is passed on an attempt later than within three (3) administrations of the examination after the student becomes eligible to take it.
- (2) If any of the first three administrations of the law students' examination described in paragraph (1) includes the June 2020 administration, that examination shall not be counted towards the requirements set forth in paragraph (1).

Guideline 5.22 Disqualification of Students for Failure to Pass the First-Year Law Students' Examination

(1) A student who does not pass the First-Year Law Students' Examination within three (3) administrations after first becoming eligible to take the examination, must be promptly disqualified from a law school's J.D. program. A student who passes the First-Year Law Students' Examination within three (3) administrations after first becoming eligible to take it, will receive credit for all legal studies completed to the time the examination is passed. A student who does not pass within the three (3) administrations, after first becoming eligible to take it, but who subsequently passes, is eligible for re-enrollment in the law school's J.D. program, but will receive credit for only one year of legal study.

(2) If any of the first three administrations of the law students' examination described in paragraph (1) includes the June 2020 administration, that examination shall not be counted towards the requirements set forth in paragraph (1).

PROPOSED CHANGES TO THE GUIDELINES FOR ACCREDITED LAW SCHOOL RULES

Guideline 7.5 First-Year Law Students' Examination

(1) A student who is required to take the First-Year Law Students' Examination will not receive credit for eligibility for admission to practice law from the Committee for any law study until the student has passed that examination. Credit will be accrued consistent with the requirements contained in Section 6060 of the California Business and Professions Code and Admissions Rules. A student may apply to start his or her law studies over in compliance with the Committee's Starting First-Year Law Studies Over Policy.

(2) If any of the first three administrations of the law student examination described in paragraph (1) includes the June 2020 administration, that examination shall not be counted toward the requirements set forth in paragraph (1).

Guideline 7.6 Disqualification of Students for Failure to Pass the First-Year Law Students' Examination

(1) A student who is required to take and does not pass the First-Year Law Students' Examination within three administrations after first becoming eligible to take that examination must be promptly disqualified from a law school's J.D. program. A student who passes the First-Year Law Students' Examination within three administrations after first becoming eligible to take it will receive credit for all legal studies completed to the time the examination is passed. A student who does not pass the examination within the three administrations after first becoming eligible to take it, but who subsequently passes it, is eligible for re-enrollment in the law school's J.D. program, but will receive credit for only one year of legal study.

(2) If any of the first three administrations of the law students' examination described in paragraph (1) includes the June 2020 administration, that examination shall not be counted toward the requirements set forth in paragraph (1).