

AGENDA ITEM

50-2 FEBRUARY 2018

DATE: February 5, 2018

TO: Members, Board of Trustees

FROM: Erika Hiramatsu, Chair, Committee of Bar Examiners
Amy Nuñez, Interim Director III, Admissions

SUBJECT: Proposed Amendments to Admissions Rules Re Open/Closed Meeting Rules and Implementation of Bagley-Keene January 1, 2018

EXECUTIVE SUMMARY

During its December 2017 meeting, the Committee of Bar Examiners (Committee) approved the proposed amendments to Admissions Rules pertaining to the Open/Closed Meeting Rules for meetings of the Committee of Bar Examiners, subject to approval by the Board of Trustees. The amendments were necessary as effective January 1, 2018, the Committee's meetings are subject to the Bagley-Keene Act. Since the amendments are necessary due to a statutory change, no public comment period is needed.

BACKGROUND

During the 2017 legislative session, SB 36, the Bar's annual fee legislation, was enacted. The bill included amendments to Business and Professions Code section 6026.7, generally making meetings of the Committee of Bar Examiners subject to the Bagley-Keene Open Meeting Act. The language also identified several types of matters that could be conducted in a closed session, in addition to other matters already authorized for closed session under Bagley-Keene. Specifically, subdivision (c) of Business and Professions Code section 6026.7 was added to read:

(c) In addition to the grounds authorized in the Bagley-Keene Open Meeting Act, a closed session may be held for those meetings, or portions thereof, relating to both of the following:

- (1) Appeals from decisions of the Board of Legal Specialization refusing to certify or recertify an applicant or suspending or revoking a specialist's certificate.
- (2) The preparation, approval, grading, or administration of examinations for certification of a specialist.
- (3) The preparation, approval, grading, or administration of the California Bar Examination or the First-Year Law Students' Examination.
- (4) Matters related to the Committee of Bar Examiners' consideration of moral character, including allegations of criminal or professional misconduct, competence, or physical or mental health of an individual, requests by applicants

for testing accommodations in connection with an application for admission to practice law, or appeals of the Committee of Bar Examiners' determinations.

(5) Information about a law school's operations that constitutes a trade secret as defined in subdivision (d) of Section 3426.1 of the Civil Code.

Prior to the enactment of this legislation, which became effective January 1, 2018, the Committee conducted its meetings in accordance with provisions contained in Title 4, Division, 1, Chapter 1, Rule 4.11 of the Rules of the State Bar of California (*Admissions Rules*), which were adopted effective May 13, 2016.

DISCUSSION

Since the Committee's meetings will be conducted in accordance with the provisions of Bagley-Keene beginning January 1, 2018, Rule 4.11, the *Admissions Rules* is no longer needed. As a result, the Committee adopted the amendments to the *Admissions Rules* to remove Rule 4.11, subject to the approval of the State Bar's Board of Trustees.

FISCAL/PERSONNEL IMPACT

None

RULE AMENDMENTS

Repeal Rules of the State Bar, Title 4, Admissions and Educational Standards, Division 1, Chapter 1, Rule 4.11.

BOARD BOOK IMPACT

None

STRATEGIC PLAN GOALS & OBJECTIVES 2017-2022

None

RECOMMENDATION

If the Board agrees with the Committee's recommendation that the proposed amendments to the *Admissions Rules* be approved, it is recommended that the Board approve the following resolution:

RESOLVED, that the Board of Trustees approves the proposed amendments to Title 4, Division, 1, Chapter 1, of the Rules of the State Bar of California to eliminate Rule 4.11 set forth in as Attachment A, effective immediately.

ATTACHMENT(S) LIST

Attachment A. Rules of the State Bar, Title 4, Admissions and Educational Standards, Division 1, Chapter 1, Rule 4.11

**Rules of the State Bar, Title 4, Admissions and Educational Standards, Division 1,
Chapter 1, Rule 4.11**

Rule 4.11 Meetings of the Committee

(A) Open meeting policy

~~Meetings of Committee are open to the public unless closed pursuant to the grounds provided below. Meeting space for members of the public may be limited and the State Bar is not obligated to provide seating for all members of the public in attendance.~~

(B) Location of meetings

~~Meetings of Committee should be held in California. Meetings may be held outside of California in special circumstances when approved by the Executive Director or his or her designee.~~

(C) Notice, late items, and emergency meetings

~~(1) Notice of regular and special meetings of the Committee must be posted on the State Bar's website no fewer than five days before the meeting. The notice must include the date and place of the meeting, the agenda, and the starting time.~~

~~(2) No item may be added to an agenda after the five day notice period and no meeting may be called without notice except in an emergency. An emergency means those circumstances that call for immediate action before the next regular meeting of the Committee. If an emergency can be resolved by unanimous consent without discussion, the board-appointed body may act by fax poll, e-mail, or other electronic means without meeting. A report of action taken in emergencies must be made at the next regular meeting and indicated on its agenda.~~

(D) Closed sessions

~~The Committee and State Bar staff and others who are reasonably necessary for consideration of a closed session matter may attend the closed session at the discretion of the Committee's chair to discuss, deliberate, or take action upon any of the following:~~

- ~~(1) pending or prospective litigation;~~
- ~~(2) matters designated confidential by the Committee's charge, these rules, or otherwise by law;~~
- ~~(3) matters related to the moral character, competence, or physical or mental health of an individual;~~
- ~~(4) allegations of criminal or professional misconduct;~~
- ~~(5) applications, petitions, requests, investigations, opinions, complaints, recommendations, or reports regarding matters delegated to the Committee by law or the Board of Trustees;~~
- ~~(6) proposals, negotiations, or discussions related to contractual, labor, business, or legislative matters;~~
- ~~(7) matters related to the development, administration, or grading of an examination;~~
- ~~(8) matters related to laws school regulated by the Committee that involve individual students or information related to a law school's operations that is not generally known or reasonably ascertainable by others, and by which another law school or others could obtain an advantage over the law school; or~~
- ~~(9) matters relating to internal management of the Committee.~~