



# The State Bar of California

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## **OPEN SESSION AGENDA ITEM 50-4 SEPTEMBER 2020**

**DATE:** September 24, 2020

**TO:** Members, Board of Trustees

**FROM:** Audrey Ching, Director I, Office of Admissions  
Natalie Leonard, Principal Program Analyst, Office of Admissions

**SUBJECT:** Approval of Rule Change Regarding First-Year Law Students' Examination Due to COVID-19 as Requested by the Supreme Court of California

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### **EXECUTIVE SUMMARY**

The Committee of Bar Examiners recommends that the Board of Trustees approves and recommends to the Supreme Court of California for final approval a change to Admissions Rule 4.31 as attached that will implement the 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 was their first, second, or third opportunity to take that exam.

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### **BACKGROUND**

In response to the circumstances surrounding COVID-19, the Supreme Court directed the State Bar to administer the June 2020 FYLX online and 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 up to *four* administrations to pass the exam and claim credit for all law study to date (See [letter to State Bar Board Chair Alan Steinbrecher dated April 27, 2020](#)).

To implement the Supreme Court's directive, amendments are needed to the applicable statute, rule, and guidelines. The State Bar Act, the Admissions Rules, and the Law School Guidelines currently allow for only *three* attempts to pass the FYLX and claim credit for all law study (See Bus. & Prof. Code § 6060 (h); Admissions Rule 4.31; Guidelines for Accredited Law School Rules 5.21-5.22; Guidelines for Unaccredited Law School Rules 7.5-7.6).

The Legislature has forwarded a responsive statutory amendment to the governor for consideration as part of the State Bar's annual licensing fee bill, [AB 3362 \(Judiciary\)](#), with a proposed effective date of January 1, 2021. The governor will have until the end of September to make a decision on the legislation.

Rule 9.5 of the California Rules of Court requires that State Bar rules approved by the Committee of Bar Examiners and pertaining to admission to practice law must be approved by the Board and then submitted to the Supreme Court for review and approval.

## **DISCUSSION**

Although rule and guideline changes will not become operative unless and until the parallel statutory amendment to the State Bar Act takes effect, staff believes that contingent upon the governor's signature on AB 3362, it is important to approve the rule and guideline changes now to become effective January 1, 2021, such 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 were not successful on the June 2020 FYLSX.

The Committee of Bar Examiners recommends that the Board approves the attached responsive change to Admissions Rule 4.31 and submits it to the Supreme Court for review and approval.

At its June 2020 meeting, the Committee of Bar Examiners approved parallel changes to the Guidelines for Accredited Law School Rules and Guidelines for Unaccredited Law School Rules. These changes are also attached for reference.

If approved, this rule change—as well as the changes to the guidelines—will take effect upon the effective date of parallel changes to the State Bar Act.

Neither this proposed change to Admission Rule 4.31 nor the changes to the guidelines are required to be posted for public comment because they merely implement the changes necessary to be consistent with the anticipated amended language in the State Bar Act. These proposed changes were considered and supported by the Committee on State Bar Accredited and Registered Schools.

## **FISCAL/PERSONNEL IMPACT**

None

## **AMENDMENTS TO RULES 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

## **RECOMMENDATIONS**

**Should the Board of Trustees concur in the proposed action, passage of the following resolution is recommended:**

**RESOLVED**, that the Board of Trustees approves and recommends to the Supreme Court the attached change to Admission Rule 4.31 for review and approval upon the adoption of AB 3362.

**FURTHER RESOLVED**, that the change takes effect on January 1, 2021 in conformance with the statutory changes to California Business and Professions Code Section 6060(h) included in that legislation.

## **ATTACHMENT(S) LIST**

- A.** Proposed Addition to Admissions Rule 4.31 – Redlined Version
- B.** Proposed Addition to Admissions Rule 4.31 – Clean Version

**PROPOSED ADDITION TO ADMISSIONS RULE 4.31 – REDLINED VERSION**

Proposed changes to the rule and approved changes to the guidelines are in bold text below.

**Proposed Changes to State Bar Admissions Rule 4.31****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 First-Year 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).**

Below, please find for reference the changes to the Guidelines for Unaccredited Law Schools previously approved by the Committee of Bar Examiners on June 21, 2020 to take effect upon implementation of parallel amendments to Admissions Rule 4.31 and the State Bar Act.

**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 First-Year 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 First-Year 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).**

Below, please find changes to the Guidelines for Accredited Law School Rules previously approved by the Committee of Bar Examiners on June 21, 2020 to take effect upon implementation of parallel amendments to Admissions Rule 4.31 and the State Bar Act.

#### 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 First-Year 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).**

#### 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 First-Year 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).**

## PROPOSED ADDITION TO ADMISSIONS RULE 4.31 – CLEAN VERSION

### Proposed Changes to State Bar Admissions Rule 4.31

#### 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 their first year of law study only.
- (2) If any of the first three administrations of the First-Year 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).

**Below, please find for reference the changes to the Guidelines for Unaccredited Law Schools previously approved by the Committee of Bar Examiners on June 21, 2020 to take effect upon implementation of parallel amendments to Admissions Rule 4.31 and the State Bar Act**

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**Below, please find changes to the Guidelines for Accredited Law School Rules previously approved by the Committee of Bar Examiners on June 21, 2020 to take effect upon implementation of parallel amendments to Admissions Rule 4.31 and the State Bar Act**

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#### 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 JD 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 JD program, but will receive credit for only one year of legal study.

- (2) If any of the first three administrations of the First-Year 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).