



The State Bar *of California*

CONFIDENTIAL

OPEN SESSION

AGENDA ITEM O-302

JUNE 2021

COMMITTEE OF BAR EXAMINERS

DATE: June 18, 2021

TO: Members, Committee of Bar Examiners

FROM: Tammy Campbell, Program Manager

SUBJECT: Discussion and Approval of Proposed Revision to the Guidelines for Foreign-Educated General Applicants with a First Degree in Law

EXECUTIVE SUMMARY

This item proposes a change to the Guidelines for Applicants with a Foreign Law Degree for Admission to Practice Law, to eliminate the requirement that requires foreign-educated applicants not admitted in any jurisdiction take a course in Professional Responsibility that covers the California Rules of Professional Conduct and relevant sections of the California Business and Professions Code. (See Attachment A). The proposed change is made in recognition of the fact that the 2018 revisions to the California Rules of Professional Conduct more closely align with the ABA Model Rules of Professional Conduct than in the past, eliminating the necessity that the course in Professional Responsibility cover both of these topics.

BACKGROUND

The current guideline for foreign-educated applicants not admitted in any jurisdiction requires that one of the courses taken prior to sitting for the California Bar Examination is a Professional Responsibility class that provides specific content about California Professional Responsibility. Few law schools outside of California teach the California Rules of Professional Conduct, making it difficult to satisfy this requirement.

Foreign-education applicants must meet a series of specific requirements to establish eligibility to take the bar exam in California, including an evaluation by a credentialed agency approved by the Committee of Bar Examiners (CBE) to determine that the applicant's first degree in law is

substantially equivalent to a Juris Doctor degree awarded by a law school approved by the American Bar Association or accredited by the CBE or that the applicant's first degree in law meets the educational requirements for admission to practice law in the foreign state or country in which it was obtained.

In addition, such applicants are also required to submit a certificate from a law school approved by the American Bar Association (ABA) or accredited by the CBE certifying that the applicant has either:

- A. Been awarded a Master of Law degree (LLM) based on a minimum of 20 semester or equivalent units of legal education. That education should include no fewer than a total of 12 semester or equivalent units with a minimum of one course in four separate subjects tested on the California Bar Examination. **One of the four courses must be Professional Responsibility that covers the California Rules of Professional Conduct, relevant sections of the California Business and Professions Code, the ABA Model Rules of Professional Conduct, and leading federal and state case law on the subject:**
or
- B. Successfully completed 20 semester or equivalent units of legal education, in a Master of Law degree (LLM) program. That education should include no fewer than a total of 12 semester or equivalent units with a minimum of one course in four separate subjects tested on the California Bar Examination. **One of the four courses must be Professional Responsibility that covers the California Rules of Professional Conduct, relevant sections of the California Business and Professions Code, the ABA Model Rules of Professional Conduct and leading federal and state case law on the subject.**

If the applicant does not take the course at a law school that has been approved to cover the California components, the applicant is required to take an additional Professional Responsibility course at an approved law school at an additional cost in order to meet the California requirements. The proposed amendment would remove that additional step, permitting applicants to take a Professional Responsibility course at any ABA approved law school or California Accredited Law School, even if the course does not cover the California Rules of Professional Conduct, so long as the ABA Model Rules are addressed.

DISCUSSION

THE ORIGINAL PURPOSE FOR THE CURRENT GUIDELINE IS NO LONGER APPLICABLE

The current guideline was created at a time when the California Rules of Professional Conduct differed significantly from the American Bar Association's Model Rules of Professional Conduct that formed the basis of the authority in many other states. Therefore, it was important for applicants to understand the very different framework that was in place at that time. In November 2018, new California Rules of Professional Conduct were enacted that adopted the organization and rule numbering of the ABA Model rules.

THE PROPOSED GUIDELINE WILL REDUCE COST AND INCREASE FLEXIBILITY FOR LAW STUDENTS WHILE MAINTAINING PUBLIC PROTECTION

The current guideline requires law schools outside of California to add a significant amount of California content to Professional Responsibility course, when only a small percentage of the class may elect to practice in California. If the law school does not do so, then the applicant is required to take and pay for an additional Professional Responsibility class that includes this content.

More foreign-educated applicants are seeking to practice law in California and are obtaining most of their required graduate education at a wider range of law schools, both inside and outside of California. They may have family reasons, other interests, or a career preference to seek one of the specialized LL.M. degrees offered by a particular law school. Moreover, some may not initially know they plan to practice in California when they begin their study. They find out about the requirement after completing their LL.M. degree, and may then find themselves having to identify and set aside the time and money to for another Professional Responsibility course.

The requirement to take a Professional Responsibility course meeting the requirements in the current guideline is unique to applicants educated outside of the United States who have not yet been barred in another jurisdiction. US-educated applicants from other states may sit for the bar exam without taking a Professional Responsibility course that includes a discussion of the California Rules of Professional Conduct. Foreign-education applicants who are first barred in any other jurisdiction before seeking admission in California similarly are not required to take a Professional Responsibility course that includes the California Rules of Professional Responsibility to be considered eligible to sit for the bar exam.

The proposed change maintains the requirement to take a course in Professional Responsibility. Foreign-educated applicants, like all others seeking to become licensed in California, are also required to take and pass the Multistate Professional Responsibility Exam. There is no evidence that the additional requirement for foreign-educated applicants who have not first been barred in another jurisdiction is necessary to ensure public protection.

FISCAL/PERSONNEL IMPACT

None

AMENDMENTS TO RULES OF THE STATE BAR

None

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & OBJECTIVES

None

RECOMMENDATIONS

Because the new guideline will achieve the same goals, while reducing cost and increasing flexibility for students, it is recommended that the attached guideline be adopted effective immediately. Additionally, since the current Rules of Professional Conduct governing California lawyer conduct align closely with the ABA Model Rules, whether the applicant took the course prior or subsequent to adoption of the new guideline is irrelevant. It is therefore further recommended that Professional Responsibility courses taken prior to the effective date of this guideline, and which otherwise meet the requirements of the guideline shall satisfy the guideline's requirements.

PROPOSED MOTION

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

MOVE, that the Committee of Bar Examiners approve and adopt the revision to the Guidelines, effective June 18, 2021, and applicable to courses taken before or after this date, for Applicants with a Foreign Law Degree for Admission to Practice Law, as set forth in Attachment A.

ATTACHMENT LIST

- A.** Revised Guidelines for Applicants with a Foreign Law Degree for Admission to Practice Law

**Proposed Revision to the Guidelines for Foreign-Educated General
Applicants with a First Degree in Law**

- A. Been awarded a Master of Law degree (LLM) based on a minimum of 20 semester or equivalent units of legal education. That education should include no fewer than a total of 12 semester or equivalent units with a minimum of one course in four separate subjects tested on the California Bar Examination. One of the four courses must be Professional Responsibility that covers the ABA Model Rules of Professional Conduct, and leading federal and state case law on the subject: or
- B. Successfully completed 20 semester or equivalent units of legal education, in a Master of Law degree (LLM) program. That education should include no fewer than a total of 12 semester of equivalent units with a minimum of one course in four separate subjects tested on the California Bar Examination. One of the four courses must be Professional Responsibility that covers the ABA Model Rules of Professional Conduct and leading federal and state case law on the subject.
- C. The changes to this guideline effective June 18, 2021 apply to Professional Responsibility courses taken before or after the date of that amendment.