



The State Bar *of California*

OPEN AGENDA

AGENDA ITEM O-100

JUNE 2021

COMMITTEE OF BAR EXAMINERS

OPEN SESSION MINUTES

THE COMMITTEE OF BAR EXAMINERS OF THE STATE BAR OF CALIFORNIA

April 23 and 24, 2021

Zoom Meeting
State Bar of California Offices

A zoom meeting of the Committee of Bar Examiners of The State Bar of California convened in open session at 9:02 a.m., Friday, April 23, 2021, Chair Esther P. Lin presiding. Officers and members present were: Chair Esther P. Lin, Vice-Chair Alexander C. Lawrence, Jr., James A. Bolton, Ph.D., Robert S. Brody, Michael Cao, M.D., James H. Efting, Kareem Gongora, Dolores Heisinger, Judge James E. Herman, Michael A. Iseri, Larry Kaplan, Paul A. Kramer, Bethany J. Peak, Vincent Reyes, Judge Shelly Torrealba, David A. Torres, and Don Ajené Wilcoxson, Members. Member Bethany Peak left the meeting at 10:55 a.m. and member Alex H. Chan joined the meeting at 1:05 p.m. State Bar staff members in attendance were: Amy C. Nuñez, Director III, Admissions; Audrey Ching, Assistant Director, Admissions, Lisa Cummins, Program Manager III, Examinations, Christina Doell, Program Manager I, Examination Grading; Tammy Campbell, Program Manager I, Operations and Management; Tara Clark, Program Manager I, Moral Character; Natalie Leonard, Principal Program Analyst, Educational Standards; Kim Wong, Administrative Supervisor, Admissions; Caroline Holmes, Attorney II, General Counsel; Kenneth Holloway, Attorney III, General Counsel; David Lane, Attorney, Moral Character; Devan McFarland, Sr. Administrative Assistant, Admissions; and Ashlie Koehn, Program Analyst. The open session portion was concluded at approximately 11:40 a.m. The meeting went into closed session at approximately 12:16 p.m. The closed session concluded at 1:42 p.m. The meeting went back into closed session at approximately 9:03 a.m. on Saturday, April 24, 2021. All attorney members who were present on Friday were also present on Saturday, except: Members Alex Chan, Judge James E. Herman, and Judge Shelly Torrealba. The only State Bar staff in attendance on Saturday were Audrey Ching, Lisa Cummins, and Kim Wong. Also, in attendance were members of the Examination Development and Grading (EDG) Team: Louise Collari, Amy Gee, David Kelley, Brian Kinney, Kathryn Meola, John Murphy, Amanda

Roze, and Paul Webb. The meeting went back into open session at 9:35 a.m. The meeting adjourned at 9:36 a.m.

PUBLIC COMMENTS

The Committee of Bar Examiners received 4 written public comments and 1 public comments pertaining to the Extension of Waiver for Fixed Facility Accredited and Unaccredited Law Schools to Teach Classes Online (Attachment O-403) and 3 public comments pertaining to the Calculation of the Minimum, Cumulative Bar Examination Passage Rate Under Guideline 12.1 (Attachment O-404).

MARCH 26, 2021 COMMITTEE OF BAR EXAMINERS PUBLIC MEETING MINUTES

It was moved, seconded and duly carried that the minutes taken during the public session of the meeting on March 26, 2021, be approved.

Moved by Brody, seconded by Gongora.

The motion passed. Roll call vote:

Bolton – yes

Brody – yes

Cao – yes

Efting – abstain

Gongora – yes

Heisinger – yes

Judge Herman – yes

Iseri – yes

Kaplan – yes

Kramer – yes

Lawrence – yes

Peak – yes

Reyes – yes

Judge Torrealba – yes

Torres – abstain

Wilcoxson – yes

MARCH 2021 STATISTICAL INDICATORS

It was by common consent agreed that the March 2021 Key Indicators for the Office of Admissions/Committee of Bar Examiners be received and filed.

SCHEDULE FOR JUNE 18–19, 2021 COMMITTEE MEETING

It was by common consent agreed that the schedule for the June 18 and 19, 2021 Meeting, which will be held via a Zoom webinar, be received and filed.

EXAMINATIONS

2020 – 2021 EXAMINATIONS GOALS

It was moved, seconded and duly carried that the 2020 – 2021 Examinations goals be approved.

Moved by Torres, seconded by Cao.

The motion passed. Roll call vote:

Bolton – yes

Brody – yes

Cao – yes

Efting – yes

Gongora – yes

Heisinger – yes

Judge Herman – yes

Kaplan – yes

Kramer – yes

Lawrence – yes

Peak – yes

Reyes – yes

Judge Torrealba – yes

Torres – yes

Wilcoxson – yes

OPERATIONS AND MANAGEMENT

2020 – 2021 OPERATIONS AND MANAGEMENT GOALS

It was moved, seconded and duly carried that the 2020 – 2021 Operations and Management goals be approved.

Moved by Gongora, seconded by Torres.

The motion passed. Roll call vote:

Bolton – yes

Brody – yes

Cao – yes

Efting – yes

Gongora – yes

Heisinger – yes

Kaplan – yes

Kramer – yes

Lawrence – yes

Peak – yes

Reyes – yes

Judge Torrealba – yes

Torres – yes
Wilcoxson – yes

EDUCATIONAL STANDARDS

PROPOSED ACCREDITED LAW SCHOOL RULES: RETURN FROM PUBLIC COMMENT AND RECOMMENDATION TO THE BOARD OF TRUSTEES

It was moved, seconded and duly carried that the Committee of Bar Examiners receive and file the revised accredited law school rules as amended and recommend to the Board of Trustees that the proposal be adopted to take effect on January 1, 2022; and that accredited law schools be required to demonstrate full compliance by January 1, 2024.

Moved by Torres, seconded by Brody.

The motion passed. Roll call vote:

Bolton – yes
Brody – yes
Cao – yes
Efting – yes
Gongora – no
Heisinger – yes
Judge Herman – abstain
Iseri – yes
Kaplan – abstain
Kramer – no
Lawrence – yes
Peak – yes
Reyes – abstain
Judge Torrealba – abstain
Torres – yes
Wilcoxson – no

PERIODIC INSPECTION OF HUMPHREYS UNIVERSITY, DRIVON SCHOOL OF LAW

It was moved, seconded and duly carried that the Periodic Inspection Report of Humphreys University Drivon School of Law be received and filed; that the inspection team's recommendations be adopted; that the law school be directed to complete those recommendations and document their completion in the law school's 2021 Annual Report; that the accreditation of Humphreys University Drivon School of Law be continued; and that its next periodic inspection be set for fall 2025, unless an earlier visitation is deemed necessary by the Committee.

Moved by Gongora, seconded by Efting.

The motion passed. Roll call vote:

Bolton – yes

Brody – yes

Cao – yes

Efting – yes

Gongora – yes

Heisinger – yes

Judge Herman – yes

Iseri – yes

Kaplan – yes

Kramer – yes

Lawrence – yes

Peak – yes

Reyes – yes

Judge Torrealba – yes

Torres – yes

Wilcoxson – yes

PERIODIC INSPECTION OF THOMAS JEFFERSON SCHOOL OF LAW

It was moved, seconded and duly carried that the 2020 Periodic Inspection Report of Thomas Jefferson School of Law, and the response from the law school accepting the report, be received and filed; that the report's recommendations be approved; that the law school be directed to implement the recommendations and to provide documentation of their completion as part of the law school's 2021 Annual Report; that the accreditation of Thomas Jefferson School of Law be continued; and that its next periodic inspection be scheduled for fall 2025, unless an earlier visitation is deemed necessary by the Committee.

Moved by Gongora, seconded by Reyes.

The motion passed. Roll call vote:

Bolton – yes

Brody – yes

Cao – yes

Efting – yes

Gongora – yes

Heisinger – yes

Judge Herman – yes

Iseri – yes

Kaplan – yes

Kramer – yes

Lawrence – yes

Peak – yes

Reyes – yes

Judge Torrealba – yes

Torres – yes
Wilcoxson – yes

EXTENSION OF WAIVER FOR FIXED FACILITY ACCREDITED AND UNACCREDITED
LAW SCHOOLS TO TEACH CLASSES ONLINE

It was moved, seconded and duly carried that accredited and unaccredited fixed-facility law schools in California may teach JD classes via online synchronous delivery through December 31, 2021 under this general waiver granted by the Committee of Bar Examiners. Unaccredited law schools utilizing the waiver must continue meet the requirements set forth in California Business & Professions Code section 6060(e). Law schools should provide written notice to the State Bar on a quarterly basis by May 15, 2021; August 15, 2021; and November 15, 2021 (along with the Annual Report) advising of the law school's changes made or continued pursuant to this waiver and documenting the communications provided to both current and prospective and enrolled students regarding the law school's course offerings and resources. Law schools that do not plan to return to full fixed-facility classroom teaching by January 1, 2022 should file standard major change requests seeking continued temporary or permanent major changes as soon as possible and no later than October 1, 2021.

Moved by Heisinger, seconded by Brody.

The motion passed. Roll call vote:

Bolton – yes
Brody – yes
Cao – yes
Efting – yes
Gongora – yes
Heisinger – yes
Judge Herman – yes
Iseri – yes
Kramer – yes
Lawrence – yes
Peak – yes
Reyes – yes
Judge Torrealba – yes
Torres – yes
Wilcoxson – yes

THE CALCULATION OF THE MINIMUM, CUMULATIVE BAR EXAMINATION
PASSAGE RATE UNDER GUIDELINE 12.1 FOLLOWING THE CREATION
OF AN ALTERNATIVE PATHWAY TO LICENSURE

It was moved, seconded and duly carried that the Committee of Bar Examiners adopts the proposed amendments to Guideline for Accredited Law Schools 12.1 regarding the calculation of the Minimum, Cumulative Bar Exam Pass Rate, set forth below, effective immediately starting with the 2021 MPR calculation.

Division 12. Minimum, Cumulative Bar Examination Pass Rate
12.1 Criteria for Determining Compliance with Accredited Law School Rule 4.160(N)

In evaluating the compliance of a law school with the accreditation standard set forth in Accredited Law School Rule 4.160(N), a law school must maintain a minimum, cumulative bar examination pass rate (MPR) of at least 40 percent for the most recent five-year reporting period. The rate will be calculated and reported annually to the Committee on or before July 1st of the year following each reporting period.

To calculate and report its MPR accurately, the law school must use the following reporting period and methodology: The “reporting period” covers the five most-recent twelve-month periods (August 1 through July 31) prior to the calendar year in which the MPR is reported to the Committee.

For purposes of MPR calculation, a “qualified taker for the reporting period” includes any student who both graduates from the law school during the reporting period, and takes any administration of the California Bar Exam (CBX) during the reporting period or the first February administration after the reporting period that was also no more than 10 administrations after the taker’s graduation. For the calculation of the MPR to be reported by July 1, 2021, the reporting period will also be deemed to include the administration of the October 2020 California Bar Examination. A student who does not meet both requirements is not a qualified taker for the purpose of the MPR report and is not to be included in the calculation of a law school’s MPR.

A law school’s MPR is to be calculated as a fraction that is the sum of all qualified takers for the reporting period who passed any administration of the CBX during the reporting period or the first February administration after the reporting period that was no more than 10 administrations after the taker’s graduation, plus the sum of all qualified takers who have satisfied the requirements for the alternative pathway to licensure set forth in California Rule of Court 9.49.1(i)(4) by the July 1 reporting deadline (the numerator) divided by the sum of all qualified takers for the reporting period who, whether they passed or failed, took any administration of the CBX during the reporting period or the first February administration after the reporting period that was also no more than 10 administrations after the taker’s graduation minus the sum of all qualified takers who are provisionally licensed lawyers pursuing the alternative pathway to licensure set forth in California Rule of Court 9.49.1 and who have not yet completed or exited the program by the July 1 reporting deadline (the denominator), unless that program has concluded, with the resulting numeral being expressed as a percentage.

Moved by Heisinger, seconded by Brody.

The motion passed. Roll call vote:

Bolton – yes

Brody – yes

Cao – yes

Efting – yes

Gongora – no

Heisinger – yes
Judge Herman – yes
Iseri – yes
Kaplan – no
Kramer – yes
Lawrence – yes
Reyes – no
Judge Torrealba – yes
Torres – no
Wilcoxson – no

2020 – 2021 EDUCATIONAL STANDARDS GOALS

It was moved, seconded and duly carried that the 2020 – 2021 Educational Standards goals be approved.

Moved by Brody, seconded by Torres.

The motion passed. Roll call vote:

Bolton – yes
Brody – yes
Cao – yes
Efting – yes
Gongora – yes
Heisinger – yes
Judge Herman – yes
Iseri – yes
Kaplan – yes
Kramer – yes
Lawrence – yes
Reyes – yes
Judge Torrealba – yes
Torres – yes
Wilcoxson – yes

MORAL CHARACTER

2020 – 2021 MORAL CHARACTER GOALS

It was moved, seconded and duly carried that the 2020 – 2021 Moral Character goals be approved.

Moved by Brody, seconded by Torres.

The motion passed. Roll call vote:

Bolton – yes
Brody – yes
Cao – yes

Efting – yes
Gongora – yes
Heisinger – yes
Judge Herman – yes
Iseri – yes
Kaplan – yes
Kramer – yes
Lawrence – yes
Reyes – yes
Judge Torrealba – yes
Torres – yes
Wilcoxson – yes

ADJOURNMENT

Having concluded all the business scheduled for consideration during the open and closed sessions of the meeting, the meeting was adjourned at 9:36 a.m., Saturday, April 24, 2021.