



The State Bar *of California*

OPEN AGENDA

AGENDA ITEM O-100

MARCH 2022

COMMITTEE OF BAR EXAMINERS

OPEN SESSION MINUTES

THE COMMITTEE OF BAR EXAMINERS OF THE STATE BAR OF CALIFORNIA

January 28, 2022

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 9:01 a.m., Friday, January 28, 2022, Chair Alexander C. Lawrence, Jr. presiding. Officers and members present were: Chair Alexander C. Lawrence, Jr., Vice-Chair Paul A. Kramer, James A. Bolton, Ph.D., Robert S. Brody, Michael Cao, M.D., Alex H. Chan, James H. Efting, Kareem Gongora, Dolores Heisinger, Judge James Herman, Michael A. Iseri, Larry Kaplan, Esther P. Lin, Bethany J. Peak, Vincent Reyes, Judge Shelly Torrealba and David A. Torres, Members. Member Don Ajené Wilcoxson was absent. Member Judge Herman left the meeting at 11:55 a.m. Member Esther Lin joined the meeting at 12:30 p.m. Member Judge Torrealba left the meeting at 3:15 p.m. State Bar staff members in attendance were: Donna Hershkowitz, Chief of Programs; Amy C. Nuñez, Director III, Admissions; Audrey Ching, Assistant Director, Admissions; Tammy Campbell, Program Manager II, Operations and Management; Tara Clark, Program Manager II, Moral Character; Christina Doell, Program Manager II, Examination Grading; Lisa Cummins, Principal Program Analyst, Examination Development; Natalie Leonard, Principal Program Analyst, Educational Standards; Kim Wong, Administrative Supervisor, Admissions; David Lane, Senior Attorney, Moral Character; Vanessa Holton, General Counsel; Jean Krasilnikoff, Attorney III, General Counsel; Devan McFarland, Sr. Administrative Assistant, Admissions; and Sonia Delen, Board of Trustees liaison. The open session portion was concluded at approximately 11:46 a.m. The meeting went into closed session at approximately 11:50 a.m. The closed session concluded at 2:20 p.m. The meeting went back into open session at approximately 2:22 p.m. The meeting adjourned at 3:31 p.m.

PUBLIC COMMENTS

The Committee of Bar Examiners received 4 written public comments, 1 public comment pertaining to the attorney complaint, 1 public comment pertaining to the National Conference of Bar Examiners, 4 public comments pertaining to the remote testing for the February 2022 California Bar Exam, and 2 public comments pertaining to the Waiver of Unaccredited Guideline 1.11 (Attachment O-402).

DECEMBER 3 – 4, 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 December 3 – 4, 2021, be approved.

Moved by Gongora, seconded by Iseri.

The motion passed. Roll call vote:

Bolton – yes

Brody – yes

Cao – yes

Chan – yes

Efting – yes

Gongora – yes

Heisinger – yes

Judge Herman - yes

Iseri – yes

Kaplan – yes

Kramer – yes

Peak – yes

Reyes – yes

NOVEMBER AND DECEMBER 2021 STATISTICAL INDICATORS

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

SCHEDULE FOR MARCH 18, 2022 COMMITTEE MEETING

It was by common consent agreed that the schedule for the March 18, 2022 Meeting, which will be held via a Zoom webinar, be received and filed.

EXAMINATIONS

TECHNICAL REPORT ON THE OCTOBER 2021 FIRST-YEAR LAW STUDENTS' EXAMINATION

It was moved, seconded and duly carried that the technical report on the October 2021

First-Year Law Students' Examination dated December 28, which was prepared by Roger Bolus, Ph.D., be approved, and thereafter received and filed.

Moved by Gongora, seconded by Reyes.

The motion passed. Roll call vote:

Bolton – yes

Brody – yes

Cao – yes

Efting – yes

Gongora – yes

Judge Herman - yes

Iseri – yes

Kramer – yes

Peak – yes

Reyes – yes

Judge Torrealba – yes

REPORT TO THE SUPREME COURT ON
THE JULY 2021 CALIFORNIA BAR EXAMINATION

It was moved, seconded and duly carried that the Supreme Court Report on the July 2021 California Bar Examination be finalized and submitted to the Court.

Moved by Gongora, seconded by Iseri.

The motion passed. Roll call vote:

Bolton – yes

Brody – yes

Cao – yes

Efting – yes

Gongora – yes

Judge Herman - yes

Iseri – yes

Kaplan – yes

Kramer – yes

Peak – yes

Reyes – yes

Judge Torrealba – yes

GUIDING PRINCIPLES IN EXAMINATION DEVELOPMENT TO MINIMIZE
POTENTIAL BIAS IN BAR EXAM QUESTIONS

It was moved, seconded and duly carried that the “Guiding Principles in Examination Development to Minimize Potential Bias in Bar Exam Questions” developed by the Differential Item Functioning Working Group be approved, and submitted to the Board of Trustees with a recommendation for approval.

Moved by Reyes, seconded by Peak.

The motion passed. Roll call vote:

Bolton – yes

Brody – yes

Cao – yes

Efting – yes

Gongora – yes

Judge Herman - yes

Iseri – yes

Kaplan – yes

Kramer – yes

Peak – yes

Reyes – yes

Judge Torrealba – yes

Torres – yes

REPORT ON 2021 – 2022 EXAMINATIONS GOALS

It was moved, seconded and duly carried that the report on 2021 – 2022 Examinations goals be approved.

Moved by Brody, seconded by Iseri.

The motion passed. Roll call vote:

Bolton – yes

Brody – yes

Cao – yes

Efting – yes

Gongora – yes

Judge Herman - yes

Iseri – yes

Kaplan – yes

Kramer – yes

Peak – yes

Reyes – yes

Judge Torrealba – yes

Torres – yes

OPERATIONS AND MANAGEMENT

REPORT ON 2021 – 2022 OPERATIONS AND MANAGEMENT GOALS

It was moved, seconded and duly carried that the report on 2021 – 2022 Operations and Management goals be approved.

Moved by Heisinger, 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
Peak – yes
Reyes – yes
Judge Torrealba – yes

EDUCATIONAL STANDARDS

MAJOR CHANGE – IRVINE UNIVERSITY COLLEGE OF LAW **PROPOSED NAME CHANGE TO IRVINE COLLEGE OF LAW**

It was moved, seconded and duly carried that the Committee of Bar Examiners receives and files Irvine University College of Law’s Request for Major Change to change its name and doing business as to Irvine College of Law and grants the request effective June 1, 2022.

FURTHER MOVED, that the law school must provide the State Bar with updated copies of its registration with the Secretary of State and business license within 10 days of completion.

Moved by Torres, seconded by Gongora.

The motion passed. Roll call vote:

Bolton – yes
Brody – yes
Cao – yes
Chan – yes
Efting – yes
Gongora – yes
Judge Herman – yes
Iseri – yes
Kaplan – yes
Kramer – yes
Peak – yes
Reyes – yes
Judge Torrealba – yes
Torres – yes

SAN FRANCISCO INTERNATIONAL UNIVERSITY COLLEGE OF LAW’S **RESPONSE TO WARNING LETTER**

It was moved, seconded and duly carried that the Committee of Bar Examiners find that the

law school did not respond to the Committee's warning letter issued pursuant to rule 4.244(G)(4), did not file an annual compliance report for 2021 and did not pay an annual fee for 2021; and

FURTHER MOVED, that the Committee issue a Notice of Noncompliance to the law school based on these findings as well as the recommendations listed in the law school's inspection report adopted at the Committee's December 2021 meeting and summarized below.

Recommended Mandatory Actions

1. Guideline 1.9, Rule 4.246: The law school must bring itself into compliance with business licensing requirements of the City of South San Francisco, or, potentially, San Francisco in light of the school's unauthorized move of its headquarters. SF International must file the required major change request with the Committee due to the change of location.
2. Guidelines 1.9, 2.11, and 9.1: The law school must secure its digital and hard copy records against loss, destruction, corruption, or improper disclosure.
3. Guideline 1.9: The law school must adopt, publish, and implement written policies and procedures for handling requests for disability accommodations, including informing students that accommodations granted by SF International may differ from those granted by the State Bar.
4. Guideline 1.9: The law school must review and, as necessary, revise its payment practices to comply with California law, take steps necessary to rectify errors, if any, and provide the Committee with a report as to its findings and actions.
5. Guideline 2.2(B): The law school must revise its refund policy to clearly define the periods within which a full or partial refund will be made and the formula for calculating partial refunds.
6. Guidelines 2.3 and 2.12: The law school must review and, as necessary, revise its publications to ensure that all communications are clear, accurate, current, and include the description of academic opportunities available to students in the JD program. Communication with the Committee must be forthright and timely.
7. Rule 4.241 and Guideline 2.3(D)(1): The law school must adopt and implement written procedures to ensure that each student receives and signs an accurate Disclosure Statement before paying an initial registration fee and again upon paying tuition for each subsequent term. Each original, signed Statement must be properly filed and retained by the law school and a copy must be provided promptly to the student. Lack of compliance as to this element alone is grounds for withdrawal of the law school's registration.

8. Guidelines 2.7 and Guideline 4.11(A)-(B): The law school must promptly report changes in compliance or contact information to the Committee in writing as required.
9. Guideline 2.8: The law school must revise its student discipline policy to make clear that sanctions will not be imposed before a student is given an opportunity for a hearing and that the law school will provide a written final determination that meets guideline requirements.
10. Guideline 2.9(B)(2): The law school must revise its grading policy to clearly define which courses may be taken on a pass/fail basis.
11. Guidelines 2.9(B)(3) and 5.24: The law school must revise its course repetition policy to eliminate a discrepancy as to whether the original grade will, or will not, be used to calculate the student's GPA.
12. Guideline 2.9(B)(5): The law school must follow its policy on anonymous grading or implement a new policy that conforms to its actual practice in which it appears the identity of each student is known.
13. Guideline 2.9(B)(6): The law school must revise its policy on probation to resolve a discrepancy as to the deadline by which students on probation must raise their GPA to 2.0 to advance in the JD program.
14. Guideline 2.9(C): The law school must provide students in each course with a written statement explaining the extent to which the final course grade will be based on each graded component.
15. Guideline 2.9(D): The law school must maintain records to show that it adheres to its policy on authentication of student work.
16. Guideline 2.9(F): The law school must adopt, publish, and implement a policy allowing students to review exams and their answers as required by the guideline.
17. Guideline 3.2: The law school must clarify whether it has a governing board and, if it has a board, vest that board with authority, as required.
18. Guideline 3.1: The law school must establish administrative processes and sufficient staffing levels to ensure compliance with Committee standards, including recordkeeping requirements.
19. Guidelines 4.5 and 4.7: The law school must create a faculty handbook and otherwise engage in faculty development efforts to meet its duty to offer a sound JD program, including competent faculty and adequate student counseling.
20. Guidelines 4.8 and 4.9: The law school must adopt, publish, and implement procedures for the regular and comprehensive evaluation of faculty

consistent with guideline requirements.

21. Guideline 4.11(A)-(B): The law school must ensure that the dean and registrar are qualified and available to perform their duties, that faculty are adequately trained, that students are adequately counseled, and that institutional and staff changes are promptly reported to the Committee as required by the guideline.

22. Guideline 5.3(B)(1): The law school must clearly define the number of weeks in an academic term within guideline limits and issue credit only for study completed within those limits.

23. Guidelines 5.3(B) and 5.9: The law school must make immediate changes to revise its curriculum to offer a four-year JD program that requires students to complete courses with an expected academic workload equal to or greater than 864 hours of study.

24. Guideline 5.3(B)(1): The law school must implement procedures to ensure that students submit timely, detailed, accurate, signed hours logs, and that the law school verifies the accuracy of the logs and maintains them in student files.

25. Guideline 5.12: The law school must revise the curriculum to include opportunities for practical skills instruction as required by the guideline.

26. Guidelines 5.2, 5.14-5.17, and 5.25: The law school must evaluate and, as necessary, amend its examination policies and procedures to ensure their effectiveness and compliance with the guidelines.

27. Guideline 5.1 and 5.2: The law school must revise its course materials, examinations, and methods of instruction to create a sound educational program.

28. Guideline 5.23: The law school must adopt written procedures and ensure compliance with the guideline prohibiting the award of duplicate credit.

29. Guideline 5.30: The law school must adopt and implement effective procedures to ensure compliance with this guideline and must dismiss current students for whom official transcripts are not on file within the prescribed time limit.

30. Guideline 5.34: The law school must establish processes and ensure compliance with requirements for the admission of students previously disqualified from law study.

31. Guidelines 2.3, 5.35, and 9.1(D)(5): The law school must adopt, implement, and publish a transfer credit policy with procedures that comply with all guideline requirements. The school must also review and, as necessary,

correct, the transcripts of current transfer students.

32. Guideline 5.36: The law school must not admit individuals who received their first degree in law from an institution outside the United States, as study at an unaccredited law school will not satisfy the legal education requirements to establish eligibility to take the bar exam.

33. Guidelines 6.1, 6.3, and 6.6: The law school must provide notice in the library that its collection is not updated, provide instruction in print-based and electronic legal research, and maintain a list of expenditures as required by the guidelines.

34. Guideline 9.1: The law school must revise its procedures and bring itself into compliance with guideline requirements as to:

- A. records of applicants, admitted applicants, and students (Guideline 9.1(A)-(C)),
- B. permanent student transcripts (Guideline 9.1(D)),
- C. permanent class records (Guideline 9.1(E)),
- D. records of examinations and grade tabulations (Guideline 9.1(F)), and
- E. required reports Guideline 9.1(O)
- F. Further, the law school must review, and as needed, correct, the records, including transcripts, of current students.

Moved by Gongora, seconded by Reyes.

The motion passed. Roll call vote:

Bolton – yes

Brody – yes

Cao – yes

Chan – yes

Efting – yes

Gongora – yes

Judge Herman – yes

Iseri – yes

Kaplan – yes

Kramer – yes

Peak – yes

Reyes – yes

Judge Torrealba – yes

Torres – yes

CONTINUATION OF 2009 WAIVER OF UNACCREDITED GUIDELINE 1.11 – CREDIT FOR
EXAM PREPARATION COURSES AT UNACCREDITED LAW SCHOOLS

It was moved, seconded and duly carried that the Committee of Bar Examiners affirms the temporary partial waiver of guideline 1.11 allowing unaccredited law schools to award

credit for bar exam preparation courses, and direct all unaccredited law schools using this waiver to report its use in the appropriate section of the periodic compliance report, including amending their 2021 periodic compliance reports immediately if necessary.

FURTHER MOVED, that the Committee refers the question of whether the waiver should be made permanent to CSBARS for further feedback, analysis, and recommendations, including proposed language, to be returned to the Committee at its August 2022 meeting. The Committee specifically requests that CSBARS discuss the policy considerations and other justification for allowing credit and whether any limits should be placed upon the amount of credit given for bar preparation courses.

Moved by Peak, seconded by Torres.

The motion passed. Roll call vote:

Bolton – yes

Brody – yes

Cao – yes

Chan – yes

Efting – yes

Gongora – yes

Judge Herman – yes

Iseri – yes

Kramer – yes

Peak – yes

Reyes – yes

Judge Torrealba – yes

Torres – yes

REPORT ON ADMINISTRATIVE UPDATES AT ACCREDITED AND UNACCREDITED LAW SCHOOLS

The Committee received the report on administrative updates at accredited and unaccredited law schools, including the following information: Twenty-eight California accredited and registered, unaccredited law schools returned periodic compliance reports timely, which were due on November 15, 2021. Four schools required brief extensions: California Desert Trial Academy, Pacific West College of Law, Peoples College of Law, and University of La Verne College of Law. Glendale University College of Law turned in its report on December 24, 2021. San Francisco International University College of Law did not return a report; and from John F. Kennedy School of Law at Northcentral University, the President/Provost of Northcentral University has retired effective January 1, 2022. The Dean of the Law School, Lisa Hutton, will take over interim provost duties along with Dr. Andy Riggle, Dean of the School of Education. Dr. James Billings, Dean for the School of Behavioral and Social Sciences and Dr. Eugene Wilkerson, Dean for the School of Business have been appointed interim co-presidents. Dr. Andy Riggle, Dean of the School of Education, and Dean of the School of Law Lisa Hutton have been appointed interim co-provosts. All will continue in their current roles as well during the interim period.

REPORT ON 2021 – 2022 EDUCATIONAL STANDARDS GOALS

It was moved, seconded and duly carried that the report on 2021 – 2022 Educational Standards goals be approved.

Moved by Torres, seconded by Gongora.

The motion passed. Roll call vote:

Bolton – yes

Brody – yes

Cao – yes

Chan – yes

Efting – yes

Gongora – yes

Judge Herman – yes

Iseri – yes

Kramer – yes

Peak – yes

Reyes – yes

Judge Torrealba – yes

Torres – yes

MORAL CHARACTER

REPORT ON 2021 – 2022 MORAL CHARACTER GOALS

It was moved, seconded and duly carried that the report on 2021 – 2022 Moral Character goals and accomplishments be approved.

Moved by Peak, seconded by Brody.

The motion passed. Roll call vote:

Bolton – yes

Brody – yes

Cao – yes

Chan – yes

Efting – yes

Gongora – yes

Judge Herman – yes

Iseri – yes

Kaplan – yes

Kramer – yes

Peak – yes

Reyes – yes

Judge Torrealba – yes

Torres – yes

ADJOURNMENT

Having concluded all the business scheduled for consideration during the open and closed sessions of the meeting, the meeting was adjourned at 3:31 p.m., Friday, January 28, 2022.