



The State Bar of California

Committee of Bar Examiners Teleconference

Open Session Minutes
Friday, August 19, 2022
9:00 a.m.–3:16 p.m.

Time Meeting Commenced: The Committee of Bar Examiners meeting commenced in open session at 9:00 a.m. The committee moved to closed session at 1:26 p.m. The committee returned to open session at 3:14 p.m.

Time Meeting Adjourned: 3:16 p.m.

Chair: Alexander C. Lawrence, Jr.

Committee Coordinator: Devan McFarland

Members Present: James A. Bolton, PhD, Michael Cao, MD, Alex H. Chan, Robert S. Brody, James Efting, Kareem Gongora, Dolores Heisinger, Judge James Herman, Michael A. Iseri, Larry Kaplan, Paul A. Kramer, Esther P. Lin, Bethany J. Peak, Vincent Reyes, David A. Torres, and Dr. Don Ajené Wilcoxson

Members Absent: Judge Shelly Torrealba

OPEN SESSION

Call to Order

The Committee of Bar Examiners was called to order by Chair Lawrence.

Roll Call

Roll call was taken and a quorum was established.

I. Chair's Time

B. Call for Public Comment

Chair Lawrence called for public comment, inquiring as to whether there were person(s) who wished to comment on any agenda item. The following comments were provided to the Committee:

1. Terry Anderlini, former President of the State Bar of California in 1987, 1988; graduate of San Francisco Law School; formerly on the Commission of Traditional Performance in 1989, 1990.

Terry Anderlini suggests that the Committee of Bar Examiners grant San Francisco State Law School an extra opportunity to qualify itself for the State Bar passage rate. Terry Anderlini states that San Francisco Law School, the oldest law school in the state of California, has produced many well-recognized graduates and countless others who are more than capable to practice law in the State of California.

2. Travis Alexander, graduate of San Francisco Law School

Travis Alexander states that he is in strong favor of San Francisco Law School and asks the Committee of Bar Examiners to extend the probationary period in order to give the school adequate time to bring their bar exam passage rate to State Bar standards. San Francisco Law School was one of the first law schools to actively encourage and recruit enrollment of people from groups that are traditionally marginalized not only throughout the state, but throughout the country. Travis Alexander states that San Francisco Law School has implemented several changes recently; the current Dean has been fighting very hard and working closely with the university to get additional resources and support for its students.

3. Ranon Ross, graduate of San Francisco Law School

Ranon Ross asks the Committee of Bar Examiners to grant another opportunity to San Francisco Law School to allow sufficient time in bringing the bar passage rate to State Bar standards. The fact that San Francisco Law School has been around for 100 years speaks volumes to the type of work and commitment that has been encompassed by not only the school, but the graduates that have come from the school. Ranon Ross asks the Committee of Bar Examiners to kindly consider that we have been dealing with a global pandemic which has negatively impacted the lives of the student body, the lives of the faculty, as well as the culture of not only San Francisco Law School, but other schools as well.

4. Donald Johnson, graduate of San Francisco Law School

Donald Johnson asks the Committee of Bar Examiners grant additional time to San Francisco Law School in order for newly implemented changes and resources to mature and become tangible. Donald Johnson respectfully asks for the Committee to consider the fact that San Francisco Law School exists partially to give a chance to students that would not normally have a fighting chance in entering this profession. In Donald Johnson's first semester, the negative impact of having a revolving door of a dean was apparent; however, that all changed once Dean Weimer took over. Dean Weimer has implemented changes that has given this law school an ABA quality which include, but are not limited to, endless amounts of resources supplied, a competitive spirit, and a commitment to its students and staff which has truly affected the lives of many.

5. Candy Smallwood, graduate of San Francisco Law School; staff attorney and clinical supervisor at the East Bay Community Law Center

Candy Smallwood kindly asks the Committee of Bar Examiners to extend San Francisco Law School's probationary period. San Francisco Law School granted Candy Smallwood an opportunity that she never believed was possible; San Francisco Law School in particular is much more affordable and accommodating in comparison to many other ABA law schools. If San Francisco Law School loses their accreditation, it's a lost opportunity for others to have an affordable, quality legal education in the Bay Area. The school, professors, and countless alumni are working collectively to raise the bar pass rate to acceptable standards. San Francisco Law School has invested in bar exam preparation programs but needs more time to see these resources come into fruition.

6. Natalia Malyshkina, graduate of San Francisco Law School

Natalia Malyshkina kindly asks the Committee of Bar Examiners to grant San Francisco Law School another opportunity and remain an accredited law school. San Francisco Law School has given an opportunity to minorities and people from all different backgrounds an opportunity to become a licensed attorney. San Francisco Law School has produced an abundance of immigration lawyers who have touched the lives of people who otherwise would not have legal representation. If San Francisco Law School loses accreditation, this country will lose many future immigration lawyers who would have made a huge impact on society.

7. Erika LaMarch, graduate of San Francisco Law School

Erika LaMarch asks the Committee of Bar Examiners to extend San Francisco Law School's probationary period until the July 2022 California Bar Examination's results are released. San Francisco Law School's accessibility and accommodation of its students, many of those who have full-time careers and obligations, truly show the university's commitment and care for success of its student body.

C. Approval of June 17, 2022 Committee of Bar Examiners Public Meeting Minutes.

RESOLVED, that the Committee of Bar Examiners approves the minutes taken during the open session of the Committee of Bar Examiners meeting on June 17, 2022, be approved.

Moved by Robert S. Brody, seconded by David A. Torres

Ayes – (13) Alexander C. Lawrence, Jr., James A. Bolton, PhD, Michael Cao, MD, Alex H. Chan, Robert S. Brody, James Efting, Kareem Gongora, Dolores Heisinger, Michael A. Iseri, Larry Kaplan, Paul A. Kramer, Vincent Reyes, and David A. Torres

Noes – (0)

Abstain – (1) Judge James Herman

Absent – (4) Esther Lin, Bethany Peak, Judge Shelly Torreabla, Dr. Don Ajené Wilcoxson

Motion carries.

D. Recognition of Outgoing Members.

RESOLVED, that the Committee of Bar Examiners approves the gratitude extended to outgoing Committee members Michael Iseri and Judge Shelly Torrealba.

Moved by Kareem Gongora, seconded by Dolores Heisinger

Ayes – (14) Alexander C. Lawrence, Jr., James A. Bolton, PhD, Michael Cao, MD, Alex H. Chan, Robert S. Brody, James Efting, Kareem Gongora, Dolores Heisinger, Larry Kaplan, Paul A. Kramer, Esther Lin, Bethany Peak, Vincent Reyes, and David A. Torres

Noes – (0)

Abstain – (1) Michael A. Iseri

Absent – (3) Judge James Herman, Judge Shelly Torreabla, Dr. Don Ajené Wilcoxson

Motion carries.

II. Report of the Executive Director

Amy Nuñez, Director, Office of Admissions and Audrey Ching, Assistant Director, Office of Admissions provided an oral report.

III. Examinations

A. Discussion of Blue Ribbon Commission on the Future of the Bar Exam Recommendations and Next Steps

Discussion only.

B. Update on First-Year Law Students' Examination Multiple-Choice Exam Content Review Project

Discussion only.

C. Discussion of Report to the Supreme Court on the February 2022 California Bar Examination

Discussion only.

D. Approval of Report on 2021–2022 Examinations Goals and Accomplishments

RESOLVED, that the report on 2021–2022 Examination Goals and Accomplishment goals be approved.

Moved by Robert S. Brody, seconded by Vince Reyes

Ayes – (16) Alexander C. Lawrence, Jr., James A. Bolton, PhD, Michael Cao, MD, Alex H. Chan, Robert S. Brody, James Efting, Kareem Gongora, Dolores Heisinger, Michael A. Iseri, Larry Kaplan, Paul A. Kramer, Esther P. Lin, Bethany J. Peak, Vincent Reyes, David A. Torres, and Dr. Don Ajené Wilcoxson

Noes – (0)

Abstain – (0)

Absent – (2) Judge James Herman, Judge Shelly Torrealba

Motion carries.

IV. Operations and Management

A. Approval of Report on 2021–2022 Operations and Management Goals and Accomplishments

RESOLVED, that the report on 2021–2022 Operations and Management Goals and Accomplishment be approved.

Moved by David A. Torres, seconded by Robert S. Brody

Ayes – (17) Alexander C. Lawrence, Jr., James A. Bolton, PhD, Michael Cao, MD, Alex H. Chan, Robert S. Brody, James Efting, Kareem Gongora, Dolores Heisinger, Judge James Herman, Michael A. Iseri, Larry Kaplan, Paul A. Kramer, Esther P. Lin, Bethany J. Peak, Vincent Reyes, David A. Torres, and Dr. Don Ajené Wilcoxson

Noes – (0)

Abstain – (0)

Absent – (1) Judge Shelly Torrealba

Motion carries.

V. Educational Standards

A. Action on Voluntary Termination of Registration as an Unaccredited Law School – California Southern University School of Law. Attachment O-400. (Paul Kramer)

RESOLVED, that the Committee of Bar Examiners receives, files and accepts California Southern University School of Law’s voluntary termination of its registration as an unaccredited law school and its notice that California Southern University, now a part of American InterContinental University System, is the custodian of records for all students and graduates of the law school, and terminates the law school’s degree granting

authority effective June 30, 2022, pursuant to Rule 4.268. The Committee further directs the University to contact former students and graduates to advise them how to obtain copies of their records in the future.

Moved by Kareem Gongora, seconded by David A. Torres

Ayes – (17) Alexander C. Lawrence, Jr., James A. Bolton, PhD, Michael Cao, MD, Alex H. Chan, Robert S. Brody, James Efting, Kareem Gongora, Dolores Heisinger, Judge James Herman, Michael A. Iseri, Larry Kaplan, Paul A. Kramer, Esther P. Lin, Bethany J. Peak, Vincent Reyes, David A. Torres, and Dr. Don Ajené Wilcoxson

Noes – (0)

Abstain – (0)

Absent – (1) Judge Shelly Torrealba

Motion carries.

B. Action on Extension of Waiver to Teach Classes Online due to COVID – Western Sierra School of Law

RESOLVED, that the Committee of Bar Examiners receive, file, and grant Western Sierra Law School's request to extend its temporary waiver to teach classes synchronously online and in the classroom, in blended format, through August 31, 2023.

Moved by Vince Reyes, seconded by Michael A. Iseri

Ayes – (17) Alexander C. Lawrence, Jr., James A. Bolton, PhD, Michael Cao, MD, Alex H. Chan, Robert S. Brody, James Efting, Kareem Gongora, Dolores Heisinger, Judge James Herman, Michael A. Iseri, Larry Kaplan, Paul A. Kramer, Esther P. Lin, Bethany J. Peak, Vincent Reyes, David A. Torres, and Dr. Don Ajené Wilcoxson

Noes – (0)

Abstain – (0)

Absent – (1) Judge Shelly Torrealba

Motion carries.

C. Action on Extension of Waiver to Teach Classes Online due to COVID – Peoples College of Law

RESOLVED, that the Committee of Bar Examiners receive, file and grant Peoples College of Law's request for waiver to teach classes online through August 31, 2023.

Moved by Vince Reyes, seconded by Michael A. Iseri

Ayes – (17) Alexander C. Lawrence, Jr., James A. Bolton, PhD, Michael Cao, MD, Alex H.

Chan, Robert S. Brody, James Efting, Kareem Gongora, Dolores Heisinger, Judge James Herman, Michael A. Iseri, Larry Kaplan, Paul A. Kramer, Esther P. Lin, Bethany J. Peak Vincent Reyes, David A. Torres, and Dr. Don Ajené Wilcoxson

Noes – (0)

Abstain – (0)

Absent – (1) Judge Shelly Torrealba

Motion carries.

D. Action on Response to Notice of Noncompliance – Peoples College of Law

RESOLVED, that the Committee of Bar Examiners find that Peoples College of Law's response to the Notice of Noncompliance issued by the Committee is unsatisfactory.

FURTHER RESOLVED, that the Committee directs staff to schedule a remote inspection of Peoples College of Law to offer a final opportunity to the law school to address its compliance status, and that the law school be directed to bring to that inspection any individual or information needed to fully establish its compliance with the Rules for Unaccredited Law Schools and their guidelines.

Moved by Robert S. Brody, seconded by Kareem Gongora

Ayes – (16) Alexander C. Lawrence, Jr., James A. Bolton, PhD, Michael Cao, MD, Alex H. Chan, Robert S. Brody, James Efting, Kareem Gongora, Dolores Heisinger, Judge James Herman, Michael A. Iseri, Paul A. Kramer, Esther P. Lin, Bethany J. Peak, Vincent Reyes, David A. Torres, and Dr. Don Ajené Wilcoxson

Noes – (0)

Abstain – (0)

Absent – (2) Larry Kaplan, Judge Shelly Torrealba

Motion carries.

E. Action on 2022 MPR Compliance Reporting for Accredited Law Schools.

RESOLVED, that the Committee of Bar Examiners receive and file the 2022 MPR compliance report as set forth in Attachment A, as modified by any action taken today in relation to Lincoln Law School of San Jose and San Francisco Law School, direct that it be published on the State Bar's website and further direct that each California accredited law school add its 2022 MPR value to its disclosure documents immediately, including the web disclosure required pursuant to California Business and Professions Code section 6061.7(a), and find that the law schools reporting an MPR value of 40 percent or more be found to be in compliance with this requirement.

Moved by Robert S. Brody, seconded by Michael Cao, MD

Ayes – (17) Alexander C. Lawrence, Jr., James A. Bolton, PhD, Michael Cao, M.D, Alex H.

Chan, Robert S. Brody, James Efting, Kareem Gongora, Dolores Heisinger, Judge James Herman, Michael A. Iseri, Larry Kaplan, Paul A. Kramer, Esther P. Lin, Bethany J. Peak, Vincent Reyes, David A. Torres, and Dr. Don Ajené Wilcoxson

Noes – (0)

Abstain – (0)

Absent – (1) Judge Shelly Torrealba

Motion carries.

F. Action on Conclusion or Extension of Probation or Termination of Accreditation and Application for Registration as an Unaccredited, Fixed-Facility Law School – San Francisco Law School

RESOLVED, that San Francisco Law School’s request for an extension of time to complete the requirements of its probation be granted through the reporting of the MPR in 2023, with the proviso that the law school not admit any other students beyond those currently enrolled unless and until the law school demonstrates that it has earned a compliant 2023 MPR as accepted by the Committee.

The Committee finds an extension is appropriate because extraordinary circumstances exist due to the pandemic, and to the efforts the law school commits to provide to these students including extraordinary financial and educational support in the form of full scholarships for all enrolled JD students through the law school’s return to compliance.

FURTHER RESOLVED, that the law school shall inform its students, prospective students, and the public of the Committee’s decisions immediately, including posting prominent notice on the law school’s website home page in a font size consistent with the rest of the page and under its own heading and title.

Moved by Robert S. Brody, seconded by Kareem Gongora

Ayes – (17) James A. Bolton, PhD, Michael Cao, MD, Alex H. Chan, Robert S. Brody, James Efting, Kareem Gongora, Dolores Heisinger, Judge James Herman, Michael A. Iseri, Larry Kaplan, Paul A. Kramer, Esther P. Lin, Bethany J. Peak, Vincent Reyes, and Dr. Don Ajené Wilcoxson

Noes – (0)

Abstain – (1) Alexander C. Lawrence, Jr.

Absent – (1) David A. Torres, Judge Shelly Torrealba

Motion carries.

G. Action on Conclusion or Extension of Probation or Termination of Accreditation and Application for Registration as an Unaccredited, Fixed-Facility Law School and Waiver to Teach Classes Online Due to COVID – Lincoln Law School of San Jose

RESOLVED, that Lincoln Law School of San Jose's request for an extension of time to complete the requirements of its probation be denied.

FURTHER RESOLVED, that the Committee find that the law school has not met the terms of its probation within the time period specified and that the law school be notified that the Committee intends to terminate the law school's accreditation effective December 31, 2022.

FURTHER RESOLVED, that the law school's request for registration as an unaccredited, fixed-facility law school be granted, with a confirming inspection to be set for 2023.

FURTHER RESOLVED, that the law school's request to extend its temporary waiver to teach classes online through June 30, 2023, due to the pandemic be granted.

FURTHER RESOLVED, that the law school shall inform its students, prospective students, and the public of the Committee's decisions immediately, including posting prominent notice on the law school's website home page in a font size consistent with the rest of the page and under its own heading and title.

Moved by Robert S. Brody, seconded by James A. Bolton, PhD,

Ayes – (10) James A. Bolton, PhD, Michael Cao, M.D, Alex H. Chan, Robert S. Brody, Kareem Gongora, Michael A. Iseri, Paul A. Kramer, Esther P. Lin, Vincent Reyes, and Dr. Don Ajené Wilcoxson

Noes – (0)

Abstain – (4) Alexander C. Lawrence, Jr., James Efting, Dolores Heisinger, Judge James Herman

Absent – (4) Larry Kaplan, Bethany J. Peak, David A. Torres, Judge Shelly Torrealba

Motion carries.

H. Action on Inspection Related to Notice of Noncompliance - American Heritage University School of Law.

RESOLVED, that the Committee of Bar Examiners finds that American Heritage University School of Law is not or is not likely to be in compliance with the unaccredited law school rules and hereby notifies the law school that it recommends probation or withdrawal of registration. It must also notify its students and prospective students of its status immediately and copy the State Bar on the communications and must advise the public of the Notice of Noncompliance on its website, and advise the State Bar when the website has been updated.

The law school may request a hearing before the Committee within fifteen days of being sent a notice that the Committee is recommending probation or withdrawal of registration. Absent a request for a hearing or following review of the hearing record, if

the Committee should agree with the team's findings, the Committee may impose termination of registration or probation at its next noticed meeting.

Moved by Robert S. Brody, seconded by Dr. Don Ajené Wilcoxson

Ayes – (15) Alexander C. Lawrence, Jr., James A. Bolton, PhD, Michael Cao, MD, Alex H. Chan, Robert S. Brody, James Efting, Kareem Gongora, Dolores Heisinger, Judge James Herman, Michael A. Iseri, Paul A. Kramer, Esther P. Lin, Vincent Reyes, David A. Torres, and Dr. Don Ajené Wilcoxson

Noes – (0)

Abstain – (0)

Absent – (3) Larry Kaplan, Bethany J. Peak, Judge Shelly Torrealba

Motion carries.

I. Administrative Updates from Accredited and Unaccredited Law Schools

Discussion only.

J. Approval of Report on 2021–2022 Educational Standards Goals and Accomplishments

RESOLVED, that the report on 2021–2022 Educational Standards Goals and Accomplishment goals be approved.

Moved by Robert S. Brody, seconded by David A. Torres

Ayes – (16) Alexander C. Lawrence, Jr., James A. Bolton, PhD, Michael Cao, MD, Alex H. Chan, Robert S. Brody, James Efting, Kareem Gongora, Dolores Heisinger, Judge James Herman, Michael A. Iseri, Larry Kaplan, Paul A. Kramer, Esther P. Lin, Vincent Reyes, David A. Torres, and Dr. Don Ajené Wilcoxson

Noes – (0)

Abstain – (0)

Absent – (2) Bethany J. Peak, Judge Shelly Torrealba

Motion carries.

V. Moral Character

K. Approval of Report on 2021–2022 Moral Character Goals and Accomplishments.

RESOLVED, that the report on 2021–2022 Moral Character Goals and Accomplishment be approved.

Moved by Robert S. Brody, seconded by Dolores Heisinger

Ayes – (16) Alexander C. Lawrence, Jr., James A. Bolton, PhD, Michael Cao, MD, Alex H.

Chan, Robert S. Brody, James Efting, Kareem Gongora, Dolores Heisinger, Judge James Herman, Michael A. Iseri, Larry Kaplan, Paul A. Kramer, Esther P. Lin, Vincent Reyes David A. Torres, and Dr. Don Ajené Wilcoxson

Noes – (0)

Abstain – (0)

Absent – (2) Bethany J. Peak and Judge Shelly Torrealba

Motion carries.

Chair Lawrence stated that pursuant to *Government Code §11126(e)(1) and Government Code 11126(c)(1), Bus. & Prof. Code §6026.7(c)(3)-(5), Bus. & Prof. Code §6026.7(c)(3), and Bus. & Prof. Code §6026.7(c)(4)* the Committee will move into closed session to discuss the closed session agenda.

CLOSED SESSION

I. CHAIR'S TIME

A. Report from Counsel (Caroline Holmes and Jean Krasilnikoff)

Report on Pending Litigation:

Childs v. State Bar, First District Ct. of Appeals, Case No. CGC-21-590115

Flinders v. State Bar et al., Santa Clara County Superior Ct., Case No. 22-CV-397095

Guinses v. State Bar, DFEH Case No. 202204-16740319

Jahn v. State Bar, DFEH Case No. 202103-12845809

Kohn v. State Bar et al., Ninth Circuit Ct. of Appeals, Case No. 20-17316

Moran v. State Bar, DFEH Case No. 202107-14091306

Pell v. Amy Nuñez, USDC Central District, Case No. 2:22-cv-03732-AS

Piercy v. State Bar, DFEH Case No. 202202-16125312

Tuma v. State Bar, First District Ct. of Appeals., Case No. A161037

Tran v. State Bar, LA County Superior Ct., Case Nos. 22STCP01836; 22STCV16290

Threatened Litigation Concerning Bar Exam Testing Accommodation Requests

Potential Litigation Concerning the July 2021 Bar Exam

**Closed pursuant to Gov. Code §11126(e)(1) and Government Code §11126(c)(1)*

B. Approval of June 17, 2022 Committee of Bar Examiners Closed Meeting Minutes

**Closed pursuant to Bus. & Prof. Code §6026.7(c)(3)-(5) and Gov. Code §11126(c)(1)*

II. Examinations

A. Action on Pending Testing Accommodation Appeals

**Closed pursuant to Bus. & Prof. Code §6026.7(c)(3), and Gov. Code §11126(c)(1)*

III. Operations and Management

A. Report on Security Incidents from the June 2022 First-Year Law Students' Examination

**Closed pursuant to Bus. & Prof. Code §6026.7(c)(3) and Gov. Code §11126(c)(1)*

B. Action on the August 2022 Operation & Management Appeals

**Closed pursuant to Bus. & Prof. Code §6026.7(c)(3) and Gov. Code §11126(c)(1)*

IV. Moral Character

A. Report and Discussion of Staff Moral Character Determinations

**Closed pursuant to Bus. & Prof. Code §6026.7(c)(4)*

B. Action on Moral Character Cases Pending Administrative Review

** Closed pursuant to Bus. & Prof. Code §6026.7(c)(4)*

C. Report on State Bar Court Decisions

**Closed pursuant to Bus. & Prof. Code §6026.7(c)(4)*

D. Report on Status of Pending Moral Character State Bar Court Cases

**Closed pursuant to Bus. & Prof. Code §6026.7(c)(4)*

OPEN SESSION

The committee returned to open session and reported that there is no action to report from closed session. No further discussion took place in open session.

ADJOURN