



The State Bar of California

Blue Ribbon Commission on the Future of the California Bar Exam Teleconference

Open Session Minutes
Tuesday, October 13, 2022
10:01 a.m.–2:00 p.m.

Time Meeting Commenced: The Blue Ribbon Commission meeting commenced in open session at 10:01 a.m.

Time Meeting Adjourned: 2:00 p.m.

Chair: Joshua Perttula

Committee Coordinator: Devan McFarland

Members Present: Chair Joshua Perttula, Susan Bakhshian, David Boyd, Alex Chan, Charles Duggan, Jeremy M. Evans, Jackie Gardina, Ryan Harrison, Dr. James Henderson, Esther Lin, Tracy Montez, Judge Glen Reiser, Natalie Rodriguez, Kristin L. Rosi, Emily L. Scivoletto, Karen Silverman, Mai Linh Spencer, and Amy Williams

Members Absent: None.

OPEN SESSION

Call to Order

The Blue Ribbon Commission was called to order by Chair Perttula.

Roll Call

Roll call was taken and a quorum was established.

I. Chair's Remarks

A. Call for Public Comment

Chair Perttula 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 commission:

1. Ray Hayden

- During the October 2020 California Bar Examination, ExamSoft technical difficulties caused formatting issues, different fonts, different font sizes, etc. to Ray Hayden's answers. In the July 2021 California Bar Examination, ExamSoft completely erased Ray Hayden's answers; as a result, the State Bar of California completely refunded Ray Hayden for all fees associated with the examination. The

California Bar should be the educational master of getting applicants in excess of minimal confidence. Ray Hayden advises the Blue Ribbon Commission to please review the multiple accounts of written comment which he has provided.

2. Marc Wasserman, California Attorney

- Marc Wasserman speaks on behalf of a Provisionally Licensed Lawyer; under Marc Wasserman's supervision, this applicant has logged over 5,000 hours as an attorney and has appeared in court over 300 times by himself. Many candidates from the PLL program have been given the opportunity to sit side-by-side with licensed attorneys soaking up all the information given to them. Current and new Provisionally Licensed Attorneys are not only driven, but they have an abundance of information and resources provided to them by their supervising attorney. Marc Wasserman states that it really comes down to the supervising attorney on whether an applicant does well or not in this program. Marc Wasserman suggests that the California Bar Examination is outdated at this point and is in full support of the Provisionally Licensed Lawyer program.

3. Claire Solot, Legal Service Funders Network

- Claire Solot has provided the Blue Ribbon Commission a brief summary from its midterm evaluations highlighting particular issues which the Blue Ribbon Commission has discussed in prior meetings. From both LSO host and fellows, over 95% felt that the supervision being received was extremely good, the fellows were capable of doing meaningful tasks, their time was well used, and the capacity to serve clients had been significantly increased. Over 75% of fellows in this program come from non-traditional backgrounds. Claire Solot also provides written comment from different organizations who would like to participate in similar programs moving forward.

4. Kendra Muller, Disability Rights California and Civil Rights Group

- Kendra Muller's group believes this disability employment month that they have the obligation to ensure that the legal profession creates solutions to the barriers faced throughout a disabled individual's journey to becoming an attorney. Kendra Muller states that there is a need for expansion of solutions regarding diversity, equity, and inclusion. When looking at the data, only 6% of California attorneys are disabled and that number drops to 1.2% nationwide. In reality, 18-26% of the general United States population have a disability. Kendra Muller reiterates that disabled community members and disabled lawyers are a huge asset to the legal field. Ms. Muller suggests to the Blue Ribbon Commission to provide different alternatives for licensure other than the California Bar Examination

5. Salena Copeland, Executive Director of the Legal Aid Association of California

- Salena Copeland suggests to the Blue Ribbon Commission to include in its recommendations to the State Bar Board of Trustees a recommendation to explore non-exam pathways to licensure. Salena Copeland asks the committee to consider the incredible shortage of legal aid attorneys in California; people are unable to take significant time off of work unpaid to study for and take the California Bar Examination. Salena Copeland urges the Blue Ribbon Commission to recommend the creation of a working group specifically for implementation of designing a new pathway to licensure for graduates from ABA accredited law schools.

6. Patrick Quinn, Provisionally Licensed Lawyer

- Patrick Quinn states that this group of Provisionally Licensed Lawyers worked extremely hard in law school, established relationships with law offices, and did endless legal work through law school for law offices. Faced with the Covid pandemic and other health issues, Patrick Quinn argues that this program has provided the ability to log several thousand hours and gain an abundance of information and knowledge regarding this profession. Patrick Quinn kindly asks the Blue Ribbon Commission to take into account people with health concerns, disabilities, etc. that would apply for this program if given the opportunity. Patrick Quinn reiterates that the selection of a qualified supervising attorney is essential for an applicant's success. Patrick Quinn is in full support of the PLL and asks the Blue Ribbon Commission to continue this program moving forward.

B. Approval of Revised July 19, 2022, Blue Ribbon Commission Open Session Meeting Minutes.

Moved by Reiser, seconded by Gardina.

Ayes – (16) Bakhshian, Boyd, Chan, Duggan, Gardina, Harrison, Henderson, Lin, Montez, Reiser, Rodriguez, Rosi, Scivoletto, Silverman, Spencer, Williams

Noes – (0)

Abstain – (0)

Absent – (1) Evans

Minutes adopted.

C. Approval of August 16, 2022, Blue Ribbon Commission Open Session Meeting Minutes.

Moved by Reiser, seconded by Silverman.

Ayes – (13) Bakhshian, Boyd, Chan, Duggan, Gardina, Henderson, Montez, Reiser, Rodriguez, Rosi, Scivoletto, Silverman, Spencer.

Noes – (0)

Abstain – (0)

Absent – (4) Evans, Harrison, Lin, Williams

Minutes adopted.

II. Business

A. Discussion and Recommendation for a California Non-Exam Pathway to Licensure

RESOLVED, that the Blue Ribbon Commission recommends to the State Bar Board of Trustees and the California Supreme Court that California explore a bar exam alternative for licensure to practice law. It is recommended that this exploration of an alternative pathway have a significantly increased focus on assessment of knowledge, skills and abilities for entry-level practice, deemphasizing the need for memorization of doctrinal law. The precise elements of a bar exam alternative (including eligibility and timeframe to completion) should be determined in consultation with experts, including psychometricians, to ensure the data about the pathway indicates it is valid and reliable with a standard equivalent to the bar examination. In conformity with the guiding principles of the Blue Ribbon Commission, equity, disparity and cost issues should be considered in this exploration.

Moved by Scivoletto, seconded by Reiser.

Ayes – (8) Bakhshian, Boyd, Gardina, Henderson, Reiser, Rodriguez, Scivoletto, Spencer

Noes – (9) Chan, Duggan, Evans, Harrison, Lin, Montez, Rosi, Silverman, Williams

Abstain – (0)

Absent – (0)

Motion fails.

RESOLVED, that the Blue Ribbon Commission recommends in addition to the previously adopted recommendations of the Blue Ribbon Commission to adopt a California specific bar exam, the Blue Ribbon Commission recommends to the State Bar Board of Trustees and the California Supreme Court that California explore an alternative pathway to licensure, addressing the guiding principles adopted by the BRC in October 2021, that assesses the same knowledge, skills, and abilities of the revised bar exam once the exam's assessment format has been decided to ensure protection of the public.

Moved by Montez, seconded by Henderson.

Ayes – (3) Gardina, Henderson, Montez

Noes – (13) Bakhshian, Boyd, Chan, Duggan, Evans, Harrison, Lin, Reiser, Rodriguez, Rosi, Scivoletto, Silverman, Spencer

Abstain – (0)
Absent – (1) Williams

Motion fails.

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Moved by Rodriguez, seconded by Bakhshian.

Ayes – (5) Bakhshian, Gardina, Reiser, Rodriguez, Spencer
Noes – (12) Boyd, Chan, Duggan, Evans, Harrison, Henderson, Lin, Montez, Rosi,
Scivoletto, Silverman, Williams
Abstain – (0)
Absent – (0)

Motion fails.

RESOLVED, that the Blue Ribbon Commission recommends to the State Bar Board of Trustees and the California Supreme Court that California does not adopt a bar exam alternative for licensure to practice law.

It is further recommended that a bar exam alternative be revisited in the future, if necessary, after the implementation of a revised California bar exam.

Moved by Evans, seconded by Duggan.

Ayes – (8) Boyd, Chan, Duggan, Evans, Harrison, Lin, Montez, Rosi,
Noes – (9) Bakhshian, Gardina, Henderson, Reiser, Rodriguez, Scivoletto, Silverman,
Spencer, Williams
Abstain – (0)
Absent – (0)

Motion fails.

B. Discussion and Recommendation of Pathways to Licensure for Out-of-State Law School Applicants, Out-of-State Attorneys, Foreign Attorneys and Foreign-Educated Applicants

Item carried over to the next meeting.

C. Finalization of Recommendations related to an Exam Pathway.

Item carried over to the next meeting.

ADJOURN