



The State Bar of California

OPEN SESSION AGENDA ITEM IIB COMMITTEE OF BAR EXAMINERS

DATE: April 21, 2023

TO: Members, Committee of Bar Examiners

FROM: Christina Doell, Program Manager, Office of Admissions

SUBJECT: Revisions to the Grading Rules: Adjustment to the Public Comment Period

EXECUTIVE SUMMARY

At the March 2023 Committee of Bar Examiners meeting, the committee adopted a motion recommending that the Board of Trustees circulate the revision to the Admissions Rule related to applicants' access to examination answers and scores (Rule 4.62) for a 45-day public comment period. Concurrently, the Office of Admissions proposed rule changes in other areas (moral character, special admissions, eligibility) with recommendations to the Board of Trustees to circulate for a 60-day public comment period. Staff is now requesting that the revision to Rule 4.62 be recommended to the Board to be circulated for a 60-day public comment period, rather than a 45-day period, to set all rule revisions on a similar timeline.

BACKGROUND

The committee discussed definitions and policies that govern exam grading centered around test scores, applicant records, and post-examination materials. It was identified that the timeline written in Admission Rule 4.62 did not align with the statutory requirement of Bus. & Prof. Code § 6065 for returning exam answers to applicants after the release of results.

Admissions Rule 4.62 requires that within 60 days of the release of exam results, exam answers to the written portion of the exam be returned to applicants who were unsuccessful on the California Bar Exam (CBX), or who have passed or failed the First-Year Law Students' Examination (FYLSX). Bus. & Prof. Code § 6065, on the other hand, states that "any unsuccessful applicant for admission to practice, after he or she has taken any examination and within four months after the results thereof have been declared, has the right to inspect his or her

examination papers at the office of the examining committee located nearest to the place at which the applicant took the examination.”

DISCUSSION

At the March 2023 meeting, the committee adopted a recommendation to revise Rule 4.62 to reflect the current practice of posting scores and exam answers immediately upon the release of results to the Applicant Portal for 30 days. Furthermore, the committee recommended that the Board of Trustees circulate Rule 4.62 for a 45-day public comment period, and include among the legislative priorities amending Bus. & Prof. Code § 6065 to clarify and align with current practice.

Staff is now requesting the committee amend its recommendation to the Board to circulate the revision to Rule 4.62 for a 60-day public comment period.

FISCAL/PERSONNEL IMPACT

N/A

AMENDMENTS TO RULES OF THE STATE BAR OF CALIFORNIA

Rule 4.62

RECOMMENDATIONS

It is recommended that the Committee of Bar Examiners amend its request to the Board of Trustees to circulate for a 60-day public comment period the revision to rule 4.62 of the Admissions Rules as reflected in Attachment A.

PROPOSED MOTION

Should the Committee of Bar Examiners agree with staff recommendation, the following motions would be appropriate:

MOVE that the Committee of Bar Examiners amend its recommendation to the Board of Trustees to circulate the proposed rule set forth in Attachment A for a 60-day public comment period.

ATTACHMENT(S) LIST

- A. Proposed amendment to Title 4 of the Rules of the State Bar, Rule 4.62

Rule 4.62 Access to examination answers and scores (Redline)

(A) ~~Within sixty days of the release of examination results,~~ Examination answers to the written portion of the examination are ~~returned~~ made available to applicants for admission who have failed the California Bar Examination or who have passed or failed the First-Year Law Students' Examination. Applicant answers are available to download, print, or save for 30 days after the release of results. After this allotted time, the exam answers from the last administered exam are available upon submitting the Document Copy Request Form and payment of fee. This provision does not apply to the Multistate Professional Responsibility Examination or the multiple-choice portion of the First-Year Law Students' Examination and California Bar Examination.

(B) Applicants who pass the California Bar Examination are not entitled to receive their examination answers or to see their scores.

Rule 4.62 Access to examination answers and scores (Clean)

(A) Examination answers to the written portion of the examination are made available to applicants for admission who have failed the California Bar Examination or who have passed or failed the First-Year Law Students' Examination. Applicant answers are available to download, print, or save for 30 days after the release of results. After this allotted time, the exam answers from the last administered exam are available upon submitting the Document Copy Request Form and payment of fee. This provision does not apply to the Multistate Professional Responsibility Examination or the multiple-choice portion of the First-Year Law Students' Examination and California Bar Examination.

(B) Applicants who pass the California Bar Examination are not entitled to receive their examination answers or to see their scores.