



The State Bar of California

Committee of Bar Examiners Teleconference

Open Session Minutes
Friday, October 13, 2023
9:00 a.m. – 4:13 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 3:10 p.m. The Committee returned to open session at 4:13 p.m.

Time Meeting Adjourned: 4:13 p.m.

Chair: Michael Cao, M.D

Committee Coordinator: Devan McFarland

Members Present: James A. Bolton, Ph.D., Robert S. Brody, Michael Cao, M.D, Alex H. Chan, James Efting, Kareem Gongora [joined late], Larry Kaplan [joined late], Paul A. Kramer, Alexander C. Lawrence, Jr., Esther P. Lin [joined late], Justice Sham H. Mesiwala, Bethany J. Peak [joined late], Ashley Silva-Guzman, Judge Renee C. Reyna, Vincent Reyes, Alan Yochelson

Members Absent: None

State Bar Executive Staff Present: Donna Hershkowitz

OPEN SESSION

Call to Order

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

I. Chair's Time

A. Roll Call

Roll call was taken and a quorum was established.

Call for Public Comment

Chair Cao 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. Peter Maduro

Peter Maduro, a California licensed clinical psychologist and psychotherapist and an attorney licensed in three states, provided public comment on the Testing Accommodation Rules Revision. Peter Maduro expressed their hope that the Testing Accommodation Rules Revision eliminate unfairness including faster turnaround time for initial petition decisions, additional staffing, and not requiring individualized consideration or exceptional need attestation for accommodation requests.

2. Benjamin Kohn

Benjamin Kohn provided public comment on the Testing Accommodation Rules Revision. Benjamin Kohn opposes proceeding with the revised testing accommodation rules, stating that the focus of the working group's assessment should have been on ensuring equal opportunity to disabled applicants. Benjamin Kohn believes that providing such opportunities can be made feasible and that the mistake is assuming that it is not administratively feasible.

3. Shirleen Claiche

Shirleen Claiche stated their opposition to the Testing Accommodation Rules Revision. Shirleen Claiche expressed the belief that applicants with permanent disabilities who have already been approved for testing accommodations should not be required to submit additional testing accommodations for each examination.

4. Kendra Muller, Disability Rights California.

Kendra Muller, a California licensed attorney, provided public comment on the Testing Accommodation Rules Revision on behalf of Disability Rights California. Kendra Muller advised of the written public comments submitted by Disability Rights California which outlined feasible edits to the proposed rules revisions. Kendra Muller stated the proposed rules revisions enables disparate treatment of disabled individuals and denies meaningful access to the State Bar of California starting with the California Bar Examination application.

5. Max

Max, a former student of the Peoples College of Law, provided public comment on their experience attending Peoples College of Law. Max expressed their belief that Peoples College of Law is not capable of self-administration and is taking advantage of individuals studying to become California-licensed attorneys who have been excluded from other law school options.

6. Claudia Center, Disability Rights Education and Defense Fund

Claudia Center provided public comment as a representative from the Disability Rights Education and Defense Fund and Disability Rights Advocates and discussed concerns on the proposed Testing Accommodation Rules Revision. Claudia Center stated the proposed rules contain new language that references the federal law definition of disability, which has been used to exclude high-achieving people with disabilities from the testing accommodations they need and differs from the definition of disability under California law. Claudia Center also stated opposition to the proposed rules failure to automatically grant or defer to prior testing accommodations granted by law schools and colleges for high stakes exams and rules' failure to address prompt responses to accommodation requests or timeline issues that candidates are facing. Claudia Center

called for a culture change and the replacement or diversification of the disability consultants who have contributed to the unlawful system of testing accommodations.

7. Melody Jolly, Taft Law School, Dean

Dean Melody Jolly, Taft Law School provided public comment on V.A. Action on Major Change of Administrative Headquarters - Taft Law School. Dean Jolly expressed the school's issues with its current location including the lack of elevators, air conditioning & heat and an infestation of cockroaches. Dean Jolly listed some of the benefits of the school's new space including elevators and underground parking.

8. Ana Marie Lobos, Peoples College of Law, Interim Dean

Interim Dean Ana Marie Lobos provided public comment on V. C. Action on Progress Report – Peoples College of Law. Interim Dean Ana Marie Lobos acknowledges the instability and turnover at Peoples College of Law, with five different Deans and five different registrars in the past few years. They express their frustration with the delay in achieving the school's objectives and emphasize the importance of compliance practices and standard procedures to take into account the constant turnover.

B. Approval of August 18, 2023, Committee of Bar Examiners Public Meeting Minutes

RESOLVED, that the Committee of Bar Examiners that the Committee approves and adopts the August 18, 2023, Committee of Bar Examiners public meeting minutes.

Moved by Robert S. Brody, seconded by Vincent Reyes

Ayes – (11) James A. Bolton, Ph.D, Robert S. Brody, Michael Cao, M.D, Alex H. Chan, James Efting, Kareem Gongora, Larry Kaplan, Paul A. Kramer, Alexander C. Lawrence, Jr., Ashley Silva-Guzman, Vincent Reyes

Noes – (0)

Abstain – (3) Justice Sham H. Mesiwala, Judge Renee C. Reyna, Alan Yochelson

Recuse- (0)

Absent – (2) Esther Lin, Bethany Peak

Minutes adopted.

C. Approval of September 1, 2023, Committee of Bar Examiners Public Meeting Minutes

RESOLVED, that the Committee of Bar Examiners that the Committee approves and adopts the revised September 1, 2023, Committee of Bar Examiners public meeting minutes.

Moved by Robert S. Brody, seconded by Alex H. Chan

Ayes – (10) James A. Bolton, Ph.D, Robert S. Brody, Michael Cao, M.D, Alex H. Chan, James Efting, Kareem Gongora, Larry Kaplan, Paul A. Kramer, Alexander C. Lawrence, Jr., Ashley Silva-Guzman

Noes – (0)

Abstain – (4) Justice Sham H. Mesiwala, Judge Renee C. Reyna, Vincent Reyes, Alan Yochelson

Recuse- (0)

Absent – (2) Esther Lin, Bethany Peak

Minutes adopted.

D. Chair's Report

Discussion only.

II. Consent Agenda

A. Technical Report on the June 2023 First-Year Law Students' Examination

RESOLVED, that the Committee of Bar Examiners approve the Technical Report on the June 2023 First-Year Law Students' Examination.

B. Report on Administrative Updates Regarding Law Schools

RESOLVED, that the Committee of Bar Examiners approve the Report on Administrative Updates Regarding Law Schools.

Moved by Robert S. Brody, seconded by Bethany Peak

Ayes – (15) James A. Bolton, Ph.D, Robert S. Brody, Michael Cao, M.D, Alex H. Chan, James Efting, Kareem Gongora, Larry Kaplan, Paul A. Kramer, Alexander C. Lawrence, Jr., Justice Sham H. Mesiwala, Bethany Peak, Ashley Silva-Guzman, Judge Renee C. Reyna, Vincent Reyes, Alan Yochelson

Noes – (0)

Abstain – (0)

Recuse- (0)

Absent – (1) Esther Lin

Motion carries.

III. Examinations

A. Action on Revisions to the Testing Accommodation Rules: Recommendation to Adopt Following Return from Public Comment

RESOLVED, that the Committee of Bar Examiners recommends that the Board of Trustees adopt the rule revisions set forth in Attachment C, and request approval of the rules change by the Supreme Court.

Moved by Robert S. Brody, seconded by Alexander C. Lawrence, Jr.

Ayes – (15) James A. Bolton, Ph.D, Robert S. Brody, Michael Cao, M.D, Alex H. Chan, James Efting, Kareem Gongora, Larry Kaplan, Paul A. Kramer, Alexander C. Lawrence, Jr., Justice Sham H. Mesiwala, Bethany Peak, Ashley Silva-Guzman, Judge Renee C. Reyna, Vincent Reyes, Alan Yochelson

Noes – (0)

Abstain – (0)

Recuse- (0)
Absent – (1) Esther Lin

Motion carries.

B. Action on Modifying the First-Year Law Students' Examination to Eliminate Essay Questions, Resulting in an All-Multiple-Choice Exam

RESOLVED, that the Committee of Bar Examiners recommends that the format of the California First-Year Law Students' Examination be changed to an all-multiple-choice examination.

FURTHER RESOLVED, that staff be directed to engage the State Bar's psychometrician and take any additional steps necessary to effectuate the modification of the First-Year Law Students' Examination to an all-multiple-choice examination and then report back to the committee with an implementation plan for the committee's review and approval.

Moved by Paul A. Kramer, seconded by Alan Yochelson

Ayes – (9) James Efting, Kareem Gongora, Larry Kaplan, Paul A. Kramer, Justice Sham H. Mesiwala, Ashley Silva-Guzman, Judge Renee C. Reyna, Vincent Reyes, Alan Yochelson

Noes – (7) James A. Bolton, Ph.D, Robert S. Brody, Michael Cao, M.D, Alex H. Chan, Alexander C. Lawrence, Jr., Esther Lin, Bethany Peak,

Abstain – (0)

Recuse- (0)

Absent – (0)

Motion carries.

IV. Operations and Management

A. Action on Revisions to the Admissions Rules Pertaining to Chapter 6 Conduct Violations: Recommendation to Circulate for Public Comment

Item withdrawn.

B. Action on Eligibility Rules: Recommendation to Circulate Revised Rules for Public Comment; Recommendation to Repeal Duplicative Policy on Calculating One Year of Credit; and Recommendation to Adopt Legislative Proposals

RESOLVED, that the Committee of Bar Examiners desires to amend Rule 4.15 to comply with the requirements in Family Code 17520 that a temporary license be issued and not to deny admission until the obligations are satisfied.

Moved by Robert S. Brody, seconded by James A. Bolton, Ph.D

Ayes – (15) James A. Bolton, Ph.D, Robert S. Brody, Michael Cao, M.D, Alex H. Chan, James Efting, Kareem Gongora, Larry Kaplan, Paul A. Kramer, Alexander C. Lawrence, Jr., Justice Sham H. Mesiwala, Bethany Peak, Ashley Silva-Guzman, Judge

Renee C. Reyna, Vincent Reyes, Alan Yochelson

Noes – (0)

Abstain – (0)

Recuse- (0)

Absent – (1) Esther Lin

Motion carries.

RESOLVED, that the Committee of Bar Examiners recommends to the Board of Trustees to circulate the proposed rules, with the following changes:

- the revisions to 4.17 amended by the committee at today's meeting,
- revisions to Rule of Court 9.30 in Attachment G,

and the proposed changes in the Schedule of Charges and Deadlines set forth in Attachment A for a 60-day public comment.

FURTHER RESOLVED, that the Committee of Bar Examiners recommends the Board of Trustees adopt as legislative priorities the proposed amendments to Business and Professions Code section 6060 set forth in Attachment E.

FURTHER RESOLVED, that the Committee of Bar Examiners repeal the Committee of Bar Examiners' policy "*Policy of What Constitutes a Year for Purposes of Credit for Law Study and Exemption from the First-Year Law Students' Examination*" set forth in Attachment F.

Moved by Robert S. Brody, seconded by Bethany Peak

Ayes – (15) James A. Bolton, Ph.D, Robert S. Brody, Michael Cao, M.D, Alex H. Chan, James Efting, Kareem Gongora, Larry Kaplan, Paul A. Kramer, Alexander C. Lawrence, Jr., Justice Sham H. Mesiwala, Bethany Peak, Ashley Silva-Guzman, Judge Renee C. Reyna, Vincent Reyes, Alan Yochelson

Noes – (0)

Abstain – (0)

Recuse- (0)

Absent – (1) Esther Lin

Motion carries.

V. Educational Standards

A. Action on Major Change of Administrative Headquarters - Taft Law School

RESOLVED, that the Committee of Bar Examiners approve Taft Law School's Request for Major Change to move its administrative headquarters to 3000 W MacArthur Boulevard, Suite 300, Santa Ana, California, 92704 as set forth in Attachment A, and approve the move effective immediately to be implemented as of November 1, 2023.

FURTHER RESOLVED, that the law school schedule a video visit of the new location with staff via videocall in November 2023 when the move is complete or notify the State Bar promptly if the law school does not complete the move by November 1, 2023.

Moved by Kareem Gongora, seconded by James Efting

Ayes – (15) James A. Bolton, Ph.D, Robert S. Brody, Michael Cao, M.D, Alex H. Chan, James Efting, Kareem Gongora, Larry Kaplan, Paul A. Kramer, Alexander C. Lawrence, Jr., Justice Sham H. Mesiwala, Bethany Peak, Ashley Silva-Guzman, Judge Renee C. Reyna, Vincent Reyes, Alan Yochelson

Noes – (0)

Abstain – (0)

Recuse- (0)

Absent – (1) Esther Lin

Motion carries.

B. Action on Major Change – Voluntary Termination of Registration – American International School of Law

RESOLVED, the Committee of Bar Examiners accept American International School of Law's voluntary termination of registration effective November 15, 2023, and designate owner Nitesh Patel to act as custodian of records.

FURTHER RESOLVED, that the law school's registration as an unaccredited correspondence law school and its degree granting authority be terminated as of November 15, 2023.

Moved by Vincent Reyes, seconded by Alexander C. Lawrence, Jr.

Ayes – (15) James A. Bolton, Ph.D, Robert S. Brody, Michael Cao, M.D, Alex H. Chan, James Efting, Kareem Gongora, Larry Kaplan, Paul A. Kramer, Alexander C. Lawrence, Jr., Justice Sham H. Mesiwala, Bethany Peak, Ashley Silva-Guzman, Judge Renee C. Reyna, Vincent Reyes, Alan Yochelson

Noes – (0)

Abstain – (0)

Recuse- (0)

Absent – (1) Esther Lin

Motion carries.

C. Action on Progress Report – Peoples College of Law

RESOLVED, that the Committee of Bar Examiners receive and file Peoples College of Law's September 2023 and October 2023 progress reports, reminding PCL that submission of late, incomplete, or inconsistent progress reports will contribute to the committee's assessment of whether PCL is able to achieve and sustain compliance.

FURTHER RESOLVED, that the committee direct PCL to update the committee as to its compliance in general, and as to each open issue noted in the staff report, as part of the law school's November progress report.

FURTHER RESOLVED, that the committee direct the law school to continue its analysis of transcripts to determine whether the transcripts are correct and complete for each student who has attended the law school for any period of time since summer 2020, offering each student or

former student the chance to review their transcript. This includes contacting alumni who have not yet responded, and determining which students completed summer clinics. The results should be included in the law school's November 1, 2023 progress report, identifying status, the transcripts that are still under review, and the timeline for completion of the review.

FURTHER RESOLVED, that the committee direct the law school to continue to update the committee as soon as practicable on its plan to locate new space and to file the required major change, since the building is already in escrow for sale.

FURTHER RESOLVED, that the committee direct the law school to continue to cooperate with the inspection team, providing information in a forthright manner that will assist the team to evaluate the law school's compliance status throughout the probation period.

Moved by James Efting, seconded by Vincent Reyes

Ayes – (13) James A. Bolton, Ph.D, Robert S. Brody, Michael Cao, M.D, Alex H. Chan, James Efting, Kareem Gongora, Paul A. Kramer, Justice Sham H. Mesiwala, Bethany Peak, Ashley Silva-Guzman, Judge Renee C. Reyna, Vincent Reyes, Alan Yochelson

Noes – (0)

Abstain – (2) Larry Kaplan, Alexander C. Lawrence, Jr.

Recuse- (0)

Absent – (1) Esther Lin

Motion carries.

VII. Report from Director

A. Oral Report

Donna Hershkowitz, Audrey Ching, Tara Clark, Amy Nuñez provided an oral report.

CLOSED SESSION

I. CHAIR'S TIME

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

Report from Counsel (Caroline Holmes and Jean Krasilnikoff)

Report on Pending Litigation [Closed pursuant to Gov. Code § 11126(e)(1)]

Brewer v. State Bar, et al., E.D. Cal., Case No. 2:23-cv-00860

Diviacchi v. State Bar, Ninth Circuit Ct. of Appeals, Case No. 23-16170

Flinders v. State Bar et al., Sixth Appellate District Ct. of Appeal, Case No.H050562; Ninth Circuit Ct. of Appeals, Case No. 22-17014

Hill v. Peoples College of Law et al., C.D. Cal., Case No. 2:23CV1298

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

Pell v. Amy Nuñez, Ninth Circuit Ct. of Appeals, Case No. 23-55188

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

B. Approval of August 18, 2023, 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. Consent Agenda

A. Report on Security Incidents from the June 2023 First-Year Law Students' Examination

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

B. Report and Discussion of Staff Moral Character Determinations

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

C. Report on Status of 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)

III. Examinations

A. Action on Pending Testing Accommodation Requests for Review

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

Item withdrawn.

IV. Operations and Management

A. Action on the October 2023 Operation & Management Appeals

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

V. Moral Character

A. Action on Moral Character Cases Pending Administrative Review

* 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