



The State Bar of California

OPEN SESSION
AGENDA ITEM V.A.
MARCH 2024
COMMITTEE OF BAR EXAMINERS

DATE: March 15, 2024

TO: Members, Committee of Bar Examiners

FROM: Cody Hounanian, Program Director, Office of Admissions

SUBJECT: Discussion on Recommendation to Amend California Business and Professions Code Sections 6060.7 and 6046.7 Related to Non-JD Degree Programs

EXECUTIVE SUMMARY

Recently, a non-law school contacted State Bar staff seeking approval of degree programs covering legal topics but not leading to a bar-track Juris Doctor (JD) degree. No request is currently pending before the Committee of Bar Examiners (committee), but the question prompted staff to review the relevant statute governing the approval of such programs and its legislative history. While the statute refers to “law study” programs and could be read to include non-JD programs as falling within the scope of the committee’s oversight, it appears that the intent of the statute was to authorize the committee to oversee programs that would produce potential licensees of the State Bar. Additionally, in the years since this statute was enacted in 2006, there has been a significant expansion of legal studies programs that do not grant a JD degree and do not entitle their graduates to sit for the California Bar Exam (bar exam). Staff intend to recommend that the Board of Trustees (Board) adopt an affirmative legislative proposal to amend the statute to clarify what appears to be the original legislative intent that the committee’s oversight applies solely to JD programs whose graduates are eligible to sit for the California Bar Exam. This item seeks discussion and feedback from the committee to inform the Board’s consideration of this proposal at its March 21, 2024, meeting.

BACKGROUND

In 2006, the legislature enacted [SB 1568 \(Dunn\)](#), which transferred regulation and oversight of unaccredited and correspondence law schools from the Bureau for Private Postsecondary and

Vocational Education (BPPVE) to the committee.¹ According to the bill analysis stating the author's intent in introducing this bill, "low pass rates suggest that unaccredited law school students are not being adequately prepared in their legal education to take and pass the bar in order to become practicing attorneys." The legislative history also cites minimal oversight by BPPVE, and the fact that the committee was already responsible for the regulation and oversight of California law schools not approved by the American Bar Association (ABA), as additional reasons for the bill.

Of relevance to this discussion, the bill added section 6060.7 to California Business and Professions Code, which states in part that "If a nonlaw school...offers educational programs leading to a juris doctor (J.D.) degree, bachelor of laws (LL.B.) degree, or other law study degree, those programs shall be subject to the regulation and oversight of the examining committee."² The bill also added section 6046.7, which directed the committee to adopt rules, to be effective January 1, 2008, for the regulation of such programs.³

Following the adoption of the bill, the committee moved forward with adopting rules and guidelines pertaining to the regulation of unaccredited law schools as well as acquiescence and major change procedures for non-JD programs at law schools. However, rules about the regulation of non-law school law study programs were never adopted.

In a requirement modeled after ABA standards, law schools must seek advance acquiescence from the committee to have the authority to offer non-JD law degrees (Rule 4.160(D)(8) and Guideline 11.1).^{4,5} Law schools must also obtain approval from the committee to enact a major change which includes the addition of a non-JD program (Rules 4.165 and 4.245). Together, these requirements allow the committee to assess if a law school's non-JD program impacts its JD program and its compliance with rules and guidelines. Rules pertaining to the regulation of non-law school law study programs, however, were never adopted.

In recent months, staff have received inquiries from non-law schools seeking information regarding the approval process for non-JD degree programs covering legal topics. No formal request for approval is currently pending, however, the inquiries prompted staff to research the statutory requirements and legislative history and consider whether clarification in the statute is warranted given today's educational landscape and the growing number of legal studies programs that are not designed as a pathway to licensure as an attorney.

¹ For purposes of this discussion, a law school refers to any institution that offers a Juris Doctor degree that qualifies recipients to sit for the bar exam and seek licensure. A non-law school does not offer a Juris Doctor degree but may offer other law study degrees.

² CA Bus & Prof Code § 6060.7(b)(3).

³ CA Bus & Prof. Code § 6046.7(a)(2).

⁴ For purposes of this discussion, a JD program refers to one that leads to a Juris Doctor degree that qualifies an applicant to sit for the California Bar Exam and seek admission to practice law in the state; a non-JD program is a law study degree that does not.

⁵ Acquiescence is not approval of the content or quality of these programs.

PREVIOUS COMMITTEE AND BOARD ACTION

This is not the first time that the State Bar has pursued this amendment. The committee previously approved a recommendation to amend the statute to, among other things, clarify that the committee's oversight role applied to JD programs only. At the time, these amendments were part of a larger initiative that included changes to California Rules of Court and rules and guidelines designed to create a mandatory pathway to accreditation for unaccredited law schools. That package of proposals was not taken up by the legislature, however, it is notable that the amendments relevant to this item are straightforward and were already approved by the committee and the Board.

Initial steps to amend sections 6060.7 and 6046.7 were taken at the committee's March 2013 meeting, followed by a public forum in August 2013 and the formation of a Working Group comprised of accredited and registered, unaccredited law school deans. The committee approved proposed amendments in August 2014 and reviewed public comments in January 2015.^{6,7} The amendments were forwarded to the Board for consideration and approved in March 2015.⁸ In 2016 and 2017, a second public forum was held, and another Working Group was established. Throughout the process amendments related to non-JD programs remained largely unchanged.⁹ In November 2017, the Board approved the latest version of the proposed statutory amendments.¹⁰

Attachment A and Attachment B provide the proposed amendments approved in November 2017 which incorporated significant input from the committee, stakeholders, working groups, and the public. Highlights have been added to indicate amendments pertinent to this item.

DISCUSSION

Section 6060.7's reference to non-law school programs "leading to a juris doctor (J.D.) degree, bachelor of laws (LL.B.) degree, or other law study degree" is ambiguous and the term "law study degree" is not defined. Non-law schools do not grant JD degrees and LL.B. degrees have not been issued as professional degrees since the 1970s.

In the 17 years following the statute's enactment, there has been a notable expansion in "legal studies" programs offered by both law schools and non-law schools whose graduates are ineligible to take the bar exam or become licensed attorneys. For example, one California law school has a master's degree in Business, Law, and Technology and one non-law school has a bachelor's degree in Legal Studies. The committee's practice to date has been to focus its

⁶ Committee of Bar Examiners: Subcommittee on Educational Standards, Agenda Item Number: O-401 (August 2014). <https://apps.calbar.ca.gov/cbe/docs/agendaitem/Public/agendaitem1000000642.pdf>.

⁷ Committee of Bar Examiners: Subcommittee on Educational Standards, Agenda Item Number: O-402 (January 2015). <https://apps.calbar.ca.gov/cbe/docs/agendaitem/Public/agendaitem1000000850.pdf>.

⁸ State Bar of California Board of Trustees, Agenda Item Number: 133 (March 2015). <https://board.calbar.ca.gov/docs/agendaitem/Public/agendaitem1000012903.pdf>.

⁹ Committee of Bar Examiners: Subcommittee on Educational Standards, Agenda Item Number: O-400 (April 2017). <https://apps.calbar.ca.gov/cbe/docs/agendaitem/Public/agendaitem1000001803.pdf>.

¹⁰ State Bar of California Board of Trustees, Agenda Item Number: 134 (November 2017). <https://board.calbar.ca.gov/docs/agendaitem/Public/agendaitem1000020087.pdf>.

oversight efforts on JD programs, whose graduates will be eligible to take the bar exam and seek licensure. For other law school programs that are law-related but do not confer a degree that would lead to licensure, the committee “acquiesces” to such programs (Rule 4.160(D)(8) and Guideline 11.1).

After considering the legislative intent behind this statute, the purpose of the committee, and the significant resources that would be necessary for it to take on regulatory approval of programs offered by non-law schools whose graduates would not be eligible to sit for the bar exam in the first place, staff believe a statutory clarification is warranted.

COMMITTEE PURPOSE AND LEGISLATIVE INTENT

Under section 6046, the committee is responsible for overseeing applicants for admission to practice law, administering admission requirements, and certifying eligible candidates to the Supreme Court.¹¹ This underscores the committee's primary focus on the admissions process. Under section 6060.7, the committee is responsible for the approval, regulation, and oversight of law schools offering JD and other law study degrees as well as law study programs at nonlaw schools. It is reasonable for the committee to oversee JD programs given that they directly impact a student's eligibility to sit for the bar exam and seek admission. However, non-JD programs do not fulfill the educational requirements for admission.

Expanding the committee's regulation work beyond current practice would necessitate a significant allocation of resources to understand and regulate a large number and diverse array of educational offerings that fit under the term “law study degree”. It could spread resources thin, potentially impacting the ability to regulate JD programs, which are of primary concern. Further, the committee, comprised of licensed attorneys, judges, and non-attorney members, as well as staff, are equipped to address admissions and law school regulation duties. While adept in their domain, their expertise does not extend across the vast variety of non-JD programs offered. Alternative oversight bodies, such as institutional accreditors and the state's postsecondary education regulator, possess more tailored expertise.

Educational Standards

The intent of the statute is to address concerns regarding oversight and quality of JD legal education in California. The bill's author was concerned with maintaining educational standards for all JD programs to prevent the devaluation of degrees offered at law schools by those offered at non-law schools. The committee's current oversight and law school rules and guidelines effectively ensure high-quality legal education. Regarding non-JD programs, committee oversight is not necessary to ensure high standards as programs undergo review by institutional accreditors, or otherwise receive approval from the state's postsecondary education regulator. Committee oversight would result in unnecessary overlap with existing oversight.

¹¹ CA Bus & Prof Code § 6046.

https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=BPC&ionNum=6046.

The committee already took steps to streamline processes and rely on existing accreditation mechanisms with the adoption of the Jointly Accredited Status (Rule 4.147). The committee also modeled its acquiescence practices after ABA standards with the same goal of reducing oversight duplication where accreditation already exists. Amending the statute to better focus the committee's oversight work is a logical next step.

Consumer Protection

The statute also intends to set standards for JD degrees to protect consumers. Existing committee oversight effectively ensures high-quality JD programs. The committee should also continue to monitor non-JD programs at law schools through the acquiescence and major change procedures to ensure they do not have an adverse impact on JD programs. This practice is like that of ABA standards which require acquiescence of non-JD programs at ABA-approved law schools.¹²

Given that non-law schools do not offer JD programs, expanded committee oversight would not achieve this goal. Non-JD programs at law schools and non-law schools are subject to approval by the California Department of Consumer Affairs' Bureau for Private Postsecondary Education (BPPE).¹³ Programs must demonstrate institutional integrity, financial stability, and educational quality; exemptions are granted to schools under review by certain institutional accreditors which ensure the same.¹⁴

It also appears that the bill's author was concerned about students spending years in a program unaware that it does not qualify them to sit for the bar exam or seek licensure. There are existing disclosure requirements designed to inform consumers. For example, the committee requires unaccredited law schools with acquiesced non-JD programs to fully inform prospective students about the limitations associated with obtaining such degrees (Guideline 11.3).

COMMITTEE FEEDBACK

In summary, the growing number of non-JD programs necessitates an assessment of the existing statute and a discussion regarding the committee's role and capacity in overseeing such programs. Having reviewed the intent and language of the statute, and considering the factors discussed above, staff believe that the most appropriate action would be to amend the statute to conform to current practice. Today's discussion will inform the Board as it considers pursuing the statutory amendment to clarify the committee's role.

FISCAL/PERSONNEL IMPACT

None

¹² "Standards and Rules of Procedure for Approval of Law Schools," *American Bar Association Section of Legal Education and Admissions to the Bar*, no. 2023–2024 (n.d.): 22, https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/standards/2023-2024/2023-2024-aba-standards-rules-for-approval.pdf.

¹³ California Code, Education Code - EDC § 94886.

¹⁴ California Code, Education Code - EDC § 94890(a)(1).

AMENDMENTS TO RULES

None

STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS

None – compliance

RECOMMENDATIONS

None – discussion only

ATTACHMENT(S) LIST

- A. November 2017 Proposed Amendments to 6046.7 Highlights Added February 2024
- B. November 2017 Proposed Amendments to 6060.7 Highlights Added February 2024

ATTACHMENT A
(November 2017 version, highlights added February 2024)

**Proposed Amendments to
California Business and Professions Code
Article 3 Committees of the State Bar and
Article 4 Admission to the Practice of Law**

**Section 6046.7 Adoption of Rules for the Regulation and Oversight of
~~Unaccredited~~ Law Schools ~~Regulated by the Examining Committee~~ – Collection
of Fees to Fund Regulatory Responsibilities**

(a) ~~(1)~~ Notwithstanding any other provision of law, the ~~Committee of Bar Examiners~~
~~examining committee~~ ~~shall~~ ~~will~~ adopt rules ~~that shall be effective on and after January 1,~~
~~2008,~~ for the regulation and oversight of ~~unaccredited~~ law schools that are ~~accredited~~
~~by the examining committee and~~ required to be authorized to operate as a business in
California, ~~including correspondence schools,~~ that are not ~~accredited~~ ~~approved~~ by the
American Bar Association, ~~with the goal of ensuring consumer protection and a legal~~
~~education at an affordable price.~~

~~(2) Notwithstanding any other provision of law, the committee shall adopt rules that~~
~~shall be effective on or after January 1, 2008, for the regulation and oversight of nonlaw~~
~~school legal programs leading to a juris doctor (J.D.) degree, bachelor of laws (LL.B.)~~
~~degree, or other law study degree~~

(b) ~~Commencing January 1, 2008,~~ ~~t~~The ~~examining~~ committee ~~shall~~~~will~~ assess and
collect a fee from ~~unaccredited~~~~accredited~~ law schools ~~and legal programs in nonlaw~~
~~schools~~ in an amount sufficient to fund the regulatory and oversight responsibilities
imposed by this section. Nothing in this subdivision precludes the board of
~~governor~~~~trustees~~ from using other funds or fees collected by the State Bar or by the
committee to supplement the funding of the regulatory and oversight responsibilities
imposed by this section with other funds, ~~if that supplemental funding is deemed~~
~~necessary and appropriate to mitigate some of the additional costs of regulation and~~
~~oversight to facilitate the provision of a legal education at an affordable cost.~~

ATTACHMENT B
(November 2017 version, highlights added February 2024)

Section 6060.7 Approval, Regulation and Oversight of Degree-Granting Law Schools by Examining Committee

~~(a) From January 1, 2007, to December 31, 2007, law school and law study degree programs shall be subject to the following:~~

~~(1) The examining committee shall be responsible for the approval, regulation, and oversight of degree-granting law schools that (A) exclusively offer bachelor's, master's, or doctorate degrees in law, such as juris doctor, and (B) do not meet the criteria set forth in Section 94750 of the Education Code. This paragraph does not apply to unaccredited law schools, which remain subject to the jurisdiction of the Bureau of Private Postsecondary Education or its successor agency.~~

~~(2) If a law school that does not meet the criteria set forth in Section 94750 of the Education Code offers educational services other than bachelor's, master's, or doctorate degree programs in shall be subject to the approval, regulation, and oversight of the examining committee.~~

~~(b) On and after January 1, 2008, law schools and law study degree programs shall be subject to the following:~~

The examining committee ~~will~~**shall** be responsible for the approval, regulation, and oversight of degree-granting law schools that **award the Juris Doctor (J.D.) professional degree in law in California that are not approved by the American Bar Association.** ~~(A) exclusively offer bachelor's, master's or doctorate degrees in law, such as the juris doctor, and (B) do not meet the criteria set forth in section 94750 of the Education Code..~~ **For purposes of this subsection, an accredited law school may not award a J.D. degree unless a student has completed the necessary legal education set forth in Section 6060 of this Article that would qualify the student to take the California Bar Examination. A J.D. degree does not include and will not be denominated as any other degree or program of law study.**

~~(1) If a law school that does not meet the criteria set forth in Section 94750 of the Education Code offers educational services other than bachelor's, master's, or doctorate degree programs in law, only the law school's degree program in law shall be subject to the approval, regulation, and oversight of the examining committee.~~

~~(2) If a nonlaw school that does not meet the criteria set forth in Section 94750 of the Education Code offers educational programs leading to a juris doctor (J.D.) degree, bachelor of laws (L.L.B.) degree, or other law study degree, those programs shall be subject to the regulation and oversight of the examining committee. The provisions of this paragraph do not apply to paralegal programs.~~