

**MINUTES OF THE MEETING OF THE  
BOARD OF LAW EXAMINERS**

**November 4, 2016**

1. Call to Order/Determination of Quorum. The meeting of the Board of Law Examiners was convened in open session by Sandra Zamora, Chair, on Friday, November 4, 2016, at 9:03 a.m., in the Tom C. Clark Building, 205 W. 14th Street, 1<sup>st</sup> Floor Conference Room, Austin, Texas. Members present and constituting a quorum were: Sandra Zamora, Al Odom, Augustin Rivera, Jr., John Cayce, Jr., Barbara Ellis, Cynthia Orr and Alfred Mackenzie.

Board members Teresa Ereon Giltner and Anna McKim were absent and excused from the meeting.

2. Approval of Minutes and Certified Agendas Upon motion made and seconded, the Board voted to approve the minutes and/or certified agendas of the September 16, 2016 Board Meeting.

3. Report of Accountant.

a. Investment Report. Chief Accountant, Rod Shaheen, explained there was not an Investment Report at this time.

b. Financial Reports. Rod Shaheen presented and the Board reviewed the Board's Unaudited Annual Financial Report for the period September 1, 2015 through August 31, 2016, together with profit and loss comparison details. Rod Shaheen advised that the audit report on the FY 2016 financial statements will be finalized in the near future and presented by the auditor at the January 2017 Board meeting.

4. Finance Committee Report. Susan Henricks reported that the Finance Committee met and recommended that Independent Bank be appointed as the Board's investment advisor for future investment purposes.

Ms. Henricks explained that execution of a Certificate of Resolution document and approval of Investment of Board Funds was recommended by the Finance Committee for approval by the Board.

5. Investment Policy. Susan Henricks presented the proposed Policy for the Investment of Board Funds, as required by the Public Funds Investment Act (PFIA). The policy is unchanged from the one adopted in 2015. After discussion by the Board, and upon motion made and seconded, the Board unanimously approved the Investment Policy in the form attached<sup>1</sup>, and approved using Independent Bank as the Board's authorized broker for PFIA investment transactions. The Board Chair and Executive Director are authorized to execute a Certificate of Resolution confirming this action.

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<sup>1</sup> Policy for the Investment of Board Funds.

6. Report of Executive Director.

a. Calendar Update. Susan Henricks reviewed the calendar for the remainder of 2016 and the 2017 calendar. Alfred Mackenzie will represent the Board at the November 21, 2016 Swearing In ceremony. Ms. Henricks noted several Board members need to trade service on 2017 panels and asked Board members to check their calendars for availability.

b. Update on Sunset Review. Ms. Henricks advised there is no update to report on Sunset at this time.

c. Agency Operations. Susan Henricks thanked staff for their hard work on the implementation of the new ATLAS system and recent grade release. Ms. Henricks noted that ILG offers a grading module system the Board may want to consider after the Exam Soft contract expires in 2017.

Ms. Henricks explained that the answers for a laptop applicant who opted to hand write the Civil & Criminal Procedure questions were misfiled in the grading process. The examinee questioned the "zero" grade she received and the ungraded answers were found upon further investigation. Cynthia Orr graded the answers prior to the Board meeting and the applicant received a passing score. Board members discussed the issue of allowing examinees to switch from laptop to handwrite and the lack of bar codes on handwritten answer booklets. After discussion by the Board, it was decided to add this topic as an agenda item for the January Board meeting to determine whether to require laptop examinees to use their laptop for each portion of the exam, except in the case of laptop malfunction. Nahdiah Hoang reported the examinee was informed of her passing score.

d. 2017 Bar Admission Forum & Luncheon. Ms. Henricks asked Board members for their thoughts on continuing the Bar Admission Forum and Luncheon in May 2017. After discussion by Board members, the consensus was to host the luncheon again in May 2017.

e. Articles of interest. Ms. Henricks reviewed articles on pass rates for the July 2016 bar exam and an article on the improved pass rates on the New York bar exam since that jurisdiction adopted the Uniform Bar Exam in July 2016.

f. Complaint Resolution. Susan Henricks reviewed the Complaint Resolution list included in the meeting book describing the nature of each complaint and the resolution.

g. Supreme Court Order. Ms. Henricks noted the Supreme Court Order in the meeting book recently approved by the Court to allow for fee equalization under Rule XVIII. The fee adjustments will go into effect with applicants for the July 2017 bar exam.

7. Report of Director of Character and Fitness.

- a. Probationary License Report. Lori Adelman summarized the reports in the Meeting Book regarding conversions from probationary licensure to regular licensure and modifications to existing probationary licenses.
- b. Year End Hearing Statistics. Ms. Adelman reviewed the 2016 Fiscal Year Summary of Character & Fitness (C&F) Hearings contained in the meeting book.

8. Report of Director of Eligibility & Examination.

- a. Question editing timeline. Nahdiah Hoang discussed reviewing the timeline for question development to allow additional time between reviews. Ms. Hoang advised this is easier to do with the new printing contractor, who does not require as much time to print the questions. Barbara Ellis asked if the questions could be added to the secure Portal during the review period for Board members to access and Ms. Hoang confirmed that was feasible.

Sandra Zamora discussed question development and the preference to use essay questions that require examinees to identify issues that require legal analysis of a hypothetical factual scenario.

A suggestion to plan a Board workshop for drafting essay questions was discussed, with the possibility of having Adisa Harrington or Jean Gaskill conduct the training.

Barbara Ellis suggested Nahdiah Hoang contact graders for their feedback on the most recent grading process and suggestions for improvement.

Susan Henricks explained that grading programs provided by the Office of Court Administration or ILG may be used for grading programs for future exams. She thanked the Board for cooperation in making necessary revisions to the grading process management program.

- b. Report on November grade release. Nahdiah Hoang presented the results of the July 2016 bar exam. Ms. Hoang indicated that the overall July 2016 pass rate increased to 70% from 66% in July 2015. Ms. Hoang also reviewed the report on pass rates across the United States.
- c. Year End statistical report on accommodations. Kristin Bassinger reviewed the 2016 Fiscal Year statistics on testing accommodations as contained in the meeting book. She advised the Board requests for accommodations are generally increasing and that additional expense for that purpose is likely to continue.

9. Report on Task Force. Al Odom reported that there has not been any further communication with Dean Steve Sheppard, Task Force Chairman, since the September 2016 joint meeting. Mr. Odom advised that two new Task Force members, Dean Jennifer Collins with SMU Dedman School of Law and Professor Cassie Christopher of Texas Tech Law School have been appointed to fill the vacancy left by Darby Dickerson and to add an additional member.

Board members discussed ways to provide information to examinees about bar exam preparation. Nahdiah Hoang has recommended some revisions to Texas Young Lawyers Association (TYLA) online publication on the bar exam and Susan Henricks suggested adding the TYLA publication link to the BLE website.

Alfred Mackenzie suggested improvements to the description of question subjects listed in the Rulebook. Mr. Mackenzie asked if the language could be changed or would this be a matter for the Supreme Court to consider. After discussion about current question subjects in the rulebook, John Cayce, Alfred Mackenzie and Nahdiah Hoang were appointed to serve on a Committee to review this matter, determine if the outlines should be changed and report their findings and recommendations to the Board.

Al Odom suggested waiting for a recommendation from the Task Force before further pursuing a Board investigation of the Uniform Bar Exam. Barbara Ellis asked if staff would prepare information about the Uniform Bar Exam so Board members can make a preliminary determination on whether or not to recommend the UBE to the Supreme Court once the Task Force has made a recommendation to the Court.

Al Odom asked Board members to plan on reviewing rough draft answers to the original questions presented by the Supreme Court to the Task Force at the January 2017 Board meeting.

Alfred Mackenzie asked Board members to look at the UBE issues and come to a determination of whether to recommend the UBE. After discussion by the Board, it was determined that UBE Committee members Augie Rivera, Al Odom and Teresa Ereon Giltner will meet on December 9, 2016 before Hearing Panels convene. Susan Henricks will post an Agenda for the Committee Meeting in December.

Augie Rivera reported on a recent Waiver request that concerned whether Federal clerkship experience should count as time practiced for AWOX admission. The Board will review the policy at its January Board meeting.

10. Question Review. At approximately 10:30 a.m., Sandra Zamora, Chair, called for a break. Board members moved to the 5<sup>th</sup> Floor of the Tom C. Clark Building to continue with question review. At approximately, 10:45 a.m., Sandra Zamora declared the meeting closed to the public, pursuant to the provisions of Sec. 82.003(b) Tex. Gov. Code Ann., whereupon the Board proceeded to meet in executive session in two Groups. Group 1 included Anna McKim (via conference call), Sandra Zamora, Al Odom and Barbara Ellis; group 2 included Cynthia Orr, John Cayce, Augie Rivera and Alfred Mackenzie for the purpose of reviewing and editing questions to be used on future bar examinations.

At approximately 1:00 p.m. Group 1 concluded question review and at approximately 1:15 p.m., Group 2 concluded question review. John Cayce left the meeting.

At approximately 1:15 p.m. Sandra Zamora, Chair, declared the executive session concluded and reconvened the meeting in open session with Al Odom, Augustin Rivera, Cynthia Orr, Barbara Ellis and Alfred Mackenzie present and constituting a quorum.

11. Adjournment. There being no further business, the meeting of the Board of Law Examiners was adjourned at 1:15 p.m.

Respectfully submitted,



Susan Henricks,  
Executive Director

APPROVED:



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Sandra Zamora, Chair