

MINUTES OF THE MEETING OF THE
BOARD OF LAW EXAMINERS

July 16, 2020

1. Call to Order/Determination of Quorum.

Board Chair Augustin Rivera, Jr., called the meeting to order at 10:12 AM. In light of the COVID-19 pandemic crisis, the Meeting was held virtually via Zoom and Youtube in accordance with guidance from the Offices of the Texas Governor and Attorney General and the suspension of certain requirements of the Texas Open Meetings Act. Board Members Rivera, Giltner, Ellis, McKim, Massey, and Soltero were present for the entirety of the meeting. Orr joined the meeting at 10:33 AM, having previously notified the Board that she would be tardy. Orr's tardiness was excused. Mackenzie was excused from the meeting at 11:35 AM.

2. Consider Approval of the Minutes and Certified Agendas.

Minutes from the July 2, 2020, meeting will be reviewed at the next meeting.

3. Consider Updated Budget for Fiscal Year 2021.

Shaheen presented a proposed 2021 budget during the June 2020 Board Meeting that was approved by the Board but has not yet been presented to the Supreme Court. With cancellation of the July 2020 examination and movement of related fee income and expenses to 2021, an updated proposed budget for 2021 was presented to the Board. After discussion of the updated proposed budget, Massey motioned to approve the proposed amended budget. Odom seconded. The Board unanimously approved the motion, with the exception of Orr who was not present for the agenda item.

4. Report of Executive Director.

a. General Agency Operations.

Staff are evaluating the possibility of conducting panel hearings by Zoom. BLE's attorneys will attend online continuing education on Travis County Jury trials by Zoom, to see how the courts are approaching contested proceedings by videoconference.

b. Report on July 3 Supreme Court Emergency Order.

The Supreme Court Order issued on July 3, 2020, did not adopt the Board's recommendation to cancel both the July and September exams, but instead ordered a September in-person exam and an October online examination. Staff are making preparations for both examinations.

c. Calendar Update.

The Board was provided with a revised 2020 calendar that includes proposed dates for exam question preparation, as well as a grading workshop, Board meeting, and ARC meetings. The Board was asked to notify Gonzales and/or Strunc of any conflicts and to provide availability for the Small Group Question Review that needs to be scheduled in July and the ARC, Board, and Post Editor Full Question Review Meetings that need to be scheduled in August. Soltero motioned to approve the calendar; Ellis seconded. The calendar was unanimously approved.

5. Report of Director of Character and Fitness.

Drish mentioned that character and fitness investigations continue, but some applicants are having difficulty obtaining documentation from their schools and other government entities. Applicants have also reported difficulty obtaining fingerprints, so Drish and Henricks may consider extending deadlines and/or developing new procedures for analysts to follow when conducting investigations to allow for delayed submission of materials.

6. Report of Director of Eligibility and Examination.

a. Preparation for September and October Bar Examinations.

Hoang reported on plans for the September and October examinations. To date, approximately 800 applicants have transferred registration from July and September to October and February. She anticipates providing applicants with full details of the September and October examinations, including weighting and procedures, by Monday, 7/20/20. Applicants will be notified via ATLAS and given at least a week to select an examination date.

Hoang reported that an applicant had raised an issue about the transfer of online scores earned during an October remote examination in other jurisdictions. Several UBE states have cancelled their UBE and are offering an online exam in October composed of 1 MPT, 3 MEEs, and 100 MBEs. This online exam is not a UBE and thus scores earned on any online exam cannot be transferred to Texas. However, many states offering this online exam have announced that they will allow applicants to transfer in scores earned on this exam from other states. After discussion, the Board asked Hoang to develop a proposal regarding acceptance of scores earned on remotely-administered October 2020 examinations to be presented at the next Board Meeting, including a list of jurisdictions that will utilize NCBE-provided materials and those jurisdictions' registration periods.

Hoang also discussed the specifics of the online examination, including single monitor requirements, applicants' request to use scratch paper, and materials that will be allowed in examinees' testing spaces.

The Board asked about the deadlines for registration periods for September and October. Hoang stated that the September exam registration period will have to be somewhat short, but October could be extended. Henricks proposed that the September enrollment deadline be set as July 27, 2020, to ensure staff has accurate numbers for examination material orders that are due to NCBE by July 29, 2020. Hoang said she believes the September and October enrollment periods could be opened as early as Friday, July 17, but definitely by the following week.

Henricks directed the Board to "September 2020 Texas Bar Examination Plan" provided in the Board Meeting Book. The plan would provide individual hotel rooms for all September

applicants, which should reduce health and safety issues. Henricks stated the plan is costly but better protects the health of examinees, proctors, and staff.

b. Consider Weighting for October Online Examination.

After conferring with Dr. Roger Bolus, who has previously performed psychometric evaluations of the Texas Bar Exam, regarding scaling and scoring the October 2020 online examination, Henricks recommends weighting the MBE at 40% and Essays at 40%. Ellis motioned to approve the 10/10/40/40 weighting plan. Odom seconded the motion. The motion carried unanimously, with Mackenzie excused from the vote.

c. Preparation of additional examination questions for October Online Examination.

Hoang asked the Board to review the question materials provided in the Board Meeting Book.

d. Grading Plan.

Henricks suggested the Board might consider expanding the regrade band for the September and/or October examinations to respond to the unique challenges examinees are experiencing. The Board discussed lowering the minimum passing score. Henricks stated that the Supreme Court would have to approve any changes to the passing score, but the Board has the discretion to adjust the regrade policy. After discussion, Orr submitted a motion to adjust the regrade band for all September and October to 665 to 674, with staff given discretion to further expand the regrade band if appropriate. Massey seconded the motion. The motion carried unanimously, with the exception of Mackenzie who was absent from the vote.

7. Report of Staff Attorneys.

Cook provided a printed confidential Litigation Report to the Board and noted there were no changes on any pending litigation from the previous report.

Rivera called a break at 11:54 AM.

Rivera returned the meeting to open session at 12:06 PM.

8. Consider Communications from the Public.

Communications from the public were moved to later in the meeting so that participants could offer comments on the agenda items discussed during the meeting. The Board heard public comments from more than 30 members of the public, including from law school deans, law school students, and recent law school graduates.

9. Annual Evaluation of Executive Director.

Due to time constraints, this agenda item was deferred to a future meeting.

10. Consider Issues Arising from Report of Executive Director, Director of Character and Fitness, Director of Eligibility and Examination, and Staff Attorneys.

Rivera opened the floor for discussion of agenda items presented. No comments were presented.

11. Adjourn.

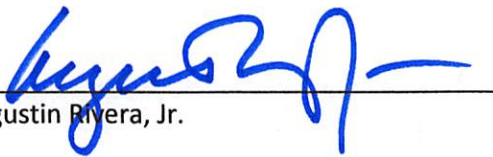
Rivera adjourned the meeting at 1:00 PM.

Respectfully Submitted,



Susan Henricks,
Executive Director

Approved by:



Augustin Rivera, Jr.