

**Minutes of the Meeting of
The Board of Law Examiners
Friday, January 14, 2022**

1. Welcome, call to order, determine quorum, and consider requests for excused absences – Chair

Chair Augustin Rivera, Jr. called the meeting to order in open session at 9:31 AM. All Board Members were present. Ellis attended remotely via Zoom teleconference. All other Board Members attended in person. Justice Brett Busby, who serves as the Supreme Court of Texas liaison to the BLE, also attended remotely.

Members of the staff present in person were Executive Director Nahdiah Hoang, Executive Assistant Laurie Gonzales, Director of Admissions Michael Sullivan, and General Counsel Ciara Parks. The following BLE staff members attended remotely: Director of Character and Fitness Allison Drish, Assistant Director of Character and Fitness Kendelyn Schiller, Staff Attorney Eric Hsu, Assistant Director of Admissions Ky Strunc, and Genevieve Ramirez.

2. Consider communications from the public, if any – Chair

No members of the public were present.

3. Consider approval of minutes and certified agendas of Board Meetings, Hearings Panels, and Waivers Panels – Chair

BLE staff provided draft minutes to the Board before the meeting, including:

- June 25, 2021, Board Meeting draft minutes.
- September 16, 2021, Board Meeting draft minutes.
- November 19, 2021, Board Meeting draft minutes.
- March 25, 2021, Hearings and Waiver Panels draft minutes.
- April 9, 2021, Hearings and Waiver Panels draft minutes.
- July 16, 2021, Hearings and Waiver Panels draft minutes.
- September 17, 2021, Hearings and Waiver Panels draft minutes.
- October 15, 2021, Hearings and Waiver Panels draft minutes.

Upon motion submitted by Odom and seconded by Mackenzie, the Board unanimously approved all minutes.

4. Report of Finance Committee – Giltner

4.1. Consider approval of Policy for Investment of Board Funds

The Finance Committee moved to approve the policy as submitted. Soltero seconded. The Board unanimously approved the policy.

4.2. Consider approval of the Certificate of Deposit Authority Resolution

The Finance Committee moved to approve the policy as submitted. Odom seconded. The Board unanimously approved the policy.

4.3. Giltner further reported:

The Finance Committee has asked BLE staff to provide the Finance Committee with quarterly reports of Certificate of Deposit that are coming due in the next quarter.

Changes to the FY21 Auditor's Report that the Board discussed during the November 2021 board meeting have been made to the Finance Committee's satisfaction.

5. Report of Accountant – Shaheen

5.1. Review investment reports

Rod Shaheen presented the investment reports for period September 1 – November 30, 2021.

5.2. Review first quarter financial report

Shaheen presented the financial reports for period September 1 – November 30, 2021.

6. Presentation by Zoom from NCBE regarding the Next Gen Bar Exam

Kelly Early, Danette McKinley, and Rosemary Reshetar of the National Conference of Bar Examiners presented information on the next generation of the bar examination, detailing proposed changes to the format and administration of the Uniform Bar Examination. Board members were provided with the opportunity to ask questions.

Rivera paused the meeting for a break at 11:35 AM. The meeting resumed in open session at 11:53 AM.

7. Report of Executive Director – Hoang

7.1. Calendar update, including additional hearing panel assignments.

Hoang announced scheduling information for the 2022 National Conference of Bar Examiners Annual Meeting, which will be held in person on April 28 – May 1, 2022, in New Orleans. Hoang asked Board Members to consider attending and to let her know of their intentions.

Hoang asked the Board to consider adding Character and Fitness hearings to

the CY2022 calendar that was previously approved at the September board meeting. She provided a draft calendar. Based on guidance provided by the Board, Hoang offered to rework the draft and present an updated version soon.

After discussion, the Board agreed that starting with the February 2022 examination, Formal Reviews should be scheduled via Zoom on a day other than one already set for hearings or a board meeting.

7.2. Texas Law Course

Hoang will advise the Board of a due date for members to provide any required updates to the Texas Law Course. Hoang will contact Supreme Court Clerk Blake Hawthorne to request any recommended changes for his part of the video.

7.3. Complaint Resolution Report

Hoang presented a summary of the complaints and resolutions to the Board. The Board did not request any further action.

7.4. Report on Administratively-Determined Waiver Decisions

Hoang presented the Administrative-Determined Waiver report to the Board.

7.5. 7.5 General Agency Operations

General Counsel Ciara Parks will be added to the Board's letterhead to honor her position with the agency.

8. Report of Director of Character and Fitness – Drish

8.1. Recommendations of probationary licenses to be converted to regular licenses and for minor modifications to probationary licenses.

Drish presented the probationary license conversion report to the Board. She inquired of the Board if it would be helpful to include a summary of compliance. Based on Board response, a summary will not be included.

Drish noted that previously application processing time has focused on analyst processing impacting the timeliness of completion. She stated that at times, delays stem from incorrectly submitted applications, inadequate or incorrect documentation, and other applicant-driven issues. Drish will undertake edits of the applications and published materials to make it more clear on what documentation is required to help eliminate potential delays.

9. Report of Director of Admissions – Sullivan

9.1. Review Board Member coverage for February 2022 Bar Exam

Sullivan confirmed with the Board that the bar exam is scheduled to be administered in person on February 22 – 23, 2022, in Austin and Houston. He asked for Board Members to be onsite for exam administration in both cities.

- Ellis agreed to attend all sessions in Austin on both February 22 and February 23.
- Justice Busby is scheduled to read one set of instructions immediately after lunch at the Austin site on February 23.
- Massey agreed to attend all sessions in Houston on February 22.
- Odom agreed to attend all sessions in Houston on February 23.

10. Report on NCBE – Chair

Rivera thanked NCBE for its earlier presentation.

11. Report of General Counsel – Parks

11.1. Review updated Hearings Procedures document

Parks provided a copy of the proposed updated Hearings Procedures to the Board. Parks will work with the appropriate subcommittee(s) to further refine the procedures for review at the March 2022 Board meeting.

At 12:32 PM, Chair Rivera closed the meeting per Tex. Gov't Code Sec. 551.017.

11.2. Litigation Report (This review was conducted in executive session, per Tex. Gov't Code Sec. 551.071.)

At 12:40, Chair Rivera called the meeting to open session.

12. Consider issues arising from reports of staff and/or other agenda items – Chair

No issues were raised.

13. Adjourn – Chair

Rivera adjourned the meeting at 12:41 PM.

After adjournment of the Board Meeting on 1/14/2022, the Board conducted Formal Reviews for eligible July 2021 examinees per Rule 11(g).

Minutes for Saturday, January 15, 2022, start on the next page.

**Minutes of the Meeting of
The Board of Law Examiners
Saturday, January 15, 2022**

1. Welcome, call to order, determine quorum, and consider requests for excused absences – Chair

Chair Augustin Rivera, Jr., called the meeting to open session at 9:14 AM. All Board Members were present. Ellis attended remotely via Zoom teleconference; all other Members attended in person. Staff members Allison Drish and Kendelyn Schiller attended remotely.

2. Consider communications from the public, if any – Chair

3. Presentation on testing accommodations – Parks

General Counsel Ciara Parks presented about Texas Bar Exam testing accommodations, including state of Texas requirements for accommodations, an overview of accommodations submission procedures, procedures for evaluating accommodations, and administration of accommodations.

Chair Rivera recessed the meeting at 10:21 AM for a break.

Chair Rivera reconvened the meeting in open session at 10:45 AM.

4. Presentation on standard setting study for Texas Bar Exam – Sullivan

Director of Admissions Michael Sullivan presented to the board on a proposed standard setting study as recommended by the Texas Task Force on the Bar Exam.

4.1. Consider approval of standard setting timeline, proposal, procedures, and budget

Alfred Mackenzie, chair of the Texas Bar Exam Subcommittee, recommended that the timeline Sullivan presented be moved up by one year.

Chair Rivera recessed the meeting at 12:02 PM for lunch.

Chair Rivera reconvened the meeting in open session at 12:34 PM.

5. Presentation on character and fitness procedures in other jurisdictions – Drish

Director of Character and Fitness Allison Drish presented to the Board on character and fitness hearings procedures followed by other jurisdictions. The presentation focused on Florida, Illinois, and DC as those jurisdictions are most closely aligned with Texas in numbers of applications processed, as well as California, a larger jurisdiction

6. Consider revising current Informal Settlement Conference policy and procedures – Hoang

Hoang asked the Board to consider the information provided by Drish related to other jurisdictions offering informal settlements as part of their hearings processes when considering proposed changes to BLE's existing ISC procedures. Drish noted that the major difference is that ISC procedures in other jurisdictions mandate that the Board is responsible for the process, rather than staff.

The Board and staff discussed the following:

- Most other state of Texas licensing agencies have an informal process for resolving disputes.
- If ISCs continue, the panelists should be Board members and not staff.
- ISCs should not become too formal.
- Administrative review by a subset of the Board might be an effective resolution for some cases.
- One way to streamline the hearing process would be to implement time limits for all BLE proceedings. Attorneys and applicants could be given a strict time allocation to reduce the amount of time needed for hearings. If hearings were shorter, more could be scheduled.
- It is more difficult to assess credibility by Zoom than in person.
- Adding a Board Member to the IRC could lead to fewer PDLs being issued.

Ellis moved to suspend Informal Settlement Conferences until further action is taken by the Board. Soltero seconded. After discussion by the Board, Ellis amended her motion and moved to discontinue (rather than suspend) the use of the Informal Settlement Conferences. Soltero seconded. Rivera called the motion to vote and it passed unanimously.

7. Consider revising Guidelines for Issuing Preliminary Determination Letters (PDL Guidelines) and revising Guidelines for Determining Character and Fitness and Overseeing Probationary License Holders (C&F Guidelines) – Hoang

Hoang noted that the PDL Guidelines would need to be redrafted to incorporate the decision to stop ISCs and begin an administrative review, and the Chair tabled this item for a future meeting.

8. Consider recommending amendment to Rule 13 §1 to facilitate transfer of certain UBE scores earned over 2 years before submitting a UBE transfer

application – Hoang

Hoang outlined Rule 13§1 regarding age and practice time requirements for UBE score transfer eligibility. She proposed recommending changes to the Rule, offering two recommendations: 1) to allow UBE scores up to five years old to be transferred, and 2) to allow scores between two and five years old to be transferred with two years of licensure. Odom moved that staff recommendation option 1 be approved, with the addition of changes to Rule 2(b) to conform. Massey seconded. Rivera called the motion to vote and it passed unanimously.

Chair Rivera recessed the meeting at 1:45 PM for a break.

Chair Rivera reconvened the meeting in open session at 1:58 PM.

9. Consider regrading policy – Sullivan

Sullivan presented information about the current regrading policy, including the disadvantages associated with regrading. He offered several possible courses of action, including: 1) status quo; 2) allow regrades that result in increased and decreased scores; 3) expand the regrade band; 4) constrict the regrade band to two points; 5) stop regrading; 6) assign more than one grader per regraded exam, and 7) score averaging.

Rivera noted that the Texas regrade policy is well known by Texas law school students and faculty. He believes regrading instills confidence in the process. He reiterated that any changes to the regrade process will lead to substantial questions from the public. Other board members noted that there is no psychometric reason for the regrade policy, but if a regrade policy is in place it should allow for regrades both up and down.

Mackenzie moved that the regrade band be reduced to 2 points beginning with the July 2022 examination and that elimination of regrading be reevaluated with implementation of the Next Gen UBE. After substantial discussion, Mackenzie withdrew his motion.

Ellis moved to stop regrading beginning with the July 2022 exam. Mackenzie seconded. Rivera called the motion to vote. With a vote of 5 opposed (Giltner, Odom, Orr, Rivera, Soltero) to 4 in favor (Ellis, Massey, Mackenzie, McKim), the motion did not pass.

10. Consider collection and use of demographic information from applicants – Hoang

The Chair tabled this item for a future meeting.

11. Consider outreach to law schools – Chair

Rivera said that there was frequent communication with the law schools, especially

the deans, during the height of the pandemic. He questioned the Board if that level of communication should continue. Would it be helpful to be in more contact with the law schools? The Board agreed that communication with the law schools is essential and is agreeable to continued open communication with the law schools. The Board discussed plans for an in-person Bar Forum in connection with the swearing-in ceremony for February 2022 examinees, currently scheduled for May 9, 2022, pending approval by the Supreme Court, and suggested that the Next Gen Bar Exam could be a topic presented at that event.

12. Consider charges to subcommittees – Chair

Rivera asked each subcommittee to draft a charge.

12.1. Subcommittee on Diversity and Inclusion – Orr and Odom

Orr said that the subcommittee would be contacting law schools about their diversity endeavors to determine if the Board could do anything to assist. She also suggested speaking with a psychometrician about review of the UBE to ensure it is equitable to all invested parties. Odom suggested more outreach from the Board about resources available to applicants, including waivers and third-year presentations.

13. Consider issues arising from reports of staff, subcommittees, and/or other agenda items – Chair

No issues were raised.

14. Adjourn – Chair

Rivera closed the Board Meeting/Retreat by thanking all Board members and Staff for their time, attention and hard work over the past two days. Rivera also thanked attendees for their professionalism, integrity and commitment to the Bar credentialing process. Rivera adjourned the meeting at 3:04 PM.

Respectfully Submitted:



Nahdiah Hoang, Executive Director

Approved by:



Augustin Rivera, Jr.