

**Minutes of the Meeting of
The Board of Law Examiners
Friday, November 18, 2022**

1. 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 9:08 a.m. The following were present:

- All Board Members
- Justice Brett Busby, Supreme Court of Texas Liaison to the Board
- BLE Staff:
 - Executive Director Nahdiah Hoang
 - Chief Accountant Rod Shaheen
 - General Counsel Ciara Parks
 - Director of Admissions Michael Sullivan
 - Director of Investigations Allison Drish
 - Executive Assistant Laurie Gonzales
 - Staff Attorney Eric Hsu
 - Assistant Director of Admissions Ky Strunc
 - Assistant Director of Investigations Kendelyn Schiller
 - Assistant Director of Investigations April Shaheen
 - Legal Assistant Chris Copeland
 - Administrative Assistant Noelia Villarreal
 - Licensure Analyst Celine Johnson.
- Chad Buckendahl from ACS Ventures
- Brandon Tran from Weaver

2. Consider approval of minutes and certified agendas of board meetings, panel hearings, waiver panels, and committees – Chair

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

- April 9, 2021 Hearings Panel
- May 20, 2021 Hearings Panel
- November 18, 2021 Waivers and Hearings Panel
- December 17, 2021 Waivers and Hearings Panel

- January 13, 2022 Waivers and Hearings Panel
- January 13, 2022 Accommodations Review Committee
- February 11, 2022 Waivers and Hearings Panel
- March 24, 2022 Waivers and Hearings Panel
- March 24, 2022 Hearings Panel
- June 16, 2022 Hearings Panel
- June 16, 2022 Waivers and Hearings Panel
- September 16, 2022 Hearings Panel
- September 16, 2022 Hearings Panel
- September 16, 2022 Waivers Panel

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

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

No members of the public were present.

4. Standard Setting Study –Sullivan

4.1. Presentation from Buckendahl

Sullivan introduced Dr. Chad Buckendahl of ACS Ventures, who specializes in providing evaluation and quality assurance at the intersection of psychometrics, policy, and practice. The BLE has retained Buckendahl to facilitate a standard setting study.

Buckendahl presented an overview of the standard setting study process, including: purpose; scope; roles; steps; content specifications, and; scoring framework, including minimally qualified applicants.

Sullivan provided an overview of the timeline for the Standard Setting Study, noting that the study is currently in Phase 1 - Identifying Panelist Plan. The remaining phases are Phase Two - Train Board and Participants, and Phase Three - Workshop. The goal is to present the final Standard Setting Study findings to the Supreme Court in February 2024.

4.2. Discussion

During discussion, Ellis noted that she would like additional time to digest the information before making any firm decisions. In response, Rivera suggested that staff work with the Testing Subcommittee to

develop a plan that will be presented to the full Board at a future meeting. The Board agreed to this proposal.

Justice Busby left the meeting to attend to other commitments.

5. Report of Accountant – Shaheen

5.1. Review Report of Auditors

Shaheen and Brandon Tran, auditor with Weaver, presented the FY 2022 annual audit. Ellis and Massey expressed concern regarding some terminology used within the cover letter accompanying the audit, such as “significant risk” and “potential fraud.” Tran explained that the verbiage was more specific to an individual employee’s actions, not that of the agency, and is in response to a new GASB requirement. He indicated that no issues were discovered and that BLE’s audit was clean. Orr suggested identifying verbiage within the letter that is boiler plate to all audits completed by Weaver and be noted as disclaimers or required language. Ereon Giltner agreed that she’d appreciate the cover letter being clearer that disclaimers are just that, general language and not applicable specifically to BLE.

Mackenzie noted that the language within the Audit regarding compensation for the Board is inaccurate in its scope of services provided by Board Members. Shaheen said that changes to the services provided by Board Members would be handled by him, as Weaver utilized information provided by Shaheen to create the compensation addendum.

Ellis moved to accept the Annual Audit with clarification on scope of Board Member services to be provided by Shaheen. Massey seconded. The Board voted unanimously to approve the Annual Audit.

5.2. Review investment reports

Chief Accountant Rod Shaheen presented the investment report for period September 1, 2021 – August 31, 2022.

5.3. Review annual financial report

Shaheen presented the annual financial report.

6. Staff Service Awards – Hoang

Hoang recognized Rod Shaheen for 25 years of Service (September 1997), Noelia Villarreal for 15 years of service (November 2007), and Celine Johnson for 10 years of service (October 2012).

7. Report of Finance Committee – Giltner

7.1. Consider approval of Policy for Investment of Board Funds

The Finance Committee moved to approve the policy with one correction, updating the date on page 4 from December 1, 2020, to the current date. Soltero seconded. The Board voted unanimously to approve the policy.

7.2. Consider approval of the Certificate of Deposit Authority Resolution

The Finance Committee moved to approve the policy as submitted. Massey seconded. The Board voted unanimously to approve the policy.

At 11:00 AM, Rivera recessed the meeting for a break.

At 11:12 AM, Rivera reconvened the meeting in open session.

8. Report of Executive Director – Hoang

8.1. General agency operations, including reorganization of Investigations

Hoang provided the Board with application and declaration submission statistics for 2018 – 2022. To accommodate the significant growth in applications, the team formerly known as Character and Fitness has been rebranded as Investigations and has reorganized under a Director of Investigations (Drish), Assistant Director of Investigations (Schiller) and newly created Assistant Director of Investigations (April Shaheen, promoted from Senior Licensure Analyst). A new licensure analyst has been hired for start date 12/1/2022. The Licensure Analysts have been divided into two sub-teams, each supervised by an Assistant Director of Investigations.

BLE now has a dedicated public information inquiry email address and a tab on the BLE website outlining the procedure to submit a request. These inquiries will route to the General Counsel.

The State Bar offers a supervised practice card for newly graduated law students. Feedback is that implementation of the program has been somewhat confusing and supervisees have noted several grey areas with regards to practice. Hoang met with Chris Ritter of the State Bar and Ritter has agreed to create a letter that will go out to supervised practice card holders that outlines more specifically the parameters of the program.

8.2. Report on 2022 CBAA Fall Meeting

Hoang, Drish, Schiller, Parks, and Strunc attended on behalf of BLE. Hoang, Drish, Schiller, and Strunc acted as panel presenters or

facilitators during the conference.

8.3. Report on Bar Forum

BLE reinstated the annual Bar Forum and Luncheon, which was last held in 2019. Judge Cindy Martin and Marilyn Wellington, both representing NCBE, presented on the NextGen Bar Exam. Many of the Supreme Court Justices, several State Bar executives, and representatives from all Texas law schools were in attendance. Rivera and Hoang received numerous positive comments from attendees.

8.4. NCBE's NextGen Bar Exam

Update: The first administration of the NextGen Exam will be July 2026. There will be a period where the current exam and the NextGen exam will both be available and jurisdictions will select which exam to offer. Due to grading platforms, the NextGen exam would require a change in software provider so BLE would have to switch from ILG to another provider.

Potential Rule changes: The Board will need to be prepared to make a recommendation to the Supreme Court on whether Texas will continue with the UBE using the NextGen examination and when that transition will happen. The Rules will also need to be updated to reflect correct verbiage regarding the Texas Bar Exam, UBE, and NextGen exams. The Rules would also need to be updated to reflect changes in technology fees for the NextGen exam.

8.5. Complaint resolution report

There were no complaints to report for the period 6/1/2022 – 10/31/2022.

8.6. Administratively determined waivers report

Hoang presented the administratively determined waiver report to the Board.

8.7. Articles of interest

Hoang provided the Board with copies of articles related to bar admissions and legal education that are pertinent to the work being done by the Board of Law Examiners.

8.8. Legislation of interest

Hoang is currently not tracking any legislation of interest.

8.9. Calendar updates

The January 2023 waivers, hearings, and board workshop will take place in San Antonio. Transportation and accommodations will be provided for board and staff in San Antonio for all board-related activities.

Dates for the February 2023 and July 2023 bar examination formal reviews will be scheduled at the January 2023 Board Workshop.

By mutual agreement, the Board accepted the draft CY2023 calendar. Please submit any hearings or waivers conflicts to Chris Copeland, board meeting conflicts to Hoang and Rivera, and all other conflicts to Gonzales.

8.10. January 2023 Board Workshop planning

Drish and Schiller recently attended a presentation given by Dr. Lubin regarding addiction within the legal community. They suggested he be included on the January 2023 Board Workshop agenda. Ereon Giltner requested that any presentations regarding addiction and/or recovery include a representative from TLAP.

9. Report of Director of Investigations – Drish

9.1. Recommendations of probationary licenses to convert to regular licenses and for minor modifications to probationary licenses

Drish presented the probationary license conversion report to the Board.

9.2. Annual report of character and fitness determinations

Drish presented the annual report of character and fitness determinations to the Board.

9.3. Discuss potential revisions to PDL Guidelines, for possible assignment to a subcommittee

Drish provided the Board with a copy of current PDL Guidelines, all of which were drafted by the Board except three. She asked that the Board review and possibly approve the three staff-drafted Guidelines. Rivera noted it has been many years since the full Guidelines were reviewed. At the Board's request, Drish agreed to work with the Diversity and Inclusion Subcommittee to review the full PDL Guidelines and make suggestions for changes at the January 2023 Board Workshop.

10. Report of Director of Admissions – Sullivan

10.1. Report on July 2022 Grade Release

Sullivan presented the July 2022 Texas Bar Exam statistics.

10.2. February 2023 Texas Bar Exam update

The February 2023 exam will be held at the Austin Convention Center, which offers sufficient space for all main room examinees, as well as all accommodated examinees.

10.3. Discuss 5-time waiver policy

Sullivan asked the Board to consider revisions to Rule 11(f), specifically the time requirement between previous exam and waiver request eligibility and documentation of life events that constitute mitigating circumstances. The Board declined to take action on the proposal.

At 1:01 PM, Rivera recessed the meeting for lunch.

At 1:21 PM, Rivera reconvened the meeting in open session.

11. Subcommittee Reports – Chair

Subcommittee on Rules and Guidelines provided the Board with a copy of the Hearings Procedures currently utilized by BLE. Subcommittee Chair Ereon Giltner suggested revisions to these procedures that the subcommittee believes will streamline the process. The Board requested additional time to review the procedures. As such, the subcommittee will work on suggested edits and provide its proposal for any changes at the January 2023 Board Workshop.

12. Report on NCBE – Chair

Rivera reiterated how well received the Bar Forum and Luncheon NextGen presentation was by attendees. He noted how engaged and involved Texas is with NCBE, and that our jurisdiction is well respected. He thanked staff for its continued leadership in this area.

At 1:36 PM, pursuant to Tex. Gov't Code §551.071, Rivera closed the meeting to executive session.

13. Report of General Counsel – Parks

13.1. Litigation report

At 2:00, Rivera reconvened the meeting in open session.

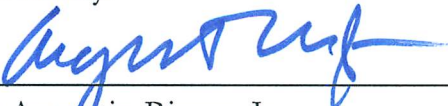
14. Consider issues arising from reports of Executive Director, Director of Investigations, Director of Admissions, General Counsel, Committees, and Subcommittees – Chair

No issues were raised for discussion.

15. Adjourn – Chair

With no further business to discuss, Rivera adjourned the meeting at 2:01.

Approved by:



Chair Augustin Rivera, Jr.