

Texas Board of Law Examiners

Appointed by the Supreme Court of Texas

Minutes of the Meeting of the Board of Law Examiners January 12 – 13, 2024

Friday, January 12, 2024

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

Board Chair Augustin Rivera, Jr. called the meeting to order at 9:07 a.m.

Board members Ellis, Ereon Giltner, Mackenzie, Massey, McKim, Odom, and Soltero attended in person.

Board Chair Rivera and Board member Orr attended via Zoom. Orr was excused from the meeting at 12:00 p.m.

Also present in person were BLE staff members Hoang, Sullivan, Drish, Parks, Schiller, A. Shaheen, Gonzales, Strunc, Mayhew, Copeland, and Ramirez, and Chad Buechendahl of ACS Ventures. BLE staff member R. Shaheen appeared by Zoom.

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

No additional members of the public were present.

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

No minutes were submitted for consideration.

4. Report of Accountant – Shaheen

4.1. Review investment reports

Shaheen presented the investment report for the 1st quarter of FY2024, period ending 11/30/2023.

4.2. Review first quarter financial report

Shaheen presented the financial report for the 1st quarter of FY2024, period ending 11/30/2023, and a copy of the final audit prior to the meeting. Tran highlighted the information included in the Governance Letter and opened the floor to questions from the Board.

Rivera asked for clarification regarding the section “Significant Risks Identified” within the Governance Letter, and Tran confirmed that

while the report identified areas of potential significant risks, the auditors found no indication that these areas posed actual risk to the BLE.

The board members discussed that the audit alone could not uncover certain financial problems, such as collusion between staff and vendors. Shaheen noted that all contracts and invoices are reviewed by multiple staff members, as required by state purchasing policy. Rivera tasked the Finance Committee with evaluating the issue and reporting at a future board meeting.

5. Report of Finance Committee – Giltner

Giltner reported that the Finance Committee met on January 12, 2024, to review the annual audit, the annual renewal of the Policy for Investment of Board Funds, and the annual renewal of the Certificate of Deposit Authority Resolution. The Finance Committee voted unanimously to submit the Audit, Policy, and Resolution to the full Board for consideration.

Giltner, on behalf of the Finance Committee, proposed that the Board accept the Report of the Auditors as presented. Soltero moved to accept the report. Odom seconded that motion. The motion passed unanimously.

6. Consider approval of Policy for Investment of Board Funds

Soltero moved to approve the Policy for Investment of Board Funds. Odom seconded that motion. The motion passed unanimously.

7. Consider approval of the Certificate of Deposit Authority Resolution

Odom moved to approve the Certificate of Deposit Authority Resolution. Soltero seconded that motion. The motion passed unanimously.

8. Consider approval of bank-specific authorizations

Ellis moved to approve the Executive Director as an authorized representative when completing bank-specific authorizations. Odom seconded that motion. The motion passed unanimously.

At 9:51 AM, Rivera closed the meeting to executive session pursuant to Tex. Gov't Code §551.071.

9. Report of General Counsel – Parks

9.1. Litigation Report

This occurred in closed session.

At 10:08 a.m., Rivera paused the meeting for a break.

At 10:30 a.m., Rivera reconvened the meeting in open session.

At 10:31 a.m., Rivera closed the meeting to executive session pursuant to Tex. Gov't Code §§551.071 and 551.088.

10. Presentation from ACS Ventures on Texas BLE Standard Setting Study – Buckendahl

This occurred in closed session.

11. Presentation from staff on recent standard setting studies and minimum passing score changes in other jurisdictions – Sullivan

This occurred in closed session.

12. Consider recommendation to Supreme Court of Texas about the minimum passing score on the Texas Bar Exam – Chair

This occurred in closed session.

At 11:53 a.m., Rivera paused the meeting for lunch.

At 1:00 p.m., Rivera resumed the meeting in closed session.

At 2:25 p.m., Rivera paused the meeting for a break.

At 2:38 p.m., Rivera reconvened the meeting in open session. The Board took no action on items 9-12.

13. Report of Executive Director—Hoang

13.1. General agency operations, including staff updates and courtesy seat fees

Genevieve Ramirez has been reclassified as Legal Secretary and will now support the Legal Team, rather than the Administrative Team.

Discussion of courtesy seat fees was deferred.

13.2. Calendar update, including date(s) for February 2024 Formal Reviews, August 2024 hearings, and proposals for calendar year 2025

Board members agreed to hold February 2024 Formal Reviews via Zoom on May 13-14, 2024, to conclude by 5 p.m. each day. Gonzales will solicit Board Members' preferred date by email.

Proposals for August hearings and for Calendar Year 2025 were deferred.

13.3. Report on Administratively Determined Waiver Decisions

The Report on Administratively Determined Waiver Decisions was provided to the Board in the meeting book prior to the meeting.

13.4. Articles of Interest

Articles of interest were provided to the Board in the meeting book prior to the meeting.

13.5. Complaint Resolution Report

There were no complaints submitted to BLE between 11/1/2023 and 1/12/2024 to be presented to the Board.

13.6. Presentation on Investigation of Alleged Exam Misconduct
Deferred.

14. Report of Director of Admissions – Sullivan

14.1. General exam operations, including accommodations, grader pay, written description of how the Board conducts formal reviews, and update on Policy Statement On Practice Requirements For Rule XIII
Deferred.

14.2. Report on February 2024 Texas Bar Exam
Deferred.

15. Report of Director of Investigations – Drish

15.1. Recommendations of probationary licenses to be converted to regular licenses and for minor modifications to probationary licenses.
The report of conversion of probationary licenses and for minor modifications to active probationary licenses was provided to the Board prior to the meeting.

16. Character and fitness investigation and civility – Chair

16.1. Presentation from Allison Drish

Drish discussed some of the current questions on the Texas applications for admission, and how other jurisdictions investigated civility and incivility when evaluating applicants' present good moral

character and fitness. inquiries. Board members' discussion included: how broadly civility should be defined for purposes of investigating present good moral character and fitness; the role of the Lawyers Creed in defining civility; possible changes that could be made to the Application and the impact of those potential changes; whether the investigation should be limited to instances of incivility that resulted in school discipline or professional discipline; and the resources needed to police civility in law school.

- 16.2. Consider changes to scope of character and fitness investigation to include civility – Chair

Ellis moved to change the current application question regarding ethics during the past five years to include “civil manner” as outlined in option 2 of the email from Hoang to Drish. (An email copy was provided to the Board.) Odom seconded the motion. The motion was approved 7 – 1, with dissent from Soltero. Orr was not present for the vote.

Mackenzie moved to change the current application question regarding school discipline as outlined in option 1 of the email from Hoang to Drish. Odom seconded the motion. The motion was approved 6 – 2, with dissent from Ellis and Rivera. Orr was not present for the vote.

17. Rule 23 of the Rules Governing Admission to the Bar of Texas and military service personnel

- 17.1. Report of Subcommittee on Rules and Guidelines – Giltner

Giltner and Hoang outlined the work that has been undertaken by the Subcommittee on Rules and Guidelines, including a proposed amendment to Rule 23. Currently, Rule 23 allows certain out-of-state attorneys to obtain temporary Texas law licenses if they are married to an active-duty military service member who has been ordered stationed in Texas. The subcommittee proposed extending this benefit to the military service member as well and removing the requirement that the service member be stationed in Texas. These changes would cause Rule 23 to correspond more closely to the recently-amended Tex. Occ. Code §55.0041.

- 17.2. Consider recommending amendments to Rule 23 – Chair

Soltero moved to accept the proposed amendment to Rule 23 as discussed during the meeting. McKim seconded the motion. The

motion passed unanimously, with the exception of Orr who was not present for the vote.

18. Policy for special exam arrangements for religious reasons

18.1. Report from DEI Subcommittee – Orr

Deferred.

18.2. Consider adopting policy – Chair

Deferred.

19. Rule 13 and accredited law schools

19.1. Report of Subcommittee on Rules and Guidelines – Giltner

Deferred.

19.2. Consider amending Rule 13 – Chair

Deferred.

20. Consider subcommittee appointments

Deferred.

21. Consider subcommittee charges

Deferred.

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

No issues were raised for discussion.

23. Adjourn – Chair

Rivera recessed the meeting at 3:50 p.m.

Saturday, January 13, 2024

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

On Saturday, January 13, 2024, Chair Augustin Rivera, Jr. called the meeting to order at 10:15 a.m. Board Members Ellis, McKim, Odom, Massey, Ereon Giltner, and Mackenzie were present. Board Chair Rivera and Board Member Soltero attended via Zoom. Board Member Cynthia Orr was

absent with an excused recusal.

Also present were BLE staff members Hoang, Sullivan, Drish, Schiller, Shaheen, Gonzales, Strunc, and Mayhew. Addition attendees were Law School Deans Michael Barry, Patricia Roberts, and Jack Nowlin.

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

No members of the public were present to submit comments.

26. Consider delegating authority to staff to decide certain requests for waivers – Chair, Sullivan

Sullivan presented on Rule 11(f), Rule 2(a)(7), Rule 5, and Rule 13(3) and (4).

Staff recommend that the Board delegate authority to the Executive Director to approve—but not deny—initial requests to waive Rule 11(f) where the requestor demonstrated the elements of the Board’s guidelines for waiving Rule 11(f). McKim moved to approve the recommendation. Massey seconded. The Board voted unanimously to approve the motion.

Staff recommend that the Board delegate authority to the Executive Director to deny—but not to grant—requests to waive the requirement a passing score on the UBE, Texas Bar Exam, or MPRE. Odom moved to approve the recommendation. McKim seconded the motion. The motion passed unanimously.

Staff recommend that the Board delegate authority to the Executive Director to waive the requirement of Rule 13 §10(b) to document authorization to practice law in another jurisdiction for applicants who were prevented from providing such documentation due to political turmoil, forcible surrender, or differences in the jurisdiction’s documentation procedures. After discussion, the Board suggested that staff revise its recommendation and present it at a future meeting.

27. NextGen Bar Exam

27.1. Report on Texas BLE NextGen Working Group – Chair

Rivera recapped that the Board continued to evaluate the NextGen Bar Exam with the goal of providing the Court with a recommendation of whether to adopt NextGen; if so, when Texas would administer the first NextGen exam and what changes, if any, should be made to the Texas Law Component. The Board’s recommendation should be made after careful consideration of direct input from Texas law school deans.

Rivera stated that the Texas BLE NextGen Bar Exam Workgroup consisted of Dean Michael Berry of South Texas College of Law Houston; Dean Patricia Roberts of St. Mary's Law School; Dean Jack Nowlin of Texas Tech School of Law; Augustin Rivera, Jr., Chair of the BLE; Anna McKim, BLE board member; and Al Odom, BLE board member.

The Workgroup had its first meeting on December 18, 2024, and its second meeting on January 13, 2024.

The Workgroup plans to meet again on February 16, 2024.

28. Consider timeline for evaluating NextGen Bar Exam – Chair

The Board discussed evaluation of the NextGen Bar Examination, as well as changes to the Texas Law Component that might be warranted if Texas adopted the NextGen Bar Examination.

Rivera noted that the Board should be prepared to make a recommendation to the Court by early summer 2024.

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

Hoang noted that at a prior meeting, the Board had asked for information on fees for courtesy seats. She explained that, per Rule 18, the courtesy seat fee for students was \$300 (\$150 student application fee plus \$150 examination fee), and the fee for attorneys was \$850 (\$700 attorney application fee plus \$150 examination fee). The Board suggested that attorneys who had been licensed 3 years or less should still be assessed the student application fee rather than the attorney application fee. Hoang confirmed that the fee schedule will be changed to reflect the recommendation.

30. Adjourn – Chair

Rivera adjourned the meeting at 11:23 a.m.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Nahdiah Hoang", written over a horizontal dashed line.

Nahdiah Hoang, Executive Director

Attested,

A handwritten signature in blue ink, appearing to read "Augustin Rivera Jr.", written over a horizontal solid line.

Augustin Rivera Jr., Chair