

Committee of Bar Examiners Meeting September 30, 2024

**RESOLUTION OF THE COMMITTEE OF BAR EXAMINERS APPROVING MODIFICATIONS TO THE
CALIFORNIA BAR EXAMINATION**

WHEREAS, the Committee of Bar Examiners (CBE), pursuant to the authority delegated to it by the Board of Trustees (Board), is responsible for determining the California Bar Examination's format, scope, topics, content, questions, and grading process, subject to review and approval by the Supreme Court, as set forth in rule 9.6(a) of the California Rules of Court;

WHEREAS, the Admissions Fund has had a budget deficit since 2022, but has been able to support its operations with fund reserves, cost cutting measures and recent increases to the admissions fees;

WHEREAS, the Admissions Fund has depleted its reserves, and in the absence of additional modifications to the administration of the bar exam, the Admissions Fund will become insolvent in 2026;

WHEREAS, the developer of the Multistate Bar Examination (MBE), the National Committee of Bar Examiners (NCBE), prohibits the MBE from being delivered remotely or in vendor-run test centers, and the MBE is currently part of the bar exam;

WHEREAS, the NCBE has announced that is transitioning to a new exam and will no longer administer the MBE after July 2027;

WHEREAS, on April 19, 2024, the CBE recommended to the Board that the State Bar retain a new vendor to develop exam questions to allow for cost-effective bar exam administration, including fully remote, designated test centers, or hybrid approaches;

WHEREAS, on July 18, 2024, the Board authorized and delegated authority to the Board chair and executive director to negotiate terms of and, if appropriate, execute an agreement with Kaplan North America, LLC (Kaplan) or its designated subsidiary in an amount not to exceed \$8.25 million for a term of five years for the development of multiple-choice, essay, and performance test questions for the bar exam, and take any necessary actions to effectuate the agreement;

WHEREAS, on August 9, 2024, the State Bar entered into a contract with Kaplan North America, LLC for question development for the bar exam;

WHEREAS, on September 9, 2024, the State Bar filed a petition with the Supreme Court (Case (Case No. S286825) seeking approval of proposed modifications to the bar exam, including permitting the State Bar to administer the bar exam in-person, remotely, and/or in designated

test centers, and removing reference to the MBE, so that the State Bar could utilize multiple-choice questions developed by Kaplan;

WHEREAS, on September 18, 2024, the Supreme Court denied the petition without prejudice to a future petition seeking modifications that have been considered and formally approved by the CBE;

WHEREAS, so that the bar exam is administered securely, the State Bar requires the use of a vendor to deliver bar exam questions to applicants;

WHEREAS, after conducting vendor outreach and evaluating vendors that could securely administer the bar exam in the proper format, either remotely and/or in vendor-owned test centers, and that could provide a sufficient level of proctoring and technical support for both remotely administered and test-center administered examinations, State Bar staff recommended to the Board at its September 19, 2024 meeting to contract with ProctorU dba Meazure Learning (Meazure Learning), beginning with the February 2025 bar exam;

WHEREAS, on September 19, 2024, the Board approved a contract in the amount of \$4,108,500 for Meazure Learning, subject to negotiation of appropriate contractual terms and action by CBE, that will, among other things, enable Meazure Learning to provide a secure exam delivery platform, proctoring services for both remote and test center examinations, and test centers for the February and July 2025 bar exams;

WHEREAS, following the Board's September 19, 2024, approval of the Meazure Learning contract amount, and in preparation for the CBE's September 30, 2024, meeting, State Bar staff has continued discussions with Meazure Learning on, among other things, its software security features, proctoring levels, availability of technical support, and ability to administer all aspects of the exam; and

WHEREAS, on September 30, 2024, the CBE held a meeting for the purpose of considering and taking action approving modifications to the bar exam, starting with the February 2025 administration and to address the California Supreme Court's September 18, 2024 order (Case No. S286825), including vendors for question development and remote/in-person test center exam administration.

NOW, THEREFORE, IN CONSIDERATION OF THE RECITALS HEREIN AND THE INFORMATION PRESENTED IN THE ACCOMPANYING STAFF REPORT AND STAFF PRESENTATION AT THE COMMITTEE OF BAR EXAMINERS' SEPTEMBER 30, 2024, MEETING, THE COMMITTEE OF BAR EXAMINERS RESOLVES AS FOLLOWS:

SECTION 1. The Committee of Bar Examiners approves the use of the Kaplan-developed multiple-choice questions for the February 2025 bar exam and future bar exams, subject to psychometric validation.

SECTION 2. The Committee of Bar Examiners approves Measure Learning as the vendor to provide a secure examination delivery platform, administer the exam either remotely or in-person in the proper format, provide sufficient proctoring and technical support for both remotely administered and test-center administered examinations, and test centers for the February 2025 bar exam, and future bar exams, subject to negotiation of contract terms.

SECTION 3. The Committee of Bar Examiners approves that, beginning with the February 2025 administration of the bar exam, (a) the multiple-choice portion of the bar exam shall consist of 200 multiple-choice questions covering constitutional law, contracts, criminal law and procedure, civil procedure, evidence, real property, and torts and (b) be delivered remotely and/or in person at vendor-run or State Bar-run test centers.

SECTION 4. The Committee of Bar Examiners directs staff to seek appropriate approval from the Supreme Court to modify its prior order on the bar exam in accordance with Sections 1 through 3 of this resolution.