



The State Bar of California

OPEN SESSION AGENDA ITEM 4.1 OCTOBER 2024 COMMITTEE OF BAR EXAMINERS

DATE: October 11, 2024

TO: Members, Committee of Bar Examiners

FROM: Audrey Ching, Program Director, Office of Admissions

SUBJECT: Discussion on California Rule of Court, rule 9.6, and the Committee of Bar Examiners' Roles and Responsibilities

EXECUTIVE SUMMARY

This item reviews California Rule of Court, rule 9.6, which governs the responsibilities of the Committee of Bar Examiners (CBE) regarding the California Bar Examination and provides a breakdown of the CBE's oversight roles and responsibilities as well as those of the Board of Trustees (BOT) and the California Supreme Court.

DISCUSSION

California Supreme Court

The California Supreme Court plays a crucial role in overseeing bar admissions in the state. The Court has inherent authority to admit individuals to the practice of law and supervises the State Bar's activities, with the State Bar acting as its administrative arm. The Supreme Court appoints ten members to the CBE, including at least one judicial officer and nine licensed California attorneys. The Court reviews and approves all rule changes pertaining to the admission to practice law proposed by the CBE and endorsed by the BOT. Final authority for setting admissions standards, such as the cut score for the bar exam, rests with the Supreme Court.

California Legislature

The California Legislature created the State Bar in 1927 through the State Bar Act (codified in the Business and Professions Code, sections 6000 et seq.). It plays a vital role in regulating the legal profession by setting key mandates for the composition and responsibilities of the CBE. The Legislature requires that the CBE includes nine public members, who must never have been licensed attorneys. These members are appointed by the Governor, the Speaker of the Assembly, and the Senate Rules Committee. While these public members hold the same rights as attorney members, they cannot participate in selecting bar exam questions. The Legislature also empowers the BOT to establish rules for CBE's operations, which the CBE must follow.

California Rule of Court, rule 9.6

California Rule of Court, rule 9.6 outlines the following: the Committee of Bar Examiners, operating under authority delegated by the Board of Trustees, plays a crucial role in shaping the California Bar Examination. Its primary responsibilities include determining the examination's format, scope, topics, content, questions, and grading process. These decisions are subject to review and approval by the Supreme Court, which retains final authority in setting the cut score. The committee also reviews the State Bar's validity analysis of the examination at least every seven years before submission to the Court and reviews the reports after each examination administration prepared for the Supreme Court.

Overview

The CBE, operating under authority delegated by the BOT and the California Supreme Court, has the following key responsibilities, with policy oversight as an overarching mandate:

- **Policy Oversight:** Makes policy decisions that impact the various functions of the Office of Admissions.
- **Bar Examination:** Determines the format, scope, content, questions, and grading of the bar exam, subject to review and approval by the Supreme Court. California Rule of Court, rule 9.6 also requires that the State Bar conducts a validity analysis every seven years and prepares reports for the Supreme Court after every administration of the bar examination. Hears exam rule violation appeals.
- **First-Year Law Students' Examination:** Oversees the development, administration, and grading of this exam. Hears exam rule violation appeals.
- **Law School Oversight:** Accredits 21 California law schools and oversees 11 registered unaccredited schools.
- **Moral Character Determinations:** Considers and decides moral character determination appeals.
- **Testing Accommodations:** Reviews and decides testing accommodation appeals.
- **Eligibility Appeals:** Reviews appeals concerning examination eligibility.
- **Subcommittee Management:** Creates and oversees subcommittees (currently named) Educational Standards, Examinations, Moral Character, and Operations and Management.

Overall, the Committee of Bar Examiners is tasked with managing bar admissions, including the development, grading and administration of bar exams and the First-Year Law Students’ Exam; determining eligibility, moral character, and testing accommodations appeals; and making policy decisions regarding the work of the Office of Admissions. The CBE’s decisions, while operationally detailed, must ultimately align with the governance oversight of the Board of Trustees and be subject to approval by the California Supreme Court.

Table 1. Comparison of Responsibilities

	Committee of Bar Examiners	Board of Trustees	California Supreme Court
Primary Focus	Bar exam administration, moral character determinations, educational standards for applicants, and testing accommodations.	Oversees the broader regulatory and strategic operations of the State Bar, including fiscal oversight and policy approval.	Ultimate authority on admissions, discipline, and approval of major rule changes.
Key Responsibilities	Develops, administers and grades the bar exam and the First-Year Law Students’ Exam, moral character reviews, and managing testing accommodations.	Provides governance, approves policies, oversees budget development, and ensures alignment with the public protection mission.	Reviews and approves bar admissions policies, ensures the legal profession’s integrity, and finalizes rule changes recommended by CBE to the BOT.
Authority	Handles bar admissions-related decisions but requires BOT and Supreme Court approval for major changes.	Oversees CBE policy approvals, manages budget and staff, and liaises with the Supreme Court for final approvals.	Final authority on all rule changes, admissions decisions, and governance affecting the legal profession.
Operational Focus	Administers bar exams and First-Year Law Students' Exam, oversees and hears appeals on moral character reviews, testing accommodations, and exam rule violations, and oversees law school regulation for California-accredited	Guides the State Bar’s mission, appoints selected personnel, and oversees budget and regulatory compliance.	Reviews and approves policy and procedural changes, ensuring the public interest is served.

	and Unaccredited Law Schools.		
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PREVIOUS ACTION

None

FISCAL/PERSONNEL IMPACT

None

AMENDMENTS TO RULES

None

STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS

None – core business operations

RESOLUTIONS

Discussion only

ATTACHMENT(S) LIST

- A. CBE Governing Authority