

Oregon State Bar
Special Meeting of the Board of Governors

January 27, 2015

8:00 a.m.

Conference Call

Open Agenda

- | | | | |
|--|--|--------|---------|
| 1. Call to Order | | | |
| 2. Reconsideration of Board of Bar Examiners Legislation | | Action | Exhibit |

**Operating Principles
for the
Oregon State Bar and Board of Bar Examiners**

1. BBX and OSB Roles and Responsibilities in Admissions

The Oregon Supreme Court has sole authority to determine who should be admitted to the practice of law in the State of Oregon. The Board of Bar Examiners (“BBX”) is appointed by the Court to examine applicants and recommend to the Court for admission to practice those applicants who meet the requirements prescribed by the law and the rules of the Court. To that end, the BBX’s responsibilities include: developing and adopting a bar examination; determining the manner of examination, including what accommodations to provide applicants; grading bar examinations; setting standards for bar exam passage, and; evaluating applicants’ character and fitness to practice law.

The Oregon State Bar (“OSB”) is responsible for providing facilities, equipment and administrative support to the BBX and otherwise implementing admissions policies established by the BBX and the Court.

2. Employment: Admissions Director and Admissions Staff

The Admissions Department staff, including the Admissions Director, are employees of the OSB.

A. Hiring of the Admissions Director

In the event of a vacancy in the Admissions Director position, the OSB will prepare a job description in consultation with the BBX. The OSB will conduct the initial screening of applicants. The initial pool of candidates will be submitted to the BBX for consideration. The BBX and the OSB will conduct joint interviews of selected candidates and the BBX will recommend its choice for the position to the OSB Executive Director. The OSB Executive Director will make the final hiring decision, giving due consideration to the recommendation and input of the BBX and subject to the BBX’s not objecting to the final hiring decision. If the BBX objects to the Executive Director’s final hiring decision, recruitment will be reopened.

B. Supervision, Discipline, Firing or Reassignment of the Admissions Director

OSB Regulatory Counsel is responsible for the day-to-day supervision and annual performance evaluation of the Admissions Director. The BBX will provide input on its

working relationship with the Admissions Director and any concerns that it may have. The OSB Executive Director will make personnel decisions regarding the Admissions Director, including but not limited to discipline, reassignment or employment termination, giving due consideration to the recommendations and input of the BBX.

3. Liability

A. OSB

As provided in OSB Bylaw 2.106 and subject to the limitations provided in the Oregon Tort Claims Act, the OSB will defend and indemnify the OSB officers, Board of Governors, individual BOG members and OSB employees, including Admissions Department staff, against and for any and all claims arising out of an alleged act or omission occurring in the performance of their duties.

B. State of Oregon Judicial Branch

Subject to the limitations provided in the Oregon Tort Claims Act, the State of Oregon Judicial Branch will defend and indemnify the BBX and its individual members against and for any and all claims arising out of an alleged act or omission occurring in the performance of their duties.

4. Budget

With the approval of the Oregon Supreme Court, the BBX may fix and collect fees to be paid by applicants for admission, which shall be paid into the treasury of the OSB. The BBX annual budget shall be prepared and BBX fiscal operation shall be managed in accordance with OSB policy, including cost containment measures that the OSB may implement for the OSB as a whole. The BBX annual budget shall be approved for submission to the Court by mutual agreement of the BBX and the BOG, after consideration of the policy goals and strategic plans (including, but not limited to, technology enhancements) of the BBX and the BOG.

5. Confidentiality

The OSB and BBX recognize that, pursuant to Oregon Supreme Court rule, the records, work product and proceedings of the BBX in carrying out its functions are confidential. The OSB will exercise reasonable care to prevent unauthorized disclosure of BBX records

and information and will adhere to the rules of the Oregon Supreme Court regarding confidentiality.

6. These Operating Principles supersede and replace the 1989 Agreement between the Oregon State Bar and the Board of Bar Examiners.

Approved by:

Hon Thomas A. Balmer
Chief Justice, Oregon Supreme Court

Date

Tom Kranovich
President, Oregon State Bar

Date

Renee Starr
Chair, Board of Bar Examiners

Date

1 an "employee" as the term is defined in the public employees' retirement laws. However, an em-
2 ployee of the state bar may, at the option of the employee, for the purpose of becoming a member
3 of the Public Employees Retirement System, be considered an "employee" as the term is defined in
4 the public employees' retirement laws. The option, once exercised by written notification directed
5 to the Public Employees Retirement Board, may not be revoked subsequently, except as may other-
6 wise be provided by law. Upon receipt of such notification by the Public Employees Retirement
7 Board, an employee of the state bar who would otherwise, but for the exemption provided in this
8 subsection, be considered an "employee," as the term is defined in the public employees' retirement
9 laws, shall be so considered. The state bar and its employees shall be exempt from the provisions
10 of the State Personnel Relations Law. No member of the state bar shall be considered an
11 "employee" as the term is defined in the public employees' retirement laws, the unemployment
12 compensation laws and the State Personnel Relations Law solely by reason of membership in the
13 state bar.

SECTION 5. ORS 9.200 is amended to read:

15 9.200. (1) Any member in default in payment of membership fees established under ORS 9.191 (1)
16 [*for a period of 30 days, or any person in default in payment of membership fees established under*
17 *ORS 9.191 (2) for a period of 30 days after admission or as otherwise provided by the board,*] or any
18 member in default in payment of assessed contributions to a professional liability fund **established**
19 under ORS 9.080 (2) [*for a period of 30 days, shall, after 60 days' written notice of the delinquency,*
20 *be suspended from membership in the bar]* **shall be given written notice of delinquency and a**
21 **reasonable time to cure the default.** The executive director of the Oregon State Bar shall send
22 the notice of delinquency to the [*delinquent*] member at the member's electronic mail address on file
23 with the bar on the date of the notice. The executive director shall send the notice by mail to any
24 member who is not required to have an electronic mail address on file with the bar under the rules
25 of procedure. If a [*delinquent*] member fails to pay the fees or contributions within [*60 days after the*
26 *date of*] **the time allowed to cure the default as stated in** the notice, the member is automatically
27 suspended. The executive director shall provide the names of all members suspended under this
28 section to the State Court Administrator and to each of the judges of the Court of Appeals, circuit
29 and tax courts of the state.

(2) An active member delinquent in the payment of fees or contributions is not entitled to vote.

31 (3) A member suspended for delinquency under this section may be reinstated only on compli-
32 ance with the rules of the Supreme Court and the rules of procedure and payment of all required
33 fees or contributions.

BOARD OF BAR EXAMINERS

SECTION 6. ORS 9.210 is amended to read:

38 9.210. [The Supreme Court shall appoint 12 members of the Oregon State Bar to a board of bar
39 examiners. The Supreme Court shall also appoint two public members to the board who are not active
40 or inactive members of the Oregon State Bar. The board shall examine applicants and recommend to
41 the Supreme Court for admission to practice law those who fulfill the requirements prescribed by law
42 and the rules of the Supreme Court. With the approval of the Supreme Court, the board may fix and
43 collect fees to be paid by applicants for admission, which fees shall be paid into the treasury of the
44 bar.]

(1) The Board of Governors of the Oregon State Bar shall nominate for appointment by

1 the Supreme Court a board of bar examiners to examine applicants, investigate their char-
2 acter and fitness and other qualifications and certify to the Supreme Court for admission to
3 the Oregon State Bar those applicants who fulfill the requirements prescribed by law and the
4 rules of the Supreme Court. The composition of the board of bar examiners shall be as pro-
5 vided in the rules adopted under subsection (2) of this section. The Supreme Court may ap-
6 point the nominated individuals or may appoint other individuals to the board of bar
7 examiners.

8 (2) The board of governors shall formulate rules for carrying out the functions of the
9 board of bar examiners and rules governing the qualifications, requirements and procedures
10 for admission to the bar by examination and otherwise. After the rules are adopted by the
11 Supreme Court, the board of governors has the power to enforce the rules.

12 (3) With the approval of the Supreme Court, the board of governors shall fix and collect
13 fees to be paid by applicants for admission to the bar.

14 (4) Applications for admission and any other materials pertaining to individual applicants
15 are confidential and may be disclosed only as provided in the rules described in subsection
16 (2) of this section. The bar's consideration of an individual applicant's qualifications is a ju-
17 dicial proceeding for purposes of ORS 192.610 to 192.690.

18 **SECTION 7.** The Board of Governors of the Oregon State Bar shall first nominate and
19 the Supreme Court shall first appoint the board of bar examiners in accordance with the
20 amendments to ORS 9.210 by section 6 of this 2015 Act on or before September 1, 2015.

21
22 **UNIT CAPTIONS**
23

24 **SECTION 8.** The unit captions used in this 2015 Act are provided only for the convenience
25 of the reader and do not become part of the statutory law of this state or express any leg-
26 islative intent in the enactment of this 2015 Act.

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28 **EMERGENCY CLAUSE**
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30 **SECTION 9.** This 2015 Act being necessary for the immediate preservation of the public
31 peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect
32 on its passage.
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