

**Minutes of the Meeting of the Standard Setting Task Force
Oregon State Board of Bar Examiners
April 8, 2021
Zoom Meeting – Invites are sent via Outlook Calendar
Open Session Agenda**

Thursday, April 8, 2021, 4:00 p.m.

Attendees:

<u>Members:</u>	Caroline Wong (Chair), Hon. Angela Lucero, Michael Slauson, JB Kim, Helen Hierschbiel, John Parry, Megan McAlpin, Jeff Dobbins
<u>Court Liaison:</u>	Lisa Norris-Lampe
<u>Court Representative:</u>	Justice Meagan Flynn
<u>OSB Staff Liaison:</u>	Troy Wood
<u>Other Attendees:</u>	None

1. Call to Order/Finalization of Agenda

4:06 PM call to order. All parties introduced themselves.

2. Reviewed Chief Justice Walters' Letter

The Chief Justices' letter was reviewed. Mr. Wood pointed out that there is no direct charge from the Chief Justice, but that it merely asked the BBX for a report on the pass score. The BBX voted to create this task force for that report. This task force will issue a report to the BBX, which will then issue a recommendation to the Court.

3. Standard Setting Process

- Mr. Wood explained that the OSB has hired a psychometrician service to conduct a study of practitioners to determine the minimum professional standard to be used in Oregon on future bar exams. It will involve an exercise, where 15 current practitioners will review past bar exam answers to determine whether the answer meets the minimum professional standard for lawyers in Oregon. The practitioners will consist of five newer lawyers, five who review new lawyer work product as part of their job, and five solo/small-firm practitioners.
- The panelists will be given facts related to the exam environment and time limitations of the exam, together with the general structure of the exam, so that the answers can be review in the context in which they were given. The panelists will not be told what standard to apply, but will be asked to consider whether they would pass an applicant who has applied the wrong rule to the correct issue and facts, which may show that the applicant has adequate lawyer skills but lacked the ability to look up the correct rule. The psychometricians will then take the data from the practitioners and apply that to the known scores of the applicants who provided the answers reviewed, and provide a report to the task force that identifies the average and median scores that would be passing using the opinion of the practitioners. The report will also provide a range

of scores that would be available using various error rate theories to the recommendations of the panelists.

- Once the report is received from the psychometricians, the task force will determine which pass score should be recommended to the Court and provide a written report to the BBX in furtherance of that recommendation.
- Chair Wong suggested that some of the data that was used in the 2017 recommendation should be updated to review what other UBE jurisdictions are doing related to their pass score and review any policy decisions that were considered by any states who made changes to their score since the BBX's 2017 pass score recommendation. Mr. Wood suggested that the pass score should be viewed in light of a jurisdiction's pass rate as well, in that a different score may still represent the same standard because it is scaled using that jurisdiction's pass score and their cohort's performance on the exam.
- Mr. Wood directed the members to the Materials link on the task force's webpage and pointed out that there are many articles and reports from psychometricians and policy proponents, as well as reports and studies related to other jurisdictions who have recently reviewed or changed their pass score. He recommended that all participants review the materials to familiarize themselves with the policy issues that are generally considered when establishing the pass score.
- Mr. Dobbins asked whether they should consider the limitations of the exam and whether it actually tests for competence in its current form. Mr. Wood said that the NCBE will have a new exam that is intended to address the issues that many critics lodge against the current form, and that the BBX sees a great deal of benefit in remaining a UBE state, namely related to the score portability. This aspect of the UBE benefits the current Oregon law school students and opens the Oregon lawyer job marketplace to more diverse candidates which provides the best opportunity for Oregon to develop a more diverse bar. Because of this, even if alternatives to a bar exam are developed, no one is suggesting that the UBE be completely replaced in Oregon, so we will still need the standard setting exercise performed and a pass score recommended to the Court. To address Mr. Dobbins' concern, Mr. Wood suggested that the panelists be given some of the materials that question the current bar exam as a method of measuring competence, so that they can determine whether those arguments should be considered in making their standard setting decisions.

4. Selection of Panelists

- Mr. Wood displayed the lawyers who were nominated by the members for the standard study exercise panel. The members considered the years of experience, current positions, geographical location, area of practice and available demographic data for each candidate. 15 members were selected. 4 nominees were placed on reserve status. No nominees were rejected. Mr. Wood said that he would send an email to all nominees and let them know their status. Additional nominees will be identified by members as potential nominees let the members know their availability. These names will be added as reserve panelists in case a selected panelist is unable to fulfill their duties.

5. Scheduling Next Steps

- Mr. Wood indicated that in order to meet June 30, 2021 deadline, the task force will have to have a parallel track where they discuss the policy consideration that should be used in determining the final recommended pass score. If there is consensus is reached on these issues, the task force could nominate a drafting committee to draft a report addressing these issues and subsequently plug in the data from the psychometricians' report.
- Ms. Norris-Lampe suggested that the task force meet more than once a month.
- Mr. Parry suggested that the task force meet every two-weeks, and if the policy work is completed ahead of schedule, the time between meetings could be expanded.
- Chair Wong suggested that the task force next meeting take place the week of 4/19/2021.
- Hearing no objections, Chair Wong instructed Mr. Wood to send a Doodle pole to all members for potential meeting times during the week of 4/19/2021.

6. Adjourn

- The meeting was adjourned at 4:52 PM