



## The Supreme Court of Texas

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August 28, 2020

Dear Texas Law School Deans:

Thank you for your letters to the Court dated July 25 and August 20 suggesting some parameters for an alternative approach to licensure by apprenticeship. These comments expand on one of the options you originally proposed in your letter of June 29, which the Court considered in issuing its July 3 order. The Court considered your additional comments at our conference on August 21, and we appreciate the input you have provided.

The Court is mindful of the serious challenges that the pandemic poses for your graduates and others seeking to join our profession. We are committed to ensuring that (1) the Board of Law Examiners completes its statutory duty to “examine each eligible candidate as to the candidate’s qualifications to practice law” (Tex. Gov’t Code § 82.004) as quickly as possible, (2) the Board offers options for examination that are consistent with public health guidance, (3) examinees are allowed to choose the option that best suits their individual circumstances, and (4) examinees are able to practice under supervision while awaiting licensure.

In its July 3 order, the Court directed the Board to administer an in-person examination in September in the safest possible manner based on guidance from public health authorities. In response, the Board moved away from the traditional method of administering the exam in large spaces—which many States used in July—and developed a plan to administer the exam in individual hotel rooms. That plan has been approved by the Department of State Health Services. As a second option for examinees, the Court joined many other States in directing the Board to administer an online examination in October. The Board is working diligently in partnership with these States to ensure the successful administration of this exam. And on May 20, the Court gave final approval to revised rules for supervised practice. Together, these steps are consistent with the recommendations of the ABA’s recent Resolution 10G.

The Court also remains interested in considering alternative paths to licensure, both as necessary in response to the pandemic and in the long term. In fact, the Court began a partnership with the ABA Commission on the Future of Legal Education late last year to explore possible alternatives. This important work is proceeding and much remains to be done.

In the short term, the Court has considered whether it is feasible to develop and immediately implement an option for licensure by apprenticeship that properly balances the many policy considerations such a program must meet. We appreciate your assistance with the first part of this task: identifying

possible parameters for an apprenticeship program. Compliance with the chosen parameters would need to be overseen by some administrative entity, much as the State Bar of Texas currently administers the supervised practice rules. The State Bar has advised the Court that it has concerns about its capacity to administer an apprenticeship program, and the Board of Law Examiners' budget and staff are fully committed to administration of the September and October exams. In the current economic environment, state agencies have been directed to reduce their budgets, so additional funds are not readily available for the Board to implement and administer a complex new program.

Nevertheless, the Court plans to examine whether the means can be found to implement and administer an apprenticeship program in the future should the pandemic continue to impact administration of the bar examination in 2021. We welcome any additional comments you may have on that issue. In addition, we are directing the Board of Law Examiners to consider the comments you have provided, consult with the State Bar, and provide recommendations to the Court regarding (1) the need for and advisability of an option for licensure by apprenticeship in 2021 in response to the pandemic, and (2) the structure and administration of any apprenticeship program.

Again, the Court appreciates your time and input as well as your commitment to your graduates and to the legal profession in Texas.

Sincerely,



Justice J. Brett Busby  
Liaison to the Board of Law Examiners  
on behalf of the Supreme Court of Texas

cc: Augustin Rivera, Jr., Chair, Texas Board of Law Examiners  
Susan Henricks, Executive Director, Texas Board of Law Examiners  
E.A. "Trey" Appfel III, Executive Director, State Bar of Texas