

New York State Board of Law Examiners

Diane F. Bosse, Chair
Bryan R. Williams
David M. Gouldin
Robert S. McMillen
E. Leo Milonas

CORPORATE PLAZA-BUILDING 3
254 WASHINGTON AVENUE EXTENSION
ALBANY, N.Y. 12203-5195
518-453-5990
FAX 518-452-5729
<http://www.nybarexam.org>

John J. McAlary
Executive Director

February 10, 2011

Stephen Younger, President
New York State Bar Association
One Elk Street
Albany, NY 12207

Dear President Younger:

I am writing to follow up on the meeting which Chief Judge Jonathan Lippman and Associate Judge Victoria A. Graffeo attended with the Deans of the New York law schools and Stephen Younger, President of the New York State Bar Association, on Friday, January 28, 2011 in New York City.

As Chief Judge Lippman and Judge Graffeo mentioned during the meeting, the State Board of Law Examiners has submitted recommendations to the Court for modification of the "cure provision" of Rule 520.6 of the Rules of the Court of Appeals for the Admission of Attorneys and Counselors at Law. We write to request your comments on the proposed Rule change. Please submit your comments to the Board no later than **March 9, 2011**.

By way of background, Rule 520.6 sets forth the eligibility requirements for foreign-educated applicants to sit for the bar examination. The Rule provides that an applicant whose foreign legal education is not equivalent to approved American legal education, either in content or duration, may qualify to sit for the bar examination if he or she "successfully complete[s] a full-time or part-time program consisting of a minimum of 20 semester hours of credit, or the equivalent, in professional law subjects, which includes basic courses in American law, in an approved law school in the United States" (22 NYCRR 520.6[b][1][ii]).

In brief, the Board proposes that the Court clarify its policies by adopting amendments to better specify the nature of the course of study that may cure a substantive or durational deficiency in the candidate's foreign legal education.

The primary motivation behind the Board's recommendations is to better prepare these candidates for the practice of law in New York. While we recognize that many of these candidates may be returning to their native country after taking and passing the bar examination, they will be obtaining a general license to practice law which, should they elect to do so, allows them to establish an office for the practice of law in New York.

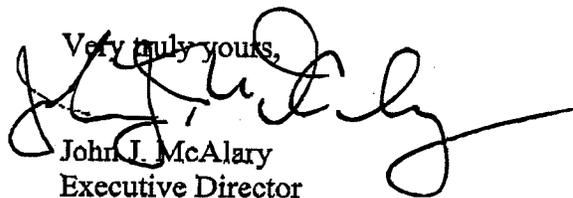
The specific requirements which the Board proposes are as follows and appear in the proposed text attached to this letter.

- The program must consist of a minimum of 24 credit hours in professional law subjects, including basic courses in American law. This is an increase of four credit hours in the current rule.
- The candidate must successfully complete the requirements for and be awarded an LL.M. degree. Certain programs now issue a certificate upon completion rather than a degree.
- The program must include a period of instruction consisting of no fewer than two semesters of at least 13 calendar weeks each, or the equivalent, exclusive of reading periods, examinations and breaks. (Semesters of a minimum of 13 weeks are anticipated by the ABA Standards for Approval of Law Schools [Interpretation 304-1]).
- The program must include: (i) a course in legal research, writing and analysis; (ii) a course in American legal studies, the American legal system or a similar course designed to introduce students to distinctive aspects and/or fundamental principles of American law; and (iii) at least three courses in subjects tested on the New York bar examination.
- The program may not be completed exclusively during summer semesters. The intent is to assure exposure to the American legal system and American culture.
- The program must be completed within 24 months of matriculation.
- All course work must be completed in the United States at an ABA-approved law school. Again, the objective is to require these candidates to spend time in an American legal community.
- No credit shall be allowed for correspondence courses, on-line courses, courses offered on DVD or other media, or other distance learning courses.

In grading the bar exam, it has become apparent that some candidates are not proficient in written communication in English in a legal context and are unable to express the analysis of the issues presented with any degree of precision and clarity or to communicate in an effective manner. The Board believes that these modifications to the Rules would promote more focus on American law and lawyering skills which presumably will better prepare candidates for the practice of law in New York and better serve the interests of public protection.

Comments may be sent to my attention at New York State Board of Law Examiners, Corporate Plaza, Building 3, 254 Washington Avenue Extension, Albany, NY 12203-5195 or by email to [REDACTED]

Very truly yours,



John I. McAlary
Executive Director