

New York State Board of Law Examiners

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Memorandum

TO: Deans of ABA- Approved Law Schools

FROM: Diane F. Bosse, Chair

DATE: January 12, 2012

RE: Amendments to New York's Bar Exam Eligibility Requirements

I write to inform you of important changes in the New York Court of Appeals Rules regarding the eligibility of graduates of ABA-approved law schools to sit for the bar exam in New York.

The New York Court of Appeals has adopted revisions to section 520.3 of the Rules of the Court of Appeals for the Admission of Attorneys and Counselors at Law (22 NYCRR Part 520). These revisions update the rules to take into account current technology and practices in legal education and bring New York's requirements into closer conformity with the ABA Standards for Approval of Law Schools. Significantly, responding to the demands of the profession and comments of the law schools, these revisions liberalize New York's rules regarding clinical legal education and provide greater flexibility to students in structuring their legal education.

We enclose a copy of section 520.3, as amended. Among the significant amendments in the Rule are the following:

- Consistent with ABA requirements, increase the number of credit hours required for graduation from 80 to 83 and the number of credit hours required in classroom courses from 60 to 64;
- Require that each applicant have a minimum of two credit hours in a course or courses in professional responsibility;
- Permit clinical courses, under defined circumstances, to be counted toward classroom credit hours and permit the classroom component of a field placement or externship program, taught by faculty, to count toward the required classroom hours;
- Increase from 20 to 30 the maximum number of credit hours in clinical courses, field placements or externships that may be counted toward the 83 credit hours required for graduation;

- Increase from 10 to 12 the maximum number of credit hours taken in a joint degree program or at another school with which the law school is affiliated that may be counted toward the 83 credit hours required for graduation;
- Eliminate current residency and related requirements, and substitute defined requirements for academic calendar and classroom days, overload restrictions and residency limitations, generally consistent with ABA requirements; and
- Permit up to 12 credit hours of distance learning courses, within defined parameters.

These new requirements are effective April 1, 2012, and will apply to candidates seeking to sit for the July 2012 bar exam, subject to the saving clause of Rule 520.1(b). It is anticipated that any candidate whose program of legal education is in conformity with the Court's current Rule 520.3 and with the ABA Standards will satisfy the revised eligibility requirements.

You will recall that the Court of Appeals revised Rule 520.6 pertaining to the educational eligibility requirements for foreign-educated applicants last year, particularly defining the requirements for an LL.M. program used to cure a substantive or durational deficiency in the program of foreign study. The Court has now further revised Rule 520.6 to clarify the requirements for legal education in a foreign country and to make slight refinements to the instructional requirements for a "curing" LL.M. program. A copy of Rule 520.6 as revised is also enclosed. The new provisions addressing home country legal education are effective on April 1, 2012. Please note that the requirements of subdivisions (b)(3)(iii), (iv) and (viii) were effective on May 18, 2011. The other provisions of Rule 520.6(b)(3) will apply to LL.M. programs commencing during the 2012-13 academic year and to applicants applying to take the July 2013 bar exam, subject to the saving clause of Rule 520.1(b).

Please share these rules with your students who may be interested in sitting for the New York bar exam, with the administrator within your institution who will be responsible for certifying compliance with these requirements, and with those staff members having oversight of LL.M. programs at your law school.

If you have any future questions regarding the implementation of these rules, please email your inquiries to John McAlary at CommentsABALawSchools@nybarexam.org.

Enclosures

Revised New York Court of Appeals Rule 520.3
(as amended on January 10, 2012)

§ 520.3 Study of law in law school.

(a) *General.* An applicant may qualify to take the New York State bar examination by submitting to the New York State Board of Law Examiners satisfactory proof that:

(1) the applicant attended and was graduated with a first degree in law from an approved law school; or

(2) the applicant attended and successfully completed the prescribed course of instruction required for a first degree in law at an approved law school, but has not been awarded the degree as of the date proof of eligibility to sit for the bar examination is required to be filed with the State Board of Law Examiners. The State Board of Law Examiners shall not certify the applicant for admission to the bar pursuant to section 520.7(a) of this Part until the applicant has presented satisfactory proof that the applicant has been awarded a first degree in law.

(b) *Approved law school defined.* For purposes of these rules, an *approved law school* is one:

(1) that is approved by the American Bar Association at all times during the period of the applicant's attendance;

(2) that is located in the United States or its territories; and

(3) whose program and course of study meet the requirements of this section, as shown by the law school's bulletin or catalogue, which shall be filed annually with the Clerk of the Court of Appeals and the State Board of Law Examiners, or the publicly available pages of the law school's website, which shall adequately describe each course offered and completely set forth the law school's academic calendar and graduation requirements.

(c) *Instructional requirements.*

(1) The law school shall require for its first degree in law the successful completion of a program that prepares its students for admission to the bar and effective, ethical and responsible participation in the legal profession, and meets each of the following requirements:

(i) a minimum of 83 credit hours must be required for graduation, including substantial instruction in substantive and procedural law and professional skills;

(ii) a minimum of 64 of the required 83 credit hours must be earned by attendance in regularly scheduled classroom courses at the law school; and

(iii) a minimum of two credit hours must be earned in a course or courses in professional responsibility.

(2) Clinical courses. Credit may be granted toward the 83 credit hours required for graduation for law school clinical courses. Such credit may be counted toward the 64 classroom credit hours required by paragraph (1)(ii) of this subdivision, provided:

(i) the course includes adequate classroom meetings or seminars during the same semester in which the clinical work is completed in order to ensure contemporaneous discussion, review and evaluation of the clinical experience;

(ii) the clinical work is conducted under the direct supervision of a member of the law school faculty; and

(iii) the time and effort required and anticipated educational benefit are commensurate with the credit awarded.

(3) Field placement programs or externships. Credit may be granted toward the 83 credit hours required for graduation for field placement programs or externships but such credit may not be counted toward the 64 classroom hours required by paragraph (1)(ii) of this subdivision, except that credit separately awarded for the classroom instructional component of a field placement program or externship taught by a member of the law school faculty may be counted toward the 64 classroom credit hour requirement.

(4) The total number of credit hours granted for law school clinical courses, field placement programs and externships, including classroom components, may not exceed 30 of the 83 credit hours required for graduation.

(5) Joint degree or other courses taught outside the law school. The law school may grant credit for up to 12 of the 83 credit hours required for graduation for courses taught by members of the faculty of any university or college with which the law school is affiliated or offers a joint degree program, or with which the law school has an agreement which allows courses to be taken at such university or college for credit at the law school. Credit granted for such courses may not be counted toward the 64 classroom credit hours required by paragraph (1)(ii) of this subdivision.

(6) Distance education. Distance education is an educational process in which more than one-third of the course instruction is characterized by the separation, in time or place, or both, between instructor and student, and technology is used to deliver instruction.

(i) Up to 12 credit hours for distance education courses may be counted toward both the 83 credit hours required for graduation and the 64 classroom credit hours required by paragraph (1)(ii) of this subdivision, provided that:

(a) the study is offered in a primarily synchronous manner, such that students and the instructor simultaneously interact in a regularly scheduled class, albeit from separate locations, by means of on-line web-conferencing, video-conferencing, or other means, so as to provide students opportunities to interact with instructors and other students that are comparable to opportunities for such interaction in non-distance learning settings; and

(b) there is regular monitoring of student effort and accomplishment as the course progresses.

(ii) No credit shall be allowed for correspondence courses.

(iii) No credit shall be allowed for distance education courses offered principally by asynchronous means, where students and the instructor are separated in time as well as in place, including pre-recorded, non-interactive technologies, such as on-line courses, internet videos, videocassettes or discs.

(iv) No credit shall be allowed for distance education courses until the student has completed the equivalent of 28 credit hours toward the first degree in law, and no more than four credit hours shall be allowed for such courses in any semester of study.

(7) The law school certificate of attendance filed with the State Board of Law Examiners must list separately the credit awarded for:

(i) clinical courses under paragraph (2) of this subdivision;

(ii) field placement programs and externships under paragraph (3) of this subdivision and, if credit is separately awarded for a classroom instructional component of such a program taught by a member of the law school faculty, such credit shall be separately listed;

(iii) joint degree or other courses taught outside the law school under paragraph (5) of this subdivision; and

(iv) distance education courses under paragraph (6) of this subdivision.

(d) *Course of study and academic calendar.* An approved law school shall meet the following academic schedule and credit hour requirements:

(1) the law school's academic year must consist of no fewer than 130 days on which classes are regularly scheduled, during no fewer than eight calendar months;

(2) a minimum of 700 minutes of instruction time, exclusive of examination time, must be required for the granting of one credit hour;

(3) an approved law school on an academic calendar other than a conventional two-

semester schedule must require a course of study consistent with the credit hour, class days and minutes of instruction required in this Rule;

(4) an approved law school shall require that the program and course of study leading to a first degree in law be completed no earlier than 24 months and no later than 60 months after a student has commenced law study at the law school or a law school from which the school has accepted transfer credit; and

(5) an approved law school shall not permit a student to be enrolled at any time in coursework that, if successfully completed, would exceed 20 percent of the total coursework required by that law school for graduation (or a proportionate number for law schools on other academic schedules).

(e) *Credit for law study in foreign country.* An approved law school may, in its discretion, grant such credit as it may deem appropriate toward the total credits required for a first degree in law, but not exceeding one-third of the total credits required for the degree, to an applicant who has studied law in a law school in a foreign country.

Revised New York Court of Appeals Rule 520.6
(as amended on January 10, 2012)

§ 520.6 Study of law in foreign country; required legal education.

(a) *General.* An applicant who has studied in a foreign country may qualify to take the New York State bar examination by submitting to the New York State Board of Law Examiners satisfactory proof of the legal education required by this section.

(b) *Legal education.* The applicant must satisfy the educational requirements of either paragraph (1) or (2) of this subdivision.

(1) The applicant shall show fulfillment of the educational requirements for admission to the practice of law in a country other than the United States by successful completion of a period of law study in a law school or schools each of which, throughout the period of the applicant's study therein, was approved by the government or an authorized accrediting body in such country, or of a political subdivision thereof, to award a first degree in law, and satisfaction of the following requirements:

(i)(a) *Durational requirements.* The program and course of law study successfully completed by the applicant was substantially equivalent in duration to the legal education provided by an American Bar Association approved law school in the United States, and in substantial compliance with the instructional and academic calendar requirements of section 520.3(c)(1)(i) and (ii) and (d)(2) of this Part; and

(b) *Substantive requirements.* Such other country is one whose jurisprudence is based upon the principles of English Common Law, and that the program and course of law study successfully completed by the applicant were the substantial equivalent of the legal education provided by an American Bar Association approved law school in the United States.

(ii) *Cure provision.* An applicant who does not meet the requirements of subparagraph (i)(a) or (i)(b) may cure either the durational or substantive deficiency, but not both, under the following circumstances:

(a) *Durational deficiency.* If the applicant does not meet the durational requirements of subparagraph (i)(a), the applicant may cure the deficiency by providing satisfactory proof that the applicant has at least two years of foreign legal education that meets the substantive requirements of subparagraph (i)(b) and that the applicant has graduated from an LL.M. degree program at an American Bar Association approved law school in the United States meeting the requirements of subdivision (b)(3) of this section.

(b) *Substantive deficiency.* If the applicant does not meet the substantive requirements of subparagraph (i)(b), the applicant may cure the deficiency by providing satisfactory proof that the applicant meets the durational requirements of subparagraph (i)(a) and that the applicant has graduated from an LL.M. degree program at an American Bar Association approved law school in the United States meeting the requirements of subdivision

(b)(3) of this section.

(2) The applicant shall show admission to practice law in a country other than the United States whose jurisprudence is based upon principles of English Common Law, where admission was based upon a program of study in a law school and/or law office approved by the government or an authorized accrediting body in such country, or of a political subdivision thereof, and which satisfies the durational requirements of subparagraph (1)(i)(a) but does not satisfy the substantive requirements of subparagraph (1)(i)(b) of this subdivision, and that such applicant has successfully completed an LL.M. degree program at an American Bar Association approved law school in the United States meeting the requirements of subdivision (b)(3) of this section.

(3) An LL.M. degree shall be satisfactory to qualify an applicant otherwise meeting the requirements of subsections (b)(1)(ii) or (b)(2) to take the New York State bar examination provided the following requirements are met:

(i) the program shall consist of a minimum of 24 credit hours (or the equivalent thereof, if the law school is on an academic schedule other than a conventional semester system) which, except as otherwise permitted herein, shall be in classroom courses at the law school in substantive and procedural law and professional skills;

(ii) a minimum of 700 minutes of instruction time, exclusive of examination time, must be required for the granting of one credit hour;

(iii) the program shall include a period of instruction consisting of no fewer than two semesters of at least 13 calendar weeks each, or the equivalent thereof, exclusive of reading periods, examinations and breaks, and shall not be completed exclusively during summer semesters, but a maximum of four credit hours may be earned in courses completed during summer semesters;

(iv) the program shall be completed within 24 months of matriculation;

(v) all coursework for the program shall be completed at the campus of an American Bar Association approved law school in the United States, except as otherwise expressly permitted by subdivision (b)(3)(vii);

(vi) the program completed by the applicant shall include:

(a) a minimum of two credit hours in a course or courses in professional responsibility;

(b) a minimum of two credit hours in legal research, writing and analysis, which may not be satisfied by a research and writing requirement in a substantive law course;

(c) a minimum of two credit hours in American legal studies, the American legal system or a similar course designed to introduce students to distinctive aspects and/or fundamental principles of United States law, which may be satisfied by a course in United States constitutional law or United States or state civil procedure; credit earned in such course

in excess of the required two credit hours may be applied in satisfaction of the requirement of subdivision (b)(3)(vi)(d); and

(d) a minimum of six credit hours in other courses in subjects tested on the New York State bar examination, where a principal focus of the courses includes material contained in the Content Outline for the New York State bar examination published by the State Board of Law Examiners.

(vii) The program completed by the applicant may include:

(a) a maximum of four credit hours in clinical courses, provided (1) the clinical course includes a classroom instructional component in order to insure contemporaneous discussion, review and evaluation of the clinical experience; (2) the clinical work is done under the direct supervision of a member of the law school faculty; and (3) the time and effort required and anticipated educational benefit are commensurate with the credit awarded; and

(b) a maximum of six credit hours in other courses related to legal training taught by members of the faculty of the law school or of the university with which the law school is affiliated, or taught by members of the faculty of any university or college with which the law school offers a joint degree program, provided such courses must be completed at the campus of such university or college in the United States.

(viii) No credit shall be allowed for correspondence courses, on-line courses, courses offered on DVD or other media, or other distance learning courses.

(c) *Proof required.* The applicant shall submit to the State Board of Law Examiners such proof of compliance with the provisions of this section as the Board may require.

(d) *Effective date for implementation.* Except for the requirements of subdivisions (b)(3)(iii), (v) and (viii), which are effective May 18, 2011, the provisions of Rule 520.6(b)(3) shall first apply to LL.M. programs commencing during the 2012-13 academic year and to applicants applying to take the July 2013 bar examination, subject to the saving clause of Rule 520.1(b).