

Georgia Supreme Court Committee on Legal Education

Executive Summary

The Supreme Court Committee on Legal Education was appointed by Order of the Supreme Court, dated April 4, 2007. This Committee was charged with studying legal educational developments, including alternative forms of legal education – particularly distance education – and presenting recommendations for Rules changes, should they be necessary, to the Board of Bar Examiners and the Supreme Court for review and action. In May 2007, the Court appointed as Committee chair Paul Kilpatrick, former State Bar President and Immediate Past Chair of the Board of Bar Examiners. Professor Roy Sobelson of Georgia State College of Law was appointed as Reporter. The fifteen other members to the Committee represented:

1. The Georgia Board of Bar Examiners;
2. The State Bar of Georgia;
3. The Georgia Judiciary;
4. Legal educators from law schools in Georgia;
5. The public; and
6. The Georgia General Assembly:

House Judiciary Chairman Wendell Willard,

House Majority Leader Jerry Keen

Representative Stacey Abrams

Senate Judiciary Chairman Preston Smith, and

Senator David Adelman.

Justice George Carley, Liaison Justice to the Office of Bar Admissions, was appointed Liaison to the Committee. Chief Justice Leah Ward Sears and Speaker of the House Glenn Richardson were appointed as Ex Officio members of the Committee.

The active participation by the members of the Committee facilitated the gathering and sharing of extensive information and promoted open discussions of the charges of the Court to the Committee. Initially, the Committee met on a monthly basis at State Bar Headquarters, from September through December 2007, to gather information and data as directed by the Court. The Committee then met in the winter and spring of 2008 to discuss the information which had been accumulated and to formulate the recommendations of the Committee.

The Committee studied the following areas:

1. The current overall Georgia Bar Admissions process of the Board to Determine Fitness of Bar Applicants and the Board of Bar Examiners, with particular attention to the educational requirements of the Rules Governing and Admission to the Practice of Law in Georgia, and the Waiver Process and Policy for those seeking a waiver of these requirements. Those requirements are currently (1) an undergraduate degree from an accredited institution; and (2) the first degree in law from a school approved by the American Bar Association.
2. Survey of other United States jurisdiction's educational eligibility rules.
3. The ABA Standards for the Approval of Law Schools and the law school approval process, including any movement by the ABA to approve distance learning and foreign law schools.

4. The concept of distance learning in legal education, ranging from pure correspondence to online law school, and a demonstration of a day in the life of an online law school.
5. Foreign legal education and survey of other U.S. jurisdictions with regard to admission of foreign-educated applicants.
6. The impact of the General Agreement on Trade in Services (GATS) on admission of foreign-educated lawyers to U.S. jurisdictions.
7. An extensive presentation by the President of the National Conference of Bar Examiners on national and international bar admissions trends and issues.
8. Personal testimony from those adversely affected by the current educational requirements of the Georgia Rules.
9. Presentation and Position Papers by the State Bar and the deans of the ABA-approved law schools in Georgia on the educational requirements of the Georgia Rules. The Bar's position was presented by Judge Mary Staley and William Hill, co-chairs of the State Bar Legal Education Study Committee. The deans' position was presented by Deans Daisy Floyd of Mercer Law School and Dean Rebecca White of the University of Georgia School of Law.
10. The Carnegie Foundation's recent report on Educating Lawyers.

After comprehensive study and deliberations, the Committee reached consensus on its Findings and Recommendations. On June 2, 2008, the Committee submitted its Report and Recommendations to the Supreme Court and the Board of Bar Examiners.

In the Report, the Committee made the following Findings:

1. The judicial branch of government, specifically the Supreme Court of Georgia, is the appropriate entity to establish the standards for admission to the bar and to govern the practice of law in Georgia.
2. To protect the public and maintain appropriate standards for the practice of law in Georgia, the Supreme Court should continue to require that applicants meet the existing high educational standards, specifically graduation from a law school approved by the American Bar Association. Graduation from an ABA-approved law school is an acceptable and appropriate, albeit not exclusive, indicator that one has been properly exposed to the legal, ethical and professional training one needs to enter in to the practice of law.
3. The bar examination is an appropriate method for testing an applicant's minimal competence in legal knowledge and training; however, passing a bar examination, in and of itself, should not be relied upon as the sole appropriate indicator of an applicant's ability to practice law in a competent, ethical, and professional manner.
4. The current Waiver Process and Policy sets forth eight categories of information that the Board of Bar Examiners uses in reviewing applications for waivers of the educational requirements of the Rules.
5. The standards for admission to the practice of law currently employed by the Board of Bar Examiners and the Office of Bar Admissions are reasonable, fair, and effective.
6. The Board of Bar Examiners implements the Rules and Waiver Process and

Policy appropriately. Since 2004, 45% of the educational waivers requested have been granted.

Based on these Findings, the Committee made the following Recommendations:

1. No changes should be made at this time to the Rules Governing Admission to the Practice of Law in Georgia regarding educational eligibility requirements.
2. It is appropriate that the Board of Bar Examiners maintain a Waiver Process and Policy to allow consideration of petitions for waiver of the educational requirements in exceptional circumstances “for good cause shown by clear and convincing evidence.” Part F, Section 4 of the Rules Governing Admission to the Practice of Law in Georgia.
3. The current Waiver Process and Policy provides for fair and proper consideration of each petition for waiver on its individual merits; however, certain changes would make the process more objective, specific, and transparent while still retaining the Board’s discretion. To that end, the Committee recommended that the Board:
 - (a) Continue to list the categories of information it considers in reviewing each petition but add the requirement that each petition contain the specified information before it will be considered;
 - (b) If the Board denies a waiver petition, the Board will provide a written statement to the applicant stating the reason(s) for the denial.

On July 29, 2008, the Board of Bar Examiners unanimously approved the Committee’s Report and Recommendations and revised the Waiver Process and Policy in accordance with the Recommendations. The Bar Examiners then submitted its

response to the Report and Recommendations and the revised Waiver Process and Policy to the Supreme Court. On September 3, 2008, the Supreme Court entered Orders by which it accepted and approved the Committee's Report and Recommendations and approved the revised Waiver Process and Policy. Chief Justice Sears sent copies of the Report and Recommendations, the Orders, and the revised Waiver Process and Policy to Governor Sonny Perdue, Lieutenant Governor Casey Cagle, and Speaker of the House Glenn Richardson. The Court's Orders and the revised Waiver Process and Policy are posted on web sites of the Supreme Court (www.gasupreme.us) and the Office of Bar Admissions (www.gabaradmissions.org).