

SUPREME JUDICIAL COURT

Boston, Massachusetts 02108

NOTICE OF APPROVAL

Notice is hereby given that the Supreme Judicial Court has approved and promulgated rules as further indicated below.

Kimberly S. Budd
Chief Justice

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1. Court Submitting Rules for Approval:

Board of Bar Examiners

2. Date Rules Submitted for Approval:

December 14, 2020

3. Date Approved & Promulgated by the Supreme Judicial Court:

June 17, 2021

4. Rule or Rules, or Amendments Thereto, Approved and Promulgated:

Amendments to Rule V1.7 of the Rules of the Board of Bar Examiners as described in the enclosed memorandum dated December 14, 2020 from Marilyn J. Wellington, Executive Director.

5. Effective Date:

July 1, 2021

(The original of this notice is to be filed in the office of the Clerk of the Supreme Judicial Court for the Commonwealth, and a copy to be sent by the Clerk to the court which requested approval of the rules.)

**BOARD OF BAR EXAMINERS
INTEROFFICE MEMORANDUM**

Marilyn J. Wellington, Esq., Executive Director
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DATE: December 14, 2020

TO: Christine Burak, Legal Counsel to the Chief Justice
Supreme Judicial Court Rules Committee

FROM: Marilyn J. Wellington, Executive Director

RE: Proposed Rule Change, Board of Bar Examiners Rule VI.7

The Board of Bar Examiners proposes that Rule VI.7 of the Rules of the Board of Bar Examiners be amended as indicated on the attached document.

Rule VI.7 provides that graduates of common law studies of law schools in Canada that are members of the Law School Admissions Council be permitted to seek admission to the Massachusetts bar in the same manner as graduates of law schools in the United States approved by the American Bar Association. Rule VI.7, in its current form, lists the Canadian law schools that meet this requirement. This list changes periodically as the Law School Admissions Council may add or remove Canadian law schools from the list. Given this, the Board of Bar Examiners proposes that Rule VI.7 be changed to remove the list of applicable law schools, allowing Board staff to reference the current Law School Admissions Council list at any point at which an attorney seeks to apply for admission under this section.

Thank you for your consideration. Kindly contact me if you have questions or require additional information.

RULES OF THE BOARD OF BAR EXAMINERS

Rule VI. Foreign Law School Graduates

VI.1 Foreign law School Graduates - Requirements for Examination and Admission by Motion:

Graduates of law schools in foreign countries may be permitted to petition for admission by sitting for the written bar examination in Massachusetts or a concurrent written exam in another Uniform Bar Examination jurisdiction, petition for admission by transfer of a previously earned Uniform Bar Examination score, or petition for admission by motion upon obtaining a prior determination of their education sufficiency from the Board of Bar Examiners. (See VI.7 below for a special rule on Canadian law schools)

VI.2 Request for Advanced Determination on Education:

Except for those qualified by VI.7, at least four months prior to making petition all foreign educated attorneys who wish to obtain a determination of their eligibility to petition for admission either by written examination in Massachusetts or a concurrent written exam in another Uniform Bar Examination jurisdiction, petition for admission by transfer of a previously earned Uniform Bar Examination score, or petition for admission by motion must submit a cover letter that describes the action sought from the Board of Bar Examiners, the reason for the request, and the following documentation:

Documentation Required:

In order for the Board of Bar Examiners to determine sufficiency, each foreign educated attorney shall supply the Board of Bar Examiners with the following documents written in or translated into English:

1. Official Transcripts: An official transcript from every college, university and law school (foreign or American) attended; this must include the courses taken, the grade for each course, the degree and date awarded, and the dates of attendance;
2. Diploma: Copies of all diplomas or degree certificates;
3. Course Descriptions: Descriptions of all courses, if not included in the transcripts, along with the method of study, i.e. classroom or long distance learning, etc.;
4. Certificate(s) of Admission: An official Certificate of Admission and Certificate of Good Standing from each jurisdiction to which the attorney is admitted; and
5. résumé: A résumé detailing work history.

This documentation will not be returned to the petitioner.

VI.3 Determination of Educational Sufficiency:

VI.3.1 In General. In making a determination of educational sufficiency, the Board of Bar Examiners takes into consideration the following:

- The jurisprudence in the country of the foreign law school
- The course of study that was completed at the foreign law school as compared to that offered in a law school approved by the American Bar Association (ABA)
- The attorney's pre-legal education as compared to that offered in a US college or university
- The attorney's license to practice law in either a foreign or American jurisdiction
- The length and nature of prior legal practice or teaching, if any
- The petitioner's familiarity with the American constitutional, common-law and statutory legal systems
- The petitioner's successful completion of additional legal studies.

VI.3.2 Safe Harbor. A graduate of a foreign law school who meets the standards set forth below will be deemed to have satisfied the educational sufficiency requirement of Rule VI.1 above, and will not be required to take further legal studies. For purposes of this section VI.3.2, "foreign law school" does not include an institution whose program of study consists primarily of distance study, correspondence study or an on-line program.

i). Standards for graduates of law schools in countries with common-law tradition:

1. The petitioner is admitted to the practice of law in a foreign country;
2. The petitioner is in good standing at the bar in all jurisdictions where he or she is admitted; and
3. The petitioner has successfully completed fifteen credit hours of courses in the categories listed below in Section VI.3.2.iii at a law school that is ABA accredited or authorized by a Massachusetts statute to grant the degree of bachelor of laws or juris doctor. The required credit hours must include a course in basic constitutional law and a course in professional responsibility. Distance study, correspondence study and on-line programs are not acceptable.

ii). Standards for graduates of law schools in countries with civil-law tradition:

1. The petitioner is admitted to the practice of law in a foreign country;
2. The petitioner is in good standing at the bar in all jurisdictions where he or she is admitted; and

3. The petitioner has successfully completed an LLM program of at least twenty four credit hours at a law school that is ABA accredited or authorized by a Massachusetts statute to grant the degree of LLM, which program includes a course in basic constitutional law, a course in professional responsibility, and a minimum of one course from at least three of the **other** categories listed below in Section VI.3.2.iii. Distance study, correspondence study and on-line programs are not acceptable.

iii). List of categories for additional courses:

The categories listed below represent a consolidation of the subjects tested on the bar examination. They encompass a range of courses falling within the category.

1. Business Organization: including, for example, Agency, Business Organizations
2. Commercial Law: including, for example, Contracts and Uniform Commercial Code (articles 1-9)
3. Constitutional Law
4. Criminal Justice: including, for example, Criminal Law
5. Property and Estate Planning: including, for example, Estates, Real Property, Trusts and Wills
6. Domestic Relations
7. Procedural Law: including, for example, Federal Rules of Evidence, Federal Jurisdiction, Federal Rules of Civil Procedure
8. Professional Responsibility
9. Torts

VI.4 Method of Evaluation:

Each file is reviewed individually on its own merits. Upon completion of its review, the Board of Bar Examiners issues a determination that the foreign educated attorney a) must take further legal studies as the Board of Bar Examiners may designate at a law school accredited by the ABA or authorized by a Massachusetts statute to grant the degree of bachelor of laws or juris doctor; or b) is eligible to petition to sit for the bar examination; or c) is eligible to petition for admission by motion provided all other requirements are

met.

VI.5 Burden of Proof:

The petitioner has the burden to demonstrate that he or she has obtained an education similar in nature and quality to that of a graduate of a law school accredited by the American Bar Association.

VI.6 Appeals:

Petitioners who are dissatisfied with the Board of Bar Examiners' determination concerning their petition may write a letter to the Board of Bar Examiners requesting a reconsideration of its decision.

Information regarding the process of appeal to the Supreme Judicial Court may be obtained by contacting an assistant clerk in the Clerk's Office of the Supreme Judicial Court for Suffolk County.

VI.7 Canadian Law Schools:

Graduates of common law studies at Canadian law schools that, at the time of graduation, are members of the Law School Admissions Council shall be permitted to petition for admission by sitting for the written bar examination in Massachusetts, or a concurrent written exam in another Uniform Bar Examination jurisdiction, petition for admission by transfer of a previously earned Uniform Bar Examination score, or petition for admission by motion on the same basis as graduates of law schools approved by the American Bar Association. ~~A list of such law schools appears below:~~

Dalhousie University	University of Ottawa
McGill University	University of Saskatchewan
Queen's University	University of Toronto
University of Alberta	University of Victoria
University of British Columbia	University of Western Ontario
University of Calgary	University of Windsor Faculty of Law
University of Manitoba	York University-Osgoode Hall Law School
University of New Brunswick	

The following are Supreme Judicial Court decisions concerning foreign education equivalency:

Wei Jia v. Board of Bar Examiners, 427 Mass. 777 (1998)
Osakwe v. Board of Bar Examiners, 448 Mass. 85 (2006)
Yakah v. Board of Bar Examiners, 448 Mass. 740 (2006)