

# Licensed Paralegal Practitioner Committee

## AGENDA

July 20, 2021  
12:00 p.m.–1:30 p.m.  
Via Zoom

<b>Action</b> —Approval of draft meeting minutes June 15, 2021	Tab 1	Justice Deno Himonas
<b>Discussion</b> —Update from Angela Allen on current casework and projects		Angela Allen
<b>Discussion</b> —Update on amendments to LPP testing rules	Tab 2	Scotti Hill, Nancy Sylvester
<b>Discussion</b> —Update from LPP Innovation Subcommittee		Judge Amber Mettler, Jackie Morrison, Scotti Hill, Carolynn Clark
<b>Discussion</b> —Update from the Bar		Scotti Hill, Matthew Page
<b>Discussion</b> —Update on rural outreach		Steve Johnson
<b>Discussion</b> —Update on outreach efforts		Julie Emery, Monte Sleight
<b>Discussion</b> —Old business/new business		Scotti Hill

[Committee Webpage](#)

### 2021 Meeting Schedule:

August 17, 2021      November 16, 2021  
September 21, 2021      December 21, 2021  
October 19, 2021

# **Tab 1**

# Licensed Paralegal Practitioner Committee

## Meeting Minutes DRAFT

June 15, 2021

Zoom Meeting

12:00 p.m. – 1:30 p.m.

*Justice Deno Himonas, presiding*

### **Attendees:**

Justice Deno Himonas, Co-Chair  
Matthew Page  
Jackie Morrison  
Elizabeth Wright  
Monte Sleight  
Angela Allen  
Steve Johnson  
Julie Emery

### **Staff:**

Scotti Hill, Utah State Bar  
Michaela Choppin, Recording Secretary

### **Excused:**

Heather Farnsworth  
Judge Amber Mettler, Co-Chair

### **Guests:**

Carolynn Clark, S.J. Quinney College of Law

## **1. Action—Welcome and approval of the draft meeting minutes: (Justice Himonas)**

Justice Himonas welcomed everyone to the meeting and asked for approval of the minutes.

*Elizabeth Wright moved to approve the May 18, 2021 minutes. Angela Allen seconded the motion, and it passed unanimously.*

## **2. Discussion—Update from Angela Allen on current casework and projects: (Angela Allen)**

Angela Allen reported that things are going well, as she is currently busier and getting more public referrals. Ms. Allen has not heard much from her colleagues. She is currently focusing her practice on uncontested cases. Ms. Allen and the other LPPs will not meet for another two weeks. Justice Himonas asked what the current rates for LPPs are and Ms. Allen reported that they range from \$85-\$135/hour. Monte Sleight asked if anyone charges flat fees and Ms. Allen stated that she does all flat fees. She charges a flat fee plus filing fees, and has discounted those fees for several people because they have a lower-income.

**3. Action—Update from LPP Innovation Subcommittee, proposed addition of education credit/experience hour language to Rule 15-703:** (Judge Mettler, Jackie Morrison, Scotti Hill,Carolynn Clark)

Monte Sleight reported that the Subcommittee is proposing a rule change that would allow some of the required education hours to count towards experiential hours. The conversion would be 1 credit hour in a semester would equate to 30 hours of experience. In a quarter, 1 credit would equate to 20 hours of experience. The Subcommittee has outlined the definition of what a “substantive legal course” means, but Mr. Sleight inquired if the Committee favored a broad or narrow interpretation of allowable courses. A narrow interpretation of a “substantive legal course” would include courses from a paralegal program, an accredited law school, and any other course that could count towards a paralegal or law degree; however, a broad interpretation would put the burden of responsibility on the admissions committee as to what courses count as “substantive legal courses.” The Subcommittee also reported that they have decided to put a cap on the number of experiential hours that one can complete. Mr. Sleight stated that 750 out of the 1500 required hours can be satisfied through coursework. This cap excluded hours completed at an internship or externship.

Justice Himonas asked what the Subcommittee’s position was on what kind of courses they would accept. Mr. Sleight reported that he would favor the broad approach. Students can gain a basic legal education from courses, such as business classes. Mr. Sleight added that this is why it is vital for the Committee to be clear in their definition of a “substantive legal course.” Carolynn Clark explained that most of them favored the broad approach, but it was difficult to balance the administrative component. Justice Himonas asked if the Subcommittee had a definition that they believe to be tight enough that everyone thinks it is workable from an administrative perspective. Mr. Sleight said that the definition of a “substantive legal course” is in Rule 15-701. The basic definition is that a course qualifies if it is offered by an accredited law school or a paralegal program. The definition is vague for any courses outside of that scope. The rule states that qualifying courses must be from an accredited school, which would mean that any course from any school could qualify.

Elizabeth Wright asked if the committee had decided that the 1500 hours of experiential work was too much. Justice Himonas suggested that the Committee begin with more limiting language because it can be amended later. Steve Johnson suggested that the definition could state a “substantive legal course” is a course in the law from a paralegal program, an approved law school, or any other accredited school. Ms. Wright added that qualifying courses should be law-related. Justice Himonas said that the discussion should be tabled and, in the meantime, the group will work on the definition and proceed knowing that the Committee favors a broad approach.

Matthew Page added that there has been an intense interest in the LPP program from MLS students at the University of Utah. The concern that everyone has is that they do not want to sacrifice their lives to meet the experiential requirements since most of them are executives. Mr. Page suggested that it be clearer whether those requirements can be met with pro bono practice.

**4. Discussion—Update on LPP cut score, proposed amendments to LPP testing Rules 15-710, 15-711, and 15-713: (Scotti Hill)**

Scotti Hill explained that the cut score, as a collective average, is set at 69.5% and was made by Ergometrics, who administers the LPP examination. This is based off of an Angoff rating, where we are assessing the minimally-competent test taker. This cut score applies to each subject area because it creates more uniformity. Justice Himonas suggested that the cut score not remain static and be measured regularly to ensure that it is fair. Steven Johnson asked if the trend of scores dropping meant that the Committee should evaluate the tests. Mr. Sleight agreed but indicated that there needs to be a line between curriculum and testing development so that the courses do not become test preparation courses. Mr. Johnson asked if the Committee should still inform Utah Valley University of rule changes. Ms. Hill indicated that she sends out changes to ethical rules and rules of professional conduct to LPPs before their exams.

**5. Discussion—Update on proposed amendment to Rule 14-802, LPPs sitting at defense table: (Elizabeth Wright, Scotti Hill)**

Elizabeth Wright explained that the comments were largely negative, stating that LPPs are not qualified or do not have the appropriate training. Additional arguments included slippery slope arguments, bait and switch accusations, and that the program was pitched as a limited license and now LPPs are becoming lawyers.

Justice Himonas suggested that Scotti Hill draft a memo to be circulated to the group. He recognized that the comments were overwhelmingly negative, but misguided, and that there may be some confusion about what the rule is intended to cover. He recommended that some clarifying language be added to address this confusion. Justice Himonas stated that the majority of the comments were protectionist and did not have anything to do with access to justice, only the lawyer's place in the system. The program needs to be expanded and LPPs need to be empowered in greater ways to address problems that have arisen since the program was implemented.

Monte Sleight pointed out how well the LPPs handled their responses. They put together well-reasoned arguments and it speaks well to those who are becoming LPPs. Jackie Morrison explained her surprise reading the comments after talking to a practicing attorney who thought the language in the rule seemed broad and easily misunderstood.

Ms. Morrison asked how those concerns could be alleviated. Scotti Hill stated that the comments about objections to the rule cited the rule “as written,” so the language could be clarified to tighten the rule and alleviate concerns for those who are otherwise on board. Steven Johnson also added that non-advocacy language could be helpful.

Julie Emery explained that it potentially downplays the competence and professionalism of the LPP. They can cite the rule to a judge if they are uncomfortable and feel as though they are being portrayed as an advocate. Angela Allen shared that LPPs have been advocating in this way except for it otherwise being not in-person since it has been a hybrid format for the last 12 months. LPPs are clear in what their role is and none of them are scared to say something is beyond their scope.

**6. Discussion—Update from the Bar:** (Elizabeth Wright, Scotti Hill, Matthew Page).

Scotti Hill decided to have the committee weigh-in via email for other matters.

**7. Discussion—Update on rural outreach:** (Steve Johnson)

Nothing new to report.

**8. Discussion—Update on outreach efforts:** (Julie Emery, Monte Sleight)

Nothing new to report.

**9. Discussion—Old business/new business:**

None.

**10. Adjournment and next meeting:**

The meeting adjourned at 1:08 p.m. The next meeting will be held on July 20, 2021 from 12:00p.m.–1:30p.m. via Zoom.

# **Tab 2**

Summary of Supreme Court conference on proposed LPP Testing Rule amendments, 7/8/2021.

At the July 8 Supreme Court conference, I presented suggested amendments to LPP testing Rules 15-710, 15-711 and 15-713. The amendments would add to the rules an accurate description of the LPP exam components as well as the “cut score,” which the Utah Bar and Ergometrics have mutually developed based on the Angoff scoring methodology. The Angoff rating is assessed during each administration of the twice-yearly licensing examination and is set at 69.5% to create examination uniformity, to avoid assigning different cut scores in each practice area, and because this figure is roughly the “grand average” of the Angoff rating across all applicable sections.

During the conference, the justices asked various questions about the methodology and voiced apprehension regarding the proposed inclusion of the cut score in the testing rules.

Regarding our testing methodology, Justice Lee asked why we continually assess the Angoff rating/cut score during each administration of the exam if we are simultaneously trying to establish a uniform percentage passing rate/score of 69.5%. This is a valid question, and my response was that the continual meetings serve the goal of assessing whether the cut score is a valid selection metric for success on the exam, especially considering the small number of applicants we currently have. The Bar had also expressed the desire to set a uniform score for transparency purposes. Justice Lee continued by questioning why an evolving figure should be placed in a Rule at all and asked how the grading criteria is proportioned in the attorney admissions rule. The applicable rule here is [14-711](#) (Grading and passing the Bar Examination), which describes the scoring criteria as follows:

- (a) Grading the Written Component of the Bar Examination. MEE and MPT answers shall be uniformly graded on a *scale from zero to five points*. In order to assure maximum fairness and uniformity in grading, the Board or its designees shall prescribe procedures and standards for grading to be used by all graders.
- (b) Scoring the Written Component of the Bar Examination. The MEE and MPT scores added together constitute the raw Written Component score. The raw Written Component score is scaled to the MBE portion of the examination using the standard deviation method.
- (c) Weighting of exam components. *The MBE score is weighted 50%, the MEE score is weighted 30% and the MPT score is weighted 20% in calculating the Applicant's total score.*
- (d) Passing grade. The Applicant's total score is the sum of the scaled MBE score and the scaled Written Component score. *The total score is based on a 400-point scale. A total score of 270 or above is required to pass the Bar Examination.*
- (e) Bar Examination results are final. Bar Examination answers will not be reread, reevaluated or regraded by the Bar or its designees.



The italicized language of the text indicates sections where the grading criteria is described using a percentage or numerical determination. It is important to note that the above language does not give an *exact* overall passing percentage, but instead discusses the weight of each exam component (in section b), and the scaled score in section (d). Utah has set their passing score of 270 based on the 400-point scale devised by the Uniform Bar Exam (“UBE”) total score calculated by the National Conference of Bar Examiners (“NCBE”).[1]

At present, there is no equivalent to the NCBE for licensed paraprofessionals, which leaves the methodology for scoring the licensing examination at the discretion of the state bar administering the exam. Considering the scaled methodology for the Bar exam, Justices Lee and Pearce asked if the Angoff rating can be utilized to create a scaled score for the LPP exam? I responded that I am currently unfamiliar with whether this is a possibility considering the very low numbers of applicants and that I would speak with Ergometrics about whether this is a possibility.

Finally, Justice Lee voiced apprehension at the idea of including the cut score in the Rules, suggesting it might be better placed on the Bar’s website with an explanation of the methodology used. He noted that placing the figure in the Rule is not optimal because: 1) it may need to be updated regularly, and 2) we do not place the passing value in a percentage format for the Bar exam.

Ultimately, these inquiries raise thoughtful questions for the Committee. With these thoughts in mind, may I present the following questions:

- 1. Do we wish to explore the idea of creating a scaled score for the LPP exam that is more closely modeled from the Bar exam?**
- 2. Do we think it is beneficial for the Committee and the Utah State Bar to include the cut score in the Rule despite the fact that it may change over time? Is there an argument that being fully transparent will protect the Bar from complaints that the criteria was not fully disclosed?**
- 3. Do we like the idea of including in the Rule a more generalized description of the exam components while placing the exact cut score elsewhere (say the Bar’s website?)**

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[1] Uniform Bar Exam Scores, National Conference of Bar Examiners, <https://www.ncbex.org/exams/ube/scores/>

1 **Rule 15-710. Administration of the Licensed Paralegal Practitioner**

2 **Examination(s).**

3 (a) Licensed Paralegal Practitioner Examination(s). The Licensed Paralegal Practitioner  
4 Examination(s) consists of a mandatory multiple choice ethics section, plus a three-part  
5 examination specific to the practice area selected by the applicant.

6 (b) Practice areas. An Applicant must select from one or more practice areas:

7 (1) temporary separation, divorce, parentage, cohabitant abuse, civil stalking, and  
8 custody and support;

9 (2) forcible entry and detainer and unlawful detainer; and

10 (3) debt collection.

11 (c) Practice area exam components. Each practice area includes a multiple choice  
12 section on the substantive law, an essay section, and a practical application section.  
13 specific to the area(s) of practice selected by the applicant. Areas of practice include (1)  
14 temporary separation, divorce, parentage, cohabitant abuse, civil stalking, and custody  
15 and support; (2) forcible entry and detainer and unlawful detainer; or; (3) debt  
16 collection.

17 (d) All components of the Licensed Paralegal Practitioner Examination for the chosen  
18 practice area (s) for an area of practice must be taken in-during the same examination  
19 administration.

20 (e) The Licensed Paralegal Practitioner Examination(s) are is only administered only  
21 for the purpose of licensure as a Licensed Paralegal Practitioner.

22

**Commented [NS1]:** Do you want to add some language about the applicant being able to later test in another practice area, as follows? "(e) An Applicant may elect at a later examination administration to add a practice area. If the Applicant has already passed the ethics section, the Applicant need only test in the selected practice area."

1 **Rule 15-711. Grading and passing the Licensed Paralegal Practitioner**  
2 **eExamination.**

3 (a) **Grading the written component of the Licensed Paralegal Practitioner**  
4 **Examination.** The written portion of the Licensed Paralegal Practitioner Examination  
5 consists of the essay section and the practice section. Essay and practical application  
6 answers shall must be uniformly graded on a scale from of zero to \_\_\_\_\_100%points.  
7 In order to assure maximum fairness and uniformity in grading, the Board or its  
8 designees shall must prescribe procedures and standards for grading to be used by all  
9 graders.

10 ~~(b) Scoring the written component of the Paralegal Practitioner Examination. The essay~~  
11 ~~scores added together constitute the raw written component score. The raw written~~  
12 ~~component score is scaled to the multiple choice portion of the examination using the~~  
13 ~~standard deviation method.~~

14 ~~(e) **Weighting of exam components.** Exam sections include the multiple choice section,~~  
15 ~~the essay section, and the practical application section. Each section of the exam~~  
16 ~~accounts for one third of~~ The multiple choice score is weighted \_\_\_\_\_%, the essay score  
17 is weighted \_\_\_\_\_% in calculating the Applicant's total score.

18 ~~(d) **Passing grade.** The Applicant's total score for a given examination section is the~~  
19 ~~total average of the sum of the scaled multiple choice score, the essay score, and the~~  
20 ~~practical application score. and the scaled written component score. The total score is~~  
21 ~~based on a \_\_\_\_\_ point scale. A total score of \_\_\_\_\_69.5% or above is required to~~  
22 pass the Licensed Paralegal Practitioner Examination.

23 ~~(e) **Examination Results are final.** Licensed Paralegal Practitioner Examination results~~  
24 ~~are final. Examination answers will not be reread, reevaluated or regraded by the Bar or~~  
25 ~~its designees.~~

26

**Commented [NS1]:** Instead of the percentage being in here, say something like "The percentage pass rate will be published prior to each examination administration on the Utah State Bar's website."

**Rule 15-713. Ethics exam.**

(a) Passing score. An Aapplicant must receive a passing score on the Ethics Exam prior to licensure as a LPPLicensed Paralegal Practitioner. A scaled score of —69.5% is passing.

(b) Administration of the (Ethics Exam). [to be drafted]

**Commented [NS1]:** Instead of the percentage being in here, say something like “The percentage pass rate will be published prior to each examination administration on the Utah State Bar’s website.”

**Commented [NS2]:** It’s a bit unusual to have a title here with nothing further. And the Court does not like parentheticals in the rule. I would eliminate this if it is not yet drafted. In so doing I would also eliminate the (a) in the first paragraph.