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**COMPARISONS OF EVENTUAL PASSING RATES  
IN THE 1990 AND 1991 COHORTS**

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## EVENTUAL PASSING RATES IN THE 1990 AND 1991 COHORTS

### OVERVIEW

This report describes the initial and eventual passing rates of the applicants who took the bar exam for the first time in July 1990 or 1991. The report also examines eventual passing rates in various racial/ethnic groups and school types. Eventual passing rates in the 1990 and 1991 cohorts are contrasted with those of previous cohorts and with 1989 to 1993 cross-sectional estimates of eventual passing rates.

### PROCEDURES

There were 4,957 applicants who took the bar exam for the first time in July 1990. There were 5,438 first timers in July 1991. These two groups (cohorts) of applicants had their pass/fail status tracked through the February 1994 exam. Thus, a July 1990 first timer could take the exam as many as seven times after the first attempt whereas a July 1991 first timer had only five more chances to take the exam.

In both cohorts, applicants were divided into four groups: initial pass (i.e., they passed on their first attempt), initial fail but eventually passed after one or more repeated attempts, subsequent fail despite one or more repeated attempts, and no attempt to repeat the exam after an initial fail. There were many variations in test taking pattern in the middle two categories, such as a candidate taking two exams in a row and then not taking the next two before trying again.

### GENERAL RESULTS

The eventual passing rates in the 1990 and 1991 cohorts were 93 percent and 89 percent, respectively (Table 1). The 4 percentage point difference between these cohorts may in part be explained by the July 1990 cohort having two more opportunities to take the exam. Of the 1,963 applicants across the two cohorts who failed initially but

eventually passed, 78 percent passed on their second try and another 11 percent passed on their third try. Overall, about 97 percent of the 9,422 applicants who eventually passed did so by their third attempt.

Table 1

PERCENT OF APPLICANTS IN EACH PASS/FAIL CATEGORY

Pass/Fail Status	1990	1991
Initial Pass	73	69
Subsequent Pass	18	20
Total Pass	93	89
Subsequent Fail	5	6
Nonrepeating Fail	4	5
Total Fail	9	11

Applicants who pass after failing on their first attempt scored about 80 points higher on that first attempt than did those who took the exam at least twice but have yet to pass (Table 2). Interestingly, the non-repeating fails generally earned slightly higher scores on their first attempt than did the subsequent fail group.

Table 2

MEAN TOTAL SCALE SCORE OF EACH GROUP ON THEIR FIRST ATTEMPT

Pass/Fail Status	1990	1991
Initial Pass	1555	1550
Subsequent Pass	1365	1368
Subsequent Fail	1285	1286
Nonrepeating Fail	1307	1314
All First Timers	1498	1487

Standard deviation of the total scale scores was 121 in both cohorts.

**ANALYSES BY RACIAL/ETHNIC GROUP**

Over 90 percent of the Whites, about 85 percent of the Asians and Latinos, and 70 percent of the African-Americans (Blacks) eventually passed. About half of the Blacks who eventually passed did so after their first attempt (Table 3). Because of rounding, some values in this and other tables may not add up to the tabulated subtotals.

Table 3

PERCENT OF APPLICANTS IN EACH PASS/FAIL CATEGORY  
BY RACIAL/ETHNIC GROUP

Pass/Fail Status	White		Asian		Latino		Black	
	90	91	90	91	90	91	90	91
Initial Pass	78	74	60	58	59	57	35	39
Subsequent Pass	15	18	25	25	26	30	34	32
<b>Total Pass</b>	<b>93</b>	<b>92</b>	<b>85</b>	<b>83</b>	<b>85</b>	<b>87</b>	<b>69</b>	<b>70</b>
Subsequent Fail	4	4	10	11	9	11	20	20
Nonrepeating Fail	3	4	5	6	6	3	11	10
<b>Total Fail</b>	<b>7</b>	<b>8</b>	<b>15</b>	<b>17</b>	<b>15</b>	<b>13</b>	<b>31</b>	<b>30</b>
Percent of cohort	73	79	6	8	5	5	4	4

6 percent of the 1990 Cohort and 5 percent of the 1991 cohort did not belong to one of these groups and/or did not provide their racial/ethnic group.

As noted in previous reports on eventual passing rates in California, there was a relatively large percentage of Blacks who took the exam once, failed, and did not take it again. Applicants in all racial groups are less likely to repeat the exam if they had especially low scores on their first attempt and Blacks tend to have lower bar exam scores than other applicants. Nevertheless, there are probably many applicants in all racial groups who failed on their first attempt, but who would pass eventually if they took the exam a few more times.

Minority group applicants (Asians, Blacks, and Latinos) comprised 16.6 percent of the 10,395 applicants represented in Table 3 and 14.8 percent of the eventual passers in this table. Their share of the passing group is therefore about 2 percentage points less than their share of the pool of first timers. This 2-point differential is consistent with the results of previous longitudinal and cross-sectional studies.

#### **ANALYSES BY SCHOOL TYPE**

Table 4 shows that just over 80 percent of the applicants in both cohorts graduated from an American Bar Association (ABA) approved law school. About another 8 percent came from schools accredited by California. Only 2 percent were from unaccredited schools. Almost all of the remaining 10 percent were not allocated to a school type because they did not take the exam within one year of their graduation from law school. The relatively large proportion of non-repeating fails in the latter group is probably composed of applicants who were not dedicated to practicing in California. The percentage of applicants in the 1990 and 1991 cohorts who are ABA school graduates is about 5 points higher than their share of the first timers in previous tracking study cohorts. The percent coming from California Accredited schools has declined.

#### **TRENDS OVER TIME**

Table 5 shows the percentages of ABA first timers in each pass/fail group in each of the eight longitudinal cohorts that have been studied to date. These data show that the eventual passing rates in the 1991 cohort is the same as in the 1977 cohort, but there has been a lot of variation in this rate over time.

Table 4

PERCENT OF APPLICANTS IN EACH PASS/FAIL CATEGORY BY SCHOOL TYPE

Pass/Fail Status	ABA		CalAc		NonAcr		Other	
	90	91	90	91	90	91	90	91
Initial Pass	78	75	50	46	43	23	55	48
Subsequent Pass	16	18	28	33	34	42	17	19
<b>Total Pass</b>	<b>95</b>	<b>93</b>	<b>78</b>	<b>79</b>	<b>77</b>	<b>65</b>	<b>72</b>	<b>68</b>
Subsequent Fail	3	4	18	17	17	28	12	12
Nonrepeating Fail	2	3	4	4	5	7	16	20
<b>Total Fail</b>	<b>5</b>	<b>7</b>	<b>22</b>	<b>21</b>	<b>23</b>	<b>35</b>	<b>28</b>	<b>32</b>
Percent of cohort	81	81	7	8	3	3	10	8

Table 5

PERCENTAGE OF ABA GRADUATES IN EACH PASS/FAIL CATEGORY  
IN THE EIGHT COHORTS THAT HAVE BEEN STUDIED TO DATE

Pass/Fail Status	1977	1981	1982	1984	1985	1986	1990	1991	Mean
Initial Pass	76	72	70	60	62	64	78	75	70
Subsequent Pass	17	14	14	26	26	25	16	18	20
<b>Total Pass</b>	<b>93</b>	<b>85</b>	<b>84</b>	<b>86</b>	<b>88</b>	<b>89</b>	<b>95</b>	<b>93</b>	<b>89</b>
Subsequent Fail	5	9	11	9	8	7	3	4	7
Nonrepeating Fail	2	6	6	4	3	4	2	3	4
<b>Total Fail</b>	<b>7</b>	<b>15</b>	<b>16</b>	<b>14</b>	<b>12</b>	<b>11</b>	<b>5</b>	<b>7</b>	<b>11</b>
Maximum Attempts	7	5	3	5	6	4	8	6	6

Some of the variation in eventual passing rates among cohorts can be explained by differences in the number of exams over which they were tracked. In general, the longer the tracking period, the higher the eventual passing rate (Figure 1)--there was a .83 correlation between the number of possible attempts and eventual passing rate.

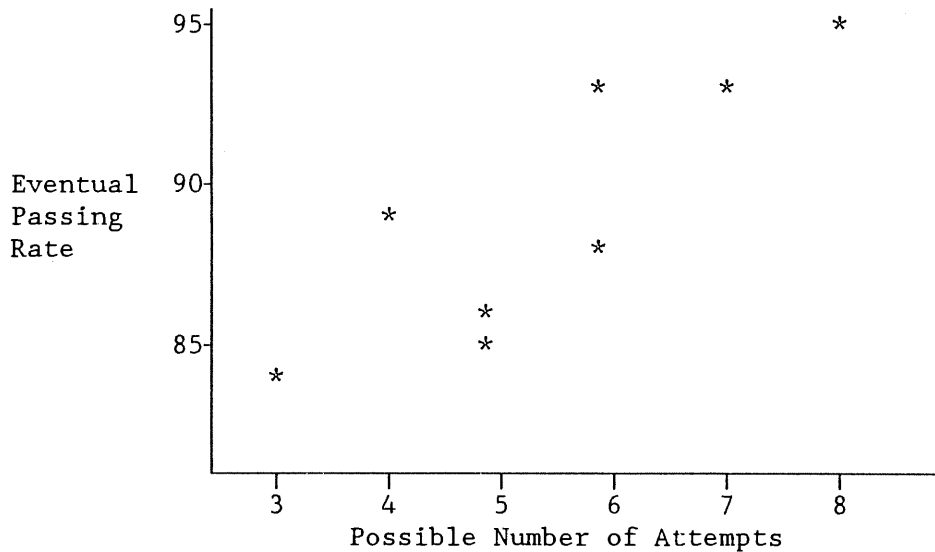


Figure 1: RELATIONSHIP BETWEEN NUMBER OF POSSIBLE ATTEMPTS AND EVENTUAL PASSING RATE AMONG ABA FIRST TIMERS IN EIGHT COHORTS

#### LIMITATIONS OF TRACKING (LONGITUDINAL) ANALYSES

Tracking was restricted to July first timer cohorts. This may inflate eventual passing rates slightly because July first timers have a higher initial passing rate than February first timers. This very small but possible bias is offset somewhat by a few applicants who fail initially, change identification numbers, and then pass. These applicants are counted among those who fail because tracking is based on initial identification number. Finally, eventual passing rates in tracking studies are artificially restricted because applicants are followed over only few exams in order to provide current data for policymakers. Although this is not a major concern because almost all of the applicants who eventually pass do so by their fifth or sixth try, there are nevertheless some who pass after two dozen or more attempts.

## CROSS-SECTIONAL ANALYSES

An alternative way of computing eventual passing rates is to compare the number of applicants who pass (regardless of how many times they took the exam) to the number of first timers. This cross-sectional approach, which is also called a "pipeline" analysis, works fine provided there are no major changes over time in pass/fail standards or the number of first timers taking the exam (an increase in the number of first timers will tend to bias downwards the eventual passing rate that is computed from a pipeline analysis--the reverse is true if the number of first timers decreases over time).

A total of 32,255 applicants took the California Bar exam for the first time during the five-year period between 1989 and 1993. This count includes February and July first timers. There were 29,977 applicants who passed the exam during this same five-year (10-exam) period. Thus, the pipeline analysis estimates that 93 percent of the first timers eventually passed. This is consistent with the overall rate in the 1990 cohort (where applicants had up to 8 opportunities to pass).

$$\text{Eventual Passing Rate} = (29,977/32,255) \times 100 = 93\%$$

The number of first timers during the first two years of this five-year study period (12,509) was slightly higher than during the last two years of this period (13,066). Thus, the pipeline approach may have slightly underestimated the eventual passing rate (provided, of course, that pass/fail standards did not change during this period).

## SUMMARY OF FINDINGS

The research described in this report examined the initial and eventual passing rates of applicants who took the bar exam for the first time in July 1990 or 1991. It also reviewed data from previous tracking and cross-sectional analyses. The major findings of this research are:

- o The eventual passing rates in the 1990 cohort (93%) was 4 percentage points higher than in the 1991 cohort. A portion



of this disparity was probably due to the 1990 cohort being tracked over 2 more exams than the 1991 cohort.

- o About 3 percent of the 9,422 applicants who eventually passed did so as a result of taking the exam more than three times.
- o About 70 percent of the Blacks and 85 percent of the Latinos and Asians eventually passed compared to a 93 percent rate for whites. Minority group representation among those who eventually passed was only 2 percentage points less than their percentage share of the total pool of first timers.
- o Applicants from ABA schools had higher initial and eventual passing rates than other applicants. And, applicants from California accredited schools had a higher eventual passing rates than did applicants from unaccredited schools.
- o Only 2.2 percent of the first timers came from unaccredited schools and only 1.7 percent percent of those who eventually passed came from these schools.
- o A relatively large percentage of the applicants who were not allocated to a school type did not retake the exam after an initial failure on it. This may be due to these applicants being less committed to practicing in California.
- o A cross-sectional ("pipeline") analysis estimated that 93 percent of the first timers eventually pass. This estimate is consistent with the 1990 tracking results (i.e., where applicants were followed over as many as 8 exams).
- o Eventual passing rates in the 1990 and 1991 cohorts are comparable to eventual rates in previously studied cohorts given the variation among these cohorts in the number of times an applicant had the opportunity to retake the exam during the follow-up period.