

## EVENTUAL PASSING RATES AMONG JULY 1997-2000 FIRST TIMERS

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### Summary

This report describes the initial and eventual passing rates of the 22,426 applicants who took California's General Bar Examination (GBX) for the first time in July 1997, 1998, 1999, or 2000. Although the pass/fail status of the applicants in these four cohorts was tracked through and including the February 2003 exam, none of those who failed on their first attempt passed after taking the test more than six times.

Overall, 86 percent of the applicants passed after taking the exam as many as six times. Specifically, 68 percent passed on their first attempt and 18 percent passed after two or more attempts. Another 9 percent repeated the exam one or more times but without success. The remaining 5 percent took the exam once, failed, and did not try again. Eventual passing rates have declined slightly over the last several years.

The higher an initially unsuccessful applicant's score on the first attempt, the greater the likelihood of that applicant trying again and eventually passing. If all of the initially unsuccessful candidates had persisted, then the overall eventual passing rate would increase from 86 to about 89 percent. Graduates of ABA schools had higher eventual passing rates than others. Males and females had nearly identical initial and eventual passing and persistence rates. Racial/ethnic minority group members (and especially Blacks) were not as likely to eventually pass as their classmates.

### Results by Cohort

Table 1 shows that while first timer passing rates varied somewhat across the four cohorts (from a low of 64 percent in 1999 to a high of 75 percent in 1997), their eventual passing rates were very close to the overall average of 86 percent. The four cohorts also had very similar percentages of applicants repeating the exam without success (i.e., the candidates in the "subsequent fail" category) and those who failed on their first attempt but did not try again (i.e., the applicants in the "non-repeating fail" category).

About 79 percent of the applicants in the “subsequent pass” category achieved their passing status on their second attempt. Another 14 percent did so on their third try and 4 percent on their fourth attempt. The remaining 3 percent needed five or six tries to pass. None of the applicants who initially failed achieved a passing status after taking the exam more than six times. These results are fairly consistent across cohorts.

Table 1  
Percentage of Applicants in Each Pass/Fail Category by Cohort

Pass/Fail Category	1997	1998	1999	2000	Total
Initial Pass	75	66	64	67	68
Subsequent Pass	13	19	21	17	18
Subsequent Fail	8	10	9	10	9
Non-repeating Fail	4	5	6	6	5
Total Percent Passing	88	85	85	84	86
Number of takers	5,796	5,623	5,534	5,473	22,426

Eventual passing rates have declined somewhat over the last several years. For example, a study of the July 1990 and 1991 cohorts of first timers found eventual passing rates of 93 and 89 percent, respectively (Klein, 1994). The rates in the 1997 through 2000 cohorts were 88, 85, 85, and 84 percent, respectively. The decline in eventual passing rates during the last several years parallels a gradual decrease in mean LSAT scores of first time takers in California over this same period (Klein & Bolus, 2003).

### **Results by Law School Type**

Table 2 shows that across the four cohorts, 90 percent of the graduates from ABA approved law schools eventually passed. The applicants in this category are restricted to those who took the California exam for the first time within one year of graduating law school. Most of the applicants in the “All Others” category also are graduates of ABA schools, but they did not take the California exam within one year of graduation. Indeed, many of them began their legal careers by taking and passing the bar exam in other states.

Table 2  
 Percentage of Applicants in Each Pass/Fail Category by School Type

Pass/Fail Category	ABA Approved	California Accredited	Unaccredited	All Others
Initial Pass	73	38	35	55
Subsequent Pass	17	30	23	13
Subsequent Fail	6	26	36	14
Non-repeating Fail	4	6	7	18
Total Percent Passing	90	68	58	68
Number of takers*	18,049	1,858	312	2,121

\*Of the 86 applicants missing a school code, 56 passed.

As in the past, a very large percentage of the graduates from California Accredited and Unaccredited schools who eventually pass do so as a result of taking the test two or more times. The applicants in the “All Others” category are much more likely than others to take the test once, fail, and not try again.

Eventual passing rates among ABA graduates have varied across the 12 cohorts of July first timers that have been studied since 1977. For example, the lowest eventual rate among ABA graduates (84 percent) occurred in the 1982 cohort whereas the highest eventual rate (95 percent) was in the 1990 cohort (see Klein, 1994). The average rate over the previous eight cohorts that were studied was 89 percent compared to the average of 90 percent in the 1997-2000 cohorts.

### **Results by Racial/Ethnic Group and Gender**

Table 3 shows that African-American (hereinafter referred to as Black) candidates had much lower initial and eventual passing rates than did their classmates.<sup>1</sup> In this respect, the results with the 1997-2000 cohorts exhibit the same pattern as those found with the 1990-91 cohorts. For example, there was a 23 percentage-point difference in eventual passing rates between Whites and Blacks in the 1990-91 cohorts and a 25-point difference between them across the four 1997-2000 cohorts. The one notable exception to this parallelism is that in the 1997-2000 cohorts, nearly three-quarters of the Blacks who eventually passed did so on their first try whereas in the past, only about half of the Blacks who eventually passed did so on their first attempt.

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<sup>1</sup> Column totals in this and other tables may not sum to 100 percent because of rounding.

Table 3  
Percentage of Applicants in Each Pass/Fail Category by Racial/Ethnic Group

Pass/Fail Category	White	Asian	Hispanic	Black	Other
Initial Pass	73	65	56	42	63
Subsequent Pass	16	21	25	22	20
Subsequent Fail	7	10	13	24	12
Non-repeating Fail	5	4	6	12	5
Total Percent Passing	89	86	81	64	83
Number of takers	14,968	3,068	1,714	1,086	1,590

Table 4 shows the distribution of the 19,212 applicants in the 1997-2000 cohorts that eventually passed by school type and racial/ethnic group. These data indicate that the vast majority of both the White and minority applicants who passed came from ABA approved schools. Only 15 of the 2,074 applicants of color who passed (11 Hispanics and 4 Blacks) were unaccredited school graduates. This is less than a handful per year.

Table 4  
Number of Eventual Passers Within Each Racial/Ethnic Group from Each School Type

School Type	Racial/Ethnic Group					Total Takers
	White	Asian	Hispanic	Black	Other	
ABA Approved	11,017	2,324	1,225	588	1,111	18,049
CA Accredited	950	100	82	38	99	1,858
Unaccredited	134	21	11	4	10	312
All Others*	1,087	184	63	63	101	2,207
Total Passers	13,188	2,629	1,381	693	1,321	

\* Includes the results with the 56 passers who were missing a school code.

Table 5 shows that men and women now have nearly identical percentages in each pass/fail category. In the past (when there were many more men than women taking the exam), the women tended to have higher initial and eventual passing rates than men.

Table 5  
 Percentage of Applicants in Each Pass/Fail Category by Gender

Pass/Fail Category	Male	Female	Total
Initial Pass	68	69	68
Subsequent Pass	17	18	18
Subsequent Fail	9	9	9
Non-repeating Fail	6	5	5
Total Percent Passing	85	87	86

**Relationship of Initial Score to Eventual Pass/Fail Status**

Table 6 shows that applicants who came close to passing but failed on their first attempt were much more likely to retake the exam and pass than were those who did not come close to passing on their first try. For example, 79 percent of the applicants who failed initially but had a total score over 1410 on their first attempt eventually passed compared to an eventual passing rate of only 11 percent for those with initial scores below 1250.

Table 6  
 Number and Percentage of Initially Unsuccessful Applicants Classified By Their Initial Total Score and Eventual Pass/Fail Status

Initial Score	Number of Applicants	Did Not Retake Exam	Subsequent Fail	Subsequent Pass
> 1410	1,102	11	10	79
1385 – 1410	1,145	12	13	75
1365 – 1384	1,052	14	20	65
1340 – 1364	959	16	26	58
1300 – 1339	1,184	15	36	48
1250 – 1299	905	21	45	33
< 1250	816	27	61	11
Number of Applicants		1,161	2,053	3,949

Note: Row percentages may not sum to 100 percent due to rounding.

The values in Table 6 can be used to estimate the overall eventual passing rate if the 1161 applicants who failed initially and did not retake the test had in fact persisted in their efforts to pass. For example, 79 percent of the initially unsuccessful applicants with total scores over 1410 on their first attempt eventually passed while another 10 percent of them did try again but without success. Consequently,  $79/(79 + 10) = .89 =$  the proportion passing of those who tried again. The remaining 11 percent of the 1102 applicants with initial scores over 1410 did not retake the test. Hence, the estimated number of additional passers at this score level would be  $.89 \times .11 \times 1102 = 108$ .

The following steps were used to estimate the additional percentage of applicants that would pass if all of those who initially failed had persisted: (1) compute the estimate for each score level using the procedures above, (2) sum these estimates across score levels, and (3) divide this sum by the total number of takers. The sum of the estimates across score levels is 659; which is about 3 percent of the 22,426 applicants studied. Thus, it appears that if all of the initially unsuccessful applicants had persisted, then the eventual passing rate would increase from 86 percent to about 89 percent.

When the estimates are generated separately for each racial/ethnic group, the increase in eventual passing rates for Whites, Asians, Hispanics, and Blacks are 3, 2, 3, and 6 percent, respectively. These data suggest that Black applicants in particular should be encouraged to persist, especially if they came close to passing on their first attempt.

### **Cross-Sectional Analyses**

Another 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, generally 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, but the reverse is true if the number of first timers decreases over time).

A total of 27,289 applicants took the California Bar exam for the first time during the four-year period between 1999 and 2002. This count includes February and July first timers. There were 22,924 applicants who passed the exam during this same four-year (8-exam) period. Thus, the pipeline analysis estimated that  $22,924/27,289 = 84$  percent of the first timers eventually passed. This is very close to the overall 86 percent rate in the four longitudinal July cohorts that were studied in this report. The small difference between these two rates could stem from several factors including the fact that July first timers tend to have a higher passing rate than February first timers.

Past Tracking Studies and References:

Klein, S. (1982). "An Analysis of the Relationship Between Initial Score and Eventual Pass/Fail Status on the California Bar Examination." A report prepared for the Committee of Bar Examiners of the State Bar of California. (81-9P)

Klein, S. and Bolus, R. (1987). "A Comparison of Initial and Eventual Passing Rates on the California Bar Examination." A report prepared for the Committee of Bar Examiners of the State Bar of California (PR-87-5).

Klein, S. and Bolus, R. (1988). "Comparisons of Eventual Passing Rates in the 1985 and 1986 Cohorts." A report prepared for the Committee of Bar Examiners of the State Bar of California. (PR-88-6)

Klein, S. and Bolus, R. (1994). "Comparisons of Eventual Passing Rates in the 1990 and 1991 Cohorts." A report prepared for the Committee of Bar Examiners of the State Bar of California. (PR-94-3)

Klein, S. and Bolus, R. (2003). "Analysis of Changes in Test Scores and Passing Rates on the California Bar Exam from 1997 to 2002." A report prepared for the Committee of Bar Examiners of the State Bar of California. (PR-03-05).