

SOURCES OF VARIATION IN PASSING RATES
ON CALIFORNIA BAR EXAMINATIONS

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The analyses presented in this report were conducted to investigate possible sources of the generally declining passing rate on the California Bar exam. The data presented in this report are an updated version of those presented in a study of the 1976 to 1980 exams.

The first portion of the report summarizes the procedures used to determine whether the variation in passing rate was due to changes in the exam's difficulty (standard for passing) versus changes in the average ability level of those taking it. The remaining sections discuss the results of these analyses relative to other data about the applicant pool.

The statistics presented in the attached tables differ slightly from those reported by the State Bar of California because the data in the tables are based on just the applicants who sat for both the essay and MBE portions of the exam.

PROCEDURES

The following procedures were used to construct a Difficulty Index (DI) for each exam given between February 1976 and 1983:

- 1) Identify the sample of applicants who took both the essay and MBE portions of the exam. Run all analyses, including the computation of average scores, on this sample.
- 2) Convert California's MBE scores to the same units of measurement as used by National Conference of Bar Examiners for reporting MBE scale scores. Note that NCBE scale scores are adjusted for the difficulty of the MBE questions asked on one administration relative to those asked on other administrations. Thus, a scale score on one administration indicates the same performance level as that same score on another administration regardless of any differences between administrations in the average difficulty of their questions.
- 3) Compute an essay score for each applicant by obtaining his/her average score on an essay answer across all the answers graded for that applicant (including those read twice) and then multiply this score by 9 (the number of essay questions on the exam).
- 4) Convert the essay scores to a distribution having the same mean and standard deviation as the applicants' NCBE/MBE scale scores. This step converts essay raw scores to scale scores in order to adjust for any variations in the difficulty of the essay section across administrations. It does not change an applicant's relative standing on the on essay.
- 5) Compute each applicant's Total Adjusted Score as follows: Total Adjusted Score = (.4)(MBE Scale Score) + (.6)(Essay Scale Score)

- 6) Inspect the distribution of Total Adjusted Scores to determine the score that would pass the same percentage of applicants as actually passed, including those who passed by reappraisal. This score is the exam's DI. The higher the DI, the more difficult the exam.

RESULTS

Tables 1 and 2 show that prior to 1981, the February exams tended to be slightly easier to pass than the July exams even though February's passing rate was much lower than July's rate. Since 1981, the February DI (142-143) has been about the same as the July DI. Thus, the recent decline in the percent passing the February exam is attributable mainly to a drop in the average performance level of those taking it rather than to an increase in standards. The July decline in passing rate is almost entirely due to a decline in average performance level. The increased time limits on some of the February and July 1982 essay questions apparently did not affect the passing standards on these two exams.

Tables 3 and 4 show that the declines in passing percentage generally parallel drops in the percent of first timers and ABA graduates taking the examination. The average NCBE/MBE scale scores of February but not July ABA graduates also has been declining. Average MBE scores and passing rates of July ABA first timers have remained relatively stable.

Most applicants who failed the exam did so because of low essay scores or low scores on both the essay and the MBE. Less than 4% of those taking the exam failed the MBE but passed the essay (see Tables 5 and 6). The percent passing the MBE was 22.4% higher than the percent passing the essay on the July 1982 exam and 20% higher on the February 1983 exam. Thus, the passing rate in California would have been much lower than what was obtained had pass/fail status been based solely on the essay portion of the exam.

The decline in California's average February MBE scores since 1979 has not been paralleled by a decline in average MBE scores in other states (see Tables 7 and 8). For instance, the NonCalifornia February average has remained at about 134 even though the California average slipped from its 1977-1979 average of 139 to a 136 in 1983.

DISCUSSION AND CONCLUSIONS

The decline in July's passing rate is not due to an increase in standards whereas February's decline is due partly to a slight increase in standards. As a result of this increase, the February standard is now comparable to the July standard.

A large portion of the February decline and all of the July drop are highly related to a decrease in the percentage of first timers and ABA graduates taking the exam. The February but not the July decline appears to be exacerbated by a drop in the average MBE scores of ABA graduates; even the typically more able applicant is now performing less well in February.

Possible explanations for the declining passing rate include changes in: law school admissions policies, testing practices, educational programs, academic standards; applicant study habits or motivation; the effectiveness of bar review courses; or a combination of these and other nonexam factors.

Table 1

DIFFICULTY INDEXES FOR FEBRUARY EXAMS

<u>Year</u>	<u>Number of applicants</u>	<u>Percent passing</u>	<u>Difficulty Index (DI)</u>
1976	3088	38	141
1977	3399	44	141
1979	4166	45	141
1980	3758	34	141
1981	3837	33	142
1982	4033	31	143
1983	4200	28	142

Table 2

DIFFICULTY INDEXES FOR JULY EXAMS

<u>Year</u>	<u>Number of applicants</u>	<u>Percent passing</u>	<u>Difficulty Index (DI)</u>
1976	6709	60	143
1977	7191	55	142
1978	6835	55	142
1979	7152	55	142
1980	7379	49	142
1981	7080	50	142
1982	7038	49	143

The higher the DI, the harder the exam was to pass. Variation in essay grading standards is the primary source of any variation in DI's across administrations of the California Bar Exam. The DI is not affected by possible variations in the difficulty of MBE or essay questions from one exam to the next. The DI does not correspond to the number of MBE items an applicant needs to answer correctly in order to pass.

Table 3

SUMMARY STATISTICS FOR FEBRUARY TESTS

Year	All Applicants					ABA Graduates		
	Total Number	% pass	% 1st timers	Mean MBE	DI	% of total	% 1st timers	Mean MBE
1976	3088	38	38	137	141	49	16	144
1977	3399	44	35	139	141	43	14	146
1979	4166	45	32	139	141	43	13	146
1980	3758	34	36	136	141	42	14	145
1981	3837	33	34	138	142	41	13	146
1982	4033	31	32	137	143	40	11	143
1983	4200	28	30	136	142	39	10	140

Mean MBE = (Average California MBE score)/(3.0); percentages are percentage of the total number of all applicants.

Table 4

SUMMARY STATISTICS FOR JULY TESTS

Year	All Applicants					ABA Graduates		
	Total Number	% pass	% 1st timers	Mean MBE	DI	% of total	% 1st timers	Mean MBE
1976	6709	60	77	145	143	64	54	152
1977	7191	55	77	143	142	61	52	150
1978	6835	55	80	145	142	62	55	151
1979	7152	55	74	144	142	62	53	150
1980	7379	49	69	141	142	62	50	148
1981	7080	50	68	142	142	55	45	149
1982	7038	49	66	142	143	55	44	149

Mean MBE = (Average California MBE score)/(3.0); percentages are percentage of the total number of all applicants.

Table 5

PERCENTAGE OF APPLICANTS IN EACH PASS/FAIL
CATEGORY ON THE JULY 1982 EXAMINATION

		Essay		
		Fail	Pass	Total
M	Fail	38.1	3.5	41.6
B				
E	Pass	25.9	32.5	58.4
Total		64.0	36.0	100.0

Table 6

PERCENTAGE OF APPLICANTS IN EACH PASS/FAIL
CATEGORY ON THE FEBRUARY 1983 EXAMINATION

		Essay		
		Fail	Pass	Total
M	Fail	55.5	3.5	60.0
B				
E	Pass	24.5	16.5	40.0
Total		80.0	20.0	100.0

Table 7

NATIONAL AVERAGE MBE SCORE AND THE NUMBER OF
EXAMINEES TAKING THE MBE FROM 1975 TO 1983

Year	Average MBE		No. of Examinees	
	Feb	Jul	Feb	Jul
1975	136.0	143.5	10,963	24,835
1976	134.5	142.4	12,610	28,381
1977	135.3	140.7	13,738	28,608
1978	135.5	141.4	13,715	29,171
1979	135.4	141.0	15,341	34,818
1980	134.3	140.6	16,948	36,368
1981	135.8	140.8	17,289	36,846
1982	134.8	139.7	18,150	36,995
1983	134.2		17,964	

Table 8

CALIFORNIA AND NONCALIFORNIA AVERAGE MBE SCORES

Year	February		July	
	CA	NonCA	CA	NonCA
1976	137	134	145	142
1977	139	134	143	140
1978	139	134	145	141
1979	139	134	144	140
1980	136	134	141	140
1981	138	134	142	141
1982	137	134	142	140
1983	136	134		