



THE STATE BAR OF CALIFORNIA

THE COMMITTEE OF BAR EXAMINERS

OFFICE OF ADMISSIONS

MEMORANDUM

DATE: April 25, 2012

TO: Members, Board Committee on Regulation, Admissions and Discipline

FROM: Gayle Murphy, Senior Director, Admissions

SUBJECT: FORMAT OF THE CALIFORNIA BAR EXAMINATION

Background

While there have been more recent changes to the scope of the California Bar Examination and the grading process, there have been no substantive changes to the format of the examination for more than 25 years. Attached for your information is a copy of a report prepared by the Committee of Bar Examiners' (Committee) psychometric consultant, Dr. Stephen P. Klein, Ph.D., which discusses the history of the bar examination (Attachment A).

The primary reasons for having a bar examination are for public protection, to assess the knowledge and abilities of those seeking admission to the practice of law and have an objective measure as to whether those seeking admission have acquired through their legal studies the minimum competence expected of those entering the profession. As part of its ongoing responsibilities, the Committee, on a continual basis, reviews the scope, format and grading of the bar examination to ensure that it remains valid, reliable and fair. As part of that review, the Committee also considers whether the examination is being administered in the most effective and efficient way possible.

In its last analysis, the Committee determined that it is appropriate at this time to seriously consider changing the format of the examination so that the test can be administered over two days instead of the three days required by the current format. Attachment B is a bulletin that describes the current examination format and grading process.

In preparation for development of a proposal by the Committee, in October 2011, a meeting was held with three psychometricians: Stephen Klein, Ph.D., Christine Harmes, Ph.D. and Chad Buckendahl, Ph.D. to discuss the format of the California Bar Examination and to explore the feasibility of possible changes. In addition to the psychometricians and staff, the working group included the Committee Chair John McNicholas, and Committee members Scott Bovitz, Patrick Dixon, Sandra Mendoza, Larry Sheingold and James Vaughn. The group discussed the pros and cons of making changes, the psychometric impacts of changing various components of the examination and whether making changes would negatively impact the reliability or validity of the examination. The group's consensus was that the Committee should proceed with a

proposal for changing the current examination structure so that the General Bar Examination would be administered over two days instead of three days. The Attorneys Examination, which consists of the written portions of the General Bar Examination, is already administered over two days.

The working group agreed that a California two-day bar examination should consist of the same components as the current examination: Essay questions, Performance Test questions and the MBE. According to Dr. Klein, a two-day examination (one day devoted to a written test and one day to the MBE) with equal weight assigned to the MBE and written portions would be comparable to the current three-day examination and would not negatively impact the reliability of the examination or decision making consistency.

During its December 2011 meeting, the Committee considered the recommendation of the working group and a report that had been prepared by Dr. Klein, which was completed after the working group met. The purpose of Dr. Klein's study was to find out if the original hypothesis was correct. In order to do so, he applied various examination format scenarios to existing score data from twenty examinations that had been administered in the past. His analysis suggests that administering a two-day examination would yield essentially the same results as those for a three-day examination and that it would be more efficient. According to Dr. Klein, testing applicants over two days could be done "...in a way that improves test quality, maintains existing pass/fail standards, and does so without making it more difficult for minority applicants to pass." Attachment C is the report entitled "The Estimated Effect on Examination Quality and Passing Rates of Different Ways of Modifying California's Bar Examination," which was prepared by Dr. Klein and his colleague, Roger Bolus, Ph.D.

The Committee took the following action:

It was moved, seconded and duly carried that in furtherance of the Committee's efforts to ensure that the California Bar Examination more efficiently tests applicants for admission to practice law in California to determine minimum competence in the law, that outreach on the proposal to reduce the General Bar Examination to two days from three days proceed with the concept of the two-day examination constructed as follows: 1) Tuesday morning session consisting of three hours during which three, one-hour essay questions would be administered, 2) Tuesday afternoon session consisting of three and one-half hours during which two, one-hour essay questions and one, 90-minute Performance Test would be administered and 3) Wednesday – morning and afternoon sessions consisting of three hours each, during which 100 multiple-choice items for each session would be administered (MBE); that during the grading process, the written and MBE portions of the examination be weighted equally...

Review of Proposal

Before proceeding with its outreach efforts to other stakeholders on the proposed changes, the Committee believes it is important to discuss the proposal with and receive input from the Board Committee on Regulation, Admissions and Discipline first. The Chair of the Committee, John McNicholas, and the Chair of the Committee's Examination Subcommittee, Larry Sheingold, are planning to be present at the Board Committee's May meeting to discuss the Committee's proposal in greater detail and answer any questions that members may have.