

## **HISTORY OF GENERAL BAR EXAMINATION STRUCTURE AND PASS/FAIL RULES**

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July 9, 2011

This report summarizes the features of California's General Bar Examination (GBX) during the past 75 years.

1) Between 1932 and 1972, the GBX consisted of about 20 essay questions. In order to pass, an applicant had to have an average score of at least "70% of the highest possible grade." There is no record of what reread or reappraisal practices may have been used.

2) The Multistate Bar Examination (MBE), a 200-item multiple choice test, was added in July 1972. Under the July 1972 rules, an applicant could earn up to 1714 points; 514 on the MBE (2.57 times the applicant's MBE scale score) and 1200 on the essay (with 100 points for each of 12 questions). Thus, the nominal weights attached to the MBE and Essay were 30% and 70%, respectively.

The essay test had three sections with five questions per section. Applicants were told to answer four of the five questions in a section in 3.5 hours (i.e., 52.5 minutes per question). Thus, applicants had some choice in which questions they answered and there was wide variation in the number of applicants answering a given question. On the average, there were 4 to 5 readers per question.

The passing score was 1200 points (i.e., 70% of the maximum possible total). Applicants with total scores were between 1140 and 1199 (i.e., between 66.5% and 69.9% of the maximum possible) were placed in reappraisal. The applicants in this group had all of their essay answers and all of their scores (including their MBE score) independently reviewed by two reappraisers. Each reappraiser made an overall pass/fail decision. If they disagreed, the applicant's answers and scores were reviewed by a third reappraiser who broke the tie.

The passing score of 1200 was chosen, in part, because it allowed an applicant to pass by earning a perfect score on the essay section (i.e., even with a "0" on the MBE).

3) Several changes were made in July 1978. The number of essay questions an applicant had to answer was reduced from 12 to 9, the time allocated to answer a question was increased to 60 minutes, applicants no longer had a choice in which questions they answered, MBE scale scores were multiplied by 3.0, the maximum possible score on the test became 1500 points (600 on the MBE and 900 on the Essay – which also changed the nominal weights assigned to each section), and a phased grading system was introduced to focus reader resources on applicants who were near the pass/fail line (i.e., those whose pass/fail status might be affected by a reread process).

The first step in the phased grading system involved passing applicants if their scores on one randomly selected essay test session (i.e., three essay answers) plus their MBE score was high enough to virtually assure they would pass if all their essay answers were read. The applicants who did not pass at this step had the rest of their answers graded. After this reading, applicants were passed if their total score was above 71% of the maximum possible score on the exam. They were failed if this score was below 67.3% of the maximum possible and they went to reread if it was between 67.3% and 71%.

The applicants in reread had all of their essay answers scored again by different graders who did not know the scores assigned by the first set of readers. The average of the two sets of essay scores became the applicant's total essay score and this score was combined with the MBE score. An applicant passed if this new total was 1050 or higher (i.e., 70% or more of the theoretical maximum possible score), failed if it was below 68.7%, and went to reappraisal if it was between 68.7% and 69.9%.

Applicants in reappraisal had all of their scores (including their MBE score) and essay answers reviewed by one reappraiser who made the final pass/fail decision. As in the past, if the applicant failed after reappraisal, the score reported was the one the applicant received prior to reappraisal.

The score levels required to pass at each step and to get into reread and reappraisal were established on the basis of empirical analyses of past exams (see report by Klein entitled "A Comparison of the Effectiveness of a Single versus a Multiphased Grading System" May, 1980). For instance, the bottom end of the reread zone was set in a way that assured inclusion of virtually all the applicants who had even a small chance of having their initial fail status converted to a pass as a result of the reread process.

Starting with the July 1984 exam, the first step of the phased grading process (i.e., passing some applicants without reading all of their answers at least once) was discontinued because it was found that it was no more expensive to grade every applicant's answers at least once.

The changes above increased the *nominal* weight given to the MBE from 30% to 40%, but they increased its *actual* weight to about 45%. This occurred because the actual weight is determined by the size of the MBE's standard deviation relative to the size of Essay section's standard.

4) The so called "bifurcation" rule was added in July 1981 to provide applicants with another means of passing. Under this rule, applicants could pass by having a combined MBE + Essay score of 1050 or higher (i.e., 70% of the maximum possible) and/or by passing the MBE on one administration of the exam and the Essay on another administration. Applicants who failed overall but "passed" one section (where passing was defined as 70% of the maximum possible score on that section) could repeat the entire exam or just the part failed previously. They did not risk losing their passing status on a section by repeating it.

Because the bifurcation rule only affected repeaters, no one passed as a result of it until February 1982. The rule was discontinued in July 1983 primarily because it had the

opposite of its intended effect; i.e., it tended to lower rather than raise passing rates (see report by Klein "How the Bifurcation Rule Affected the Percent Passing California's General Bar Examination"). The rule also was too cumbersome to implement along with the planned use of the Performance Test because it would have meant "trifurcating" the exam. Because of the rule's provisions, some applicants were eligible to pass the GBX as late as July 1985 (i.e., by having earned a passing status on a July 1983 section).

5) On three exams (February 1982, July 1982, and February 1983), applicants were given 90 minutes to answer two of the nine essay questions. The two questions appeared in a single, 180-minute test session. This addition increased total testing time from 2.5 to 3 days.

The questions allocated the extra time were graded in the same way as the other questions; i.e., with a 100 point maximum. No change was made in the pass/fail rules. Statistical studies of these three exams indicated that the additional time did not affect passing rates. All subsequent exams have allocated 60 minutes per essay question.

6) The Performance Test (PT) section was added to the exam in July 1983. On the first three administrations of this section, each PT problem included a set of multiple choice questions. The scores on the multiple choice portion of a PT problem were scaled to the MBE. An applicant could theoretically earn 1800 points on the exam -- 600 on the MBE (three times the MBE scale score), 600 on the essay (6 questions at 100 points each), and 600 on the PT (300 points per problem, 200 for the written response and 100 for the multiple choice portion). The passing score was 1260 (i.e., 70% of 1800).

The multiple choice portion of the PT was discontinued after the July 1984 exam. Starting with the February 1985 exam, all 300 points per PT problem were given to the written answer.

The pass/fail decision rules adopted in 1978 were converted to the new exam structure and point system. Specifically, after the first reading of all answers, applicants were passed if their total scores were over 1278, failed if they were under 1225, and sent to reread if they were between 1225 and 1278. Based on their total scores after reread, applicants were passed if their total was over 1259, failed if it was less than 1240, and sent to reappraisal if it was between 1240 and 1259.

7) Under the rules that were implemented beginning with the February 1987 exam, MBE scale scores are multiplied by 10 (so that the maximum possible MBE score is 2,000 points) and the written portion of the exam is structured so that an applicant can earn up to 600 raw score points on the essay (100 points per question) and 400 on the PT (200 points per problem).

Total written raw scores (i.e., Essay plus PT) on a given administration are scaled to a score distribution that has the same mean and standard deviation as these applicants' MBE scores. The formula used to compute total scores gives 65% of the weight to the Written portion of the exam and 35% to the MBE. This formula is: Total Scale = (.65 x Written Scale Score) + (.35 x MBE Scale Score)

The score required for passing is 1440. This score reflects the average of the pass/fail standards that were used on all the exams that were given between 1977 and 1986. This average was computed by using the procedures above to calculate total scale score on each of these 20 previous exams, finding the total score on each exam that would have produced the same passing rates as actually occurred on that exam, and then determining the average of these standards. The use of 1440 also reflects a small adjustment that was made to accommodate the applicants who would pass as a result of the reappraisal process. In addition, the reread and reappraisal bands were set in a way that insured including about the same percentage of applicants as had been in these groups on previous administrations of the exam.

8) Phase 3 of the grading process was modified in July 2006 to focus on relatively large discrepancies between the first two graders' scores. Specifically, if the Phase 1 and 2 graders were no more than 10 points apart, then the final score on the answer continued to be the average of the two graders' scores. However, if the scores they assigned were more than 10 points apart and the applicant would fail based on these scores, the grading team leader (who was a member of the Examination Development and Grading Team for the question) reviewed these scores and the answer, and then assigned a final grade to it. That grade could be higher but not lower than the one assigned by either regular grader.

9) NCBE took over all MBE test development, administration, scoring, equating, and score reporting functions beginning with the February 2011 exam.

There have been many changes in the GBX's pass/fail rules, structure, format, the weights attached to its sections, and the number of readers grading the answers to the written questions. For example, there are now more than twice as many readers per question as there were 25 years ago. Nevertheless, GBX passing rates have generally risen and fallen in close harmony with variations in the candidates' mean LSAT and MBE scores (and the scores on those tests are adjusted for possible differences in average question difficulty from one exam to the next). Thus, the standards for passing have remained fairly stable over time.

## CHRONOLOGY OF CHANGES

July 1972	MBE added with a nominal weight of 30%
July 1978	Number of essay questions reduced from 12 to 9 All applicants had to answer all questions Time per question increased from 52.5 to 60 minutes Beginning of phased grading and automatic reread Reappraisers per applicant reduced from 2 or 3 to 1 Nominal weight given to MBE increased to 40%
July 1980	Experimental test sections and Assessment Center Special one time only pass/fail rules
July 1981	Bifurcation rule added (affected pass/fail in 2/82)
February 1982	90 minutes allocated to each of two essay questions Exam length increased from 2.5 to 3 days
July 1983	90 minute questions eliminated PT section added to the exam with a multiple choice part Essay, PT, and MBE each carry one-third of nominal weight Bifurcation rule dropped, but affected pass/fail to 7/85
July 1984	All written answers read at least once for all applicants
February 1985	Multiple-choice portion of PT eliminated
February 1987	Essay and PT combined into a single Written score Weight attached to PT reduced to 40% of Written score Written scores (Essay + PT) scaled to MBE distribution Weight attached to MBE set at 35% of total
February 2007	Phase 3 changed from reappraisal to resolution grading, which focuses on large disparities between graders
July 2007	Exam scope changed to: <ol style="list-style-type: none"><li>1. "Corporations" renamed to "Business Associations" and scope of the topics tested in Business Associations includes those topics currently tested in Corporations, partnerships of all forms, limited liability entities, related agency principles and uniform acts;</li><li>2. Scope of the subject titled "Civil Procedure" includes the California Code of Civil Procedure; and,</li><li>3. Scope of the subject titled "Evidence" includes the California Code of Evidence.</li></ol>