

# COMMITTEE OF BAR EXAMINERS OPEN SESSION AGENDA ITEM

**AGENDA ITEM:** June 2018 – O-200

**DATE:** June 8, 2018

**TO:** Subcommittee on Examinations

**FROM:** Amy C. Nuñez, Interim Director, Admissions

**SUBJECT:** Draft Report to the Supreme Court on the February 2018 California Bar Examination

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## BACKGROUND/DISCUSSION

Rule 4.60 of the *Admissions Rules* requires the Committee provide "...the California Supreme Court a report on each administration of the examination as soon as practical." Attached please find the draft Report to the Supreme Court on the February 2018 California Bar Examination.

## RECOMMENDATION:

It is recommended that the Subcommittee recommend to the Committee that the report be finalized and forwarded to the Court.

## PROPOSED MOTION

Should the Subcommittee on Examinations agree with the above recommendation, the following motion would be appropriate:

Move, that the draft Supreme Court Report on the February 2018 California Bar Examination be finalized and submitted to the Court.

**FEBRUARY 2018  
CALIFORNIA BAR EXAMINATION**

**Report Pursuant to**

**Title 4. Admissions and Educational Standards, Division 1. Admission to Practice  
Law in California, Chapter 5. Examinations, Rule 4.60 (B)  
of the *Rules of the State Bar of California***

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## **REPORT ON THE FEBRUARY 2018 CALIFORNIA BAR EXAMINATION**

Six thousand one hundred and seventy-eight (6,178) applicants applied to take the February 2018 California Bar Examination, which was administered February 27 and 28, 2018. Five thousand three hundred and twenty-nine (5,329) applicants started the examination and 5,303 actually completed the examination. Of those totals, 4701 applicants completed the General Bar Examination and 1,282 (27.3%) passed and 602 attorney applicants completed the Attorneys' Examination and 261 (43.4.1%) passed. Some applicants will begin the examination but do not complete all portions. To be considered as having completed an examination, an applicant must submit answers for all six written questions and receive a grade better than zero on each, and for the General Bar Examination, also must have submitted answers to the Multistate Bar Examination (MBE) portion of the examination. Applicants taking the Attorneys' Examination included attorneys in good standing admitted to practice in other jurisdictions for four or more years at the time they took the examination and 25 who were disciplined attorneys who took the examination as a condition of reinstatement. Four disciplined attorneys passed the examination.

The General Bar Examination consisted of two days containing the following: Day 1: three (3) one-hour essay questions administered in the morning and two (2) one-hour essay questions together with one 90-minute Performance Test administered in the afternoon; and Day 2: the two-hundred multiple-choice examination questions developed and graded by the National Conference of Bar Examiners – the MBE. The Attorneys' Examination consisted of one day, during which the same three essay questions administered in the morning and two essay questions and the one 90-minute Performance Test given in the afternoon for the General Bar Exam were administered. Differing from the old format, the first day of the examination was extended by 30 minutes to accommodate the new examination format, which required that the afternoon session be conducted in 3 hours and 30 minutes instead of 3 hours.

The examination was administered at 10 test centers located throughout the state, which included handwriting, laptop and testing accommodations test centers. In order to participate in the Laptop Computer Program, applicants were required to pay an additional fee and download special security software in advance of administration of the examination. Following conclusion of the examination, applicants who completed their answers using their laptop computers under standard time constraints were required to upload two separate examination files, which contained their examination answers for each session, to a secure server no later than 12:00 noon on Thursday, the day following the last day of the examination. The answers were printed and then inserted into covers that had been prepared by the applicants during the examination. A total of 4,433 applicants took the examination at the Laptop test centers. The percentage of applicants using laptop computers out of the total number of applicants was 83.59% during the February 2018 administration of the examination.

A total of four hundred and twenty-one (421) applicants with disabilities were granted accommodations during administration of the February 2018 California Bar Examination. Three hundred and eighty-six (386) of those applicants were assigned to take the exam at testing accommodations test centers, while fourteen (14) applicants were granted accommodations at standard test centers (e.g., seating near a restroom, permission to bring food/water into the examination room, etc.). Twenty-one (21) applicants who were granted accommodations either withdrew their applications, had their applications abandoned, or were not eligible to take the

examination. Forty-one (41) applicants who were granted accommodations did not show up to take the examination.

Six grading groups, each consisting of twelve experienced Graders and up to four backup/apprentice Graders, were selected to grade the essay and PT answers. The groups convened for the purpose of calibration during two Saturdays in August and one Saturday in September. A member of the Examination Development and Grading Team (EDG Team) and members of the Committee of Bar Examiners supervised each group of Graders. At the First Calibration Session, the Graders discussed discrepancies in the prepared analyses of their assigned question and any patterns or problems they found in the sample answer books they had been sent the previous week. They then determined what weights to assign to the issues raised by the question.

After this discussion, the Graders assigned grades to fifteen answer books. These books were copies of answer books written by a sample of the applicant group; the sample was stratified by law school, repeater status, etc., so that Graders saw a cross section of the applicant population who took the examination. They read the sample books, assigned a grade to each book and then discussed and debated the grades assigned. The Graders arrived at a consensus grade for each book. After reading and reaching consensus on fifteen books, the Graders independently read a new set of twenty-five answer books, without further group discussion, and submitted grades for review at the Second Calibration Session.

At the Second Calibration Session, which was held one week after the First Calibration Session, the supervising member of the Grading Team distributed and discussed the grading guidelines that he or she drafted based upon the discussion at the first meeting. Graders received statistical information concerning their independent grading of the twenty-five books distributed at the first meeting, and reread and discussed any of the answers where they were in significant disagreement. An additional ten answer books were read, graded and discussed before a consensus grade was assigned to each answer. The groups were then given their first grading assignments.

During the Third Calibration Session, which was held in April, Graders discussed any problems they had been experiencing with their assigned books, and then calibrated grades on an additional fifteen answer books to ensure that they were still grading to the same standards.

The February 2018 examination was graded using California's phased grading system, the goal of which is to focus resources on those answers written by applicants with scores right around the pass line and to resolve discrepancies between the first and second reading of examination answers. Those applicants who clearly pass and fail are eliminated from the grading process as early as possible.

After all written answers for each applicant were read by separate Graders, applicants whose total scaled scores after first read were 1440 or higher were considered as having passed the examination and applicants with total scaled scores of 1389.9999 or lower failed the examination (first read or Phase I). Applicants with total scaled scores of 1390 - 1439.9999 had all of their written answers read a second time by a different set of Graders (second read or Phase II), and then the averages of the first and second read grades were used in the calculation of the total scaled scores. Applicants who did not have grading discrepancies of more than 10 raw points

between first and second read assigned grades on any question with averaged total scaled scores of less than 1440 failed the examination, and those with averaged total scaled scores of 1440 or higher, passed the examination. Applicants with grading discrepancies of more than 10 raw points between the first and second read grades on any question, whose averaged total scaled score was less than 1440, had those answers referred to the EDG Team member supervising that question for resolution.

The supervising EDG Team members reviewed each answer with more than a 10 raw point discrepancy between the first and second read, and resolved the discrepancy by assigning a “resolution grade.” The resolution grade, rather than the average of the discrepant grades, was used in the calculation of an applicant’s total scaled score (third read or Phase III). If an applicant’s total scaled score after Phase III resolution grading was 1440 or higher, the applicant passed the examination. If an applicant’s total scaled score after Phase III resolution grading was less than 1440, the applicant failed the examination. Unsuccessful applicants are informed of all the grades assigned to their written answers, including first read, second read and resolution grades, if applicable, in their result letters.

The scores on the written portion of the February examination were scaled to the MBE, i.e., the written scores were converted to a score distribution that has the same mean and standard deviation as the MBE score distribution. This procedure ensures that the difficulty of the examination remains constant from one examination administration to the next. For the February 2018 administration of the examination, the mean scaled MBE score in California was 1355 compared with the national average of 1328. Beginning with the first administration of the modified examination in July 2017, the scaled written score accounts for 50% of the total score and the scaled MBE score counts for 50%.

Results were timely mailed to applicants and made available to them via the State Bar’s website on May 18, 2018, and then were made available to the public beginning at 6:00 a.m., Sunday, May 20, 2018.