



The State Bar of California

CALIFORNIA PARAPROFESSIONAL PROGRAM WORKING GROUP

Date: December 17, 2020

To: California Paraprofessional Program Working Group

From: Julia Brynerson, Stephen Hamilton, and Claudia Torres-Ambriz

Subject: Update and Recommendations for Licensing Requirements for Paraprofessional Program

EXECUTIVE SUMMARY

The California Paraprofessional Program Working Group (CPPWG) is charged with developing recommendations for consideration by the Board of Trustees for the creation of a paraprofessional licensure/certification program to increase access to legal services in California. The CPPWG's charter is informed by the [California Justice Gap Study](#) and the [Task Force on Access Through Innovation of Legal Services](#). In carrying out its charge, the CPPWG must balance the dual goals of ensuring public protection and increasing access to legal services. The CPPWG's recommendations to the Board will include, among other topics, the requirements for paraprofessional licensing.

DISCUSSION

At its August 25, 2020, meeting, the CPPWG determined that subcommittees should be created to develop requirements for paraprofessional licensing, regulation, and discipline. These subcommittees were appointed subsequent to that meeting, and each met several times to review and consider information about their assigned topics. At its October 29, 2020, meeting, the Working Group reviewed the status reports from each of these subcommittees, and provided feedback on the subcommittees' preliminary recommendations and proposals.

At the October 29 meeting, the then members of the Licensing Subcommittee, Julia Brynerson and Stephen Hamilton, presented preliminary recommendations for paraprofessional licensing requirements, including prerequisites for entry into the program; educational standards for paraprofessional training programs; practical/experiential training requirements; and testing. Written and oral public comment was provided in response to these preliminary recommendations, which were posted to the agenda in advance of the meeting.¹ The CPPWG also provided feedback and suggestions.

¹ There was an error in the October 29, 2020, report from the Licensing Subcommittee regarding the paralegal course requirements at American River College. While an Evidence course is offered, it is not required.

Claudia Torres-Ambriz joined the Licensing Subcommittee subsequent to the October 29 meeting. The subcommittee met several times to review additional information, including California Bar Exam (CBX) pass rates; law degree program curricula; and experiential training and supervision requirements for the Law Office Study (LOS) and Practical Training of Law Students (PTLS) programs.

BAR EXAM PASS RATE FOR LAW SCHOOLS BY ACCREDITATION TYPE

The subcommittee's preliminary recommendation included a prerequisite that entrants to the program have graduated from an ABA or California accredited law school, or else be a paralegal qualified under Business and Professions Code section 6450(c). During the October 29 meeting, the subcommittee heard feedback suggesting that graduates from California registered (unaccredited) law schools be eligible to participate in the program. It was pointed out that registered law schools are a lower cost option than accredited law schools, providing greater access to members of communities that are underrepresented in the legal profession.

To determine if there was evidence to support the exclusion of registered law school graduates from the paraprofessional program, the subcommittee reviewed CBX pass rates for each category of law school. As Attachment A reflects, while graduates from ABA-approved law schools pass the CBX at substantially higher rates than do graduates from non-ABA schools, there is not a significant difference between pass rates for graduates from California accredited and California registered law schools. Considering this data, the subcommittee has revised its recommendation to allow graduates from California registered law schools to be eligible for the paraprofessional program.

LAW DEGREE CURRICULA

The subcommittee's preliminary recommendation included a prerequisite that entrants to the program, other than qualified paralegals, have a JD degree. Written comment provided in advance of the October 29 meeting, as well as oral comments during that meeting, suggested that graduates with LLM and MSL degrees (masters level law degrees) be admitted to the program. To determine whether to revise the recommendation in this vein, the subcommittee reviewed information about the curricular requirements for these degrees at several law schools.

LLM Degree

LLM programs generally require students to have a first degree in law. Students in LLM programs fall into two categories: American students who possess a JD and are pursuing specialized study in a particular practice area, and foreign students who have a first degree in law from their home country and want to take the California Bar Exam. Since those with a JD would qualify for entry into the paraprofessional program, inclusion of graduates with an LLM degree would benefit only those with a foreign legal education.

MSL Degree

MSL programs provide a legal education for people interested in learning about the legal system but who do not intend to practice law. These programs provide this information for professionals working in fields such as government, healthcare, and human resources, among others. The subcommittee's research found that, while the curricular requirements for LLM programs are intended to enhance the education of those with a first degree in law, with a goal of preparing

participating students to pass the CBX and practice law, MSL programs are not constructed in that fashion. A summary of curricular requirements for several law schools' LLM and MSL degree programs is provided as Attachment B. Based on this research, the subcommittee has revised its recommendation to allow participation in the paraprofessional program by applicants with an LLM degree, but not those with an MSL degree.

EXPERIENTIAL TRAINING REQUIREMENTS

The subcommittee's preliminary recommendation included a practical training (experiential) requirement of 480 hours, to be completed over a minimum of 10 weeks. This amount of time is significantly lower than that required by programs in other states; it was intended to allow applicants to complete the program in approximately one year. The preliminary recommendation did not specify the type of experience required, nor the requisite qualifications of or expectations for the supervising attorney. In reconsidering this recommendation further, the subcommittee reviewed the requirements for students and supervisors in the LOS and PTLS programs, as well as the newly implemented Provisional Licensure Program. The subcommittee also considered recommendations from the Family, Children, and Custody Practice Area Subcommittees regarding requirements for both classroom and experiential training that should be required for paraprofessionals who wish to practice in the Family Law area. The requirements for students and supervisors in the LOS and PTLS , and for Provisionally Licensed Lawyers, are provided as Attachment C.

Based on a review of this information, the subcommittee has revised the experiential training requirements, as follows:

- Increase in number of hours required
- Specification of type of experience, based on practice area
- Delineation of requirements for supervising attorneys

The subcommittee also discussed how the State Bar could encourage individual attorneys and legal services programs to provide supervision to paraprofessional program applicants. The subcommittee considered the following incentives:

- Providing MCLE credit to supervisors for the time spent supervising paraprofessional applicants
- Provide funding for legal services programs to hire paraprofessional applicants and provide them with required experience
- Include in the online attorney directory information about attorneys who have provided or are available to provide supervision to paraprofessionals

The subcommittee seeks input from the CPPWG for other ideas to incentivize supervision of paraprofessionals seeking to complete their experiential training.

PROPOSED LICENSING REQUIREMENTS

Requirement	Recommendations Presented October 29, 2020	Revised Recommendations
Educational Prerequisites	JD from ABA or California Accredited law school; or Paralegal qualified under Business and Professions Code § 6450(c)	JD or LLM degree from ABA or California Accredited or Registered law school; or Paralegal qualified under Business and Professions Code § 6450(c)
Educational Requirements [In addition to prerequisites set forth above]	<p>All practice areas</p> <ul style="list-style-type: none"> ○ 3 credit hours Professional Responsibility (can be tested out of by law school graduates who pass the Professional Responsibility Exam) ○ 3 credit hours Evidence [practical and not theoretical] ○ 3 credit hours Court Procedure ○ 3 credit hours Court Advocacy <p>Subject matter specific credits, including theoretical and practical</p> <ul style="list-style-type: none"> ● Family Law: 6 credit hours <ul style="list-style-type: none"> ○ 3 credit hours Family Law and Procedure <ul style="list-style-type: none"> ▪ These credits may be satisfied by passing a test that covers the subject matters addressed in this course. ○ 3 credit hours Advanced Family Law and Procedure, with a focus on helping self-represented parties for hearings and trial ● Credit hours to be set based on the number of course hours projected to achieve competency in specific practice areas² 	<p>All practice areas</p> <ul style="list-style-type: none"> ○ 3 credit hours Ethics and Professional Responsibility, including recognition and elimination of bias in the legal profession (can be tested out of by law school graduates who pass the Professional Responsibility Exam) ○ 3 credit hours Evidence [practical and not theoretical] ○ 3 credit hours Court Procedure ○ 3 credit hours Court Advocacy <p>Subject matter specific credits, including theoretical and practical</p> <ul style="list-style-type: none"> ● Family Law: 9 credit hours <ul style="list-style-type: none"> ○ 3 credit hours Family Law and Procedure <ul style="list-style-type: none"> ▪ These credits may be satisfied by passing a test that covers the subject matters addressed in this course. ○ 3 credit hours Advanced Family Law and Procedure, with a focus on helping self-represented parties for hearings and trial ○ 3 credit hours in trauma-informed legal assistance ● Credit hours to be set based on the number of course hours projected to achieve competency in specific practice areas

²The Western Association of Schools and Colleges requires accredited schools to comply with the definition of credit hours provided by the Code of Federal Regulations, 34 CFR 600.2 and 34 CFR 602.24, as follows: “One hour of classroom or direct faculty instruction and a minimum of two hours of out of class student work each week for approximately fifteen weeks for one semester or trimester hour of credit, or ten to twelve weeks for one quarter hour of credit.”

Requirement	Recommendations Presented October 29, 2020	Revised Recommendations	
Practical Training (Experiential)	480 hours, over a minimum of 10 weeks Completed within two years before or 1 year after completion of exam	Requirements for Students <ul style="list-style-type: none"> • 1,000 hours over a minimum of 6 months • Must be in practice area in which paraprofessional will be licensed <ul style="list-style-type: none"> ○ For Family Law practice area, must include work in a violence prevention clinic ○ Each Practice Area Subcommittee to identify specific requirements 	Requirements for Supervisors <ul style="list-style-type: none"> • Active licensee for ≥ 4 years • Provide training and counsel • Assume responsibility for applicant's activities • Approve and sign documents prepared for clients • Submit written declaration certifying applicant's experience and training • Supervision ≤ 5 applicants at a time
Testing	<ul style="list-style-type: none"> • Subject matter specific testing <ul style="list-style-type: none"> ○ Subject matter subcommittees to recommend specific elements and parameters of testing • Professional Responsibility Exam modeled after attorney exam 	<ul style="list-style-type: none"> • Subject matter specific testing <ul style="list-style-type: none"> ○ Subject matter subcommittees to recommend specific elements and parameters of testing • Professional Responsibility Exam modeled after attorney exam 	
Moral Character & Background Check	<ul style="list-style-type: none"> • Fingerprinting & background check equivalent attorney requirements • Not disbarred or resigned with charges pending in any jurisdiction • Not denied admission to State Bar of California due to moral character or background check 	<ul style="list-style-type: none"> • Fingerprinting & background check equivalent attorney requirements • Not disbarred or resigned with charges pending in any jurisdiction • Not denied admission to State Bar of California due to moral character 	

NEXT STEPS

This subcommittee will continue to meet, and will develop additional recommendations in the following areas:

- Curriculum requirements
 - Curriculum requirements for practice areas to be specified by each subcommittee
 - Substantive content of required courses
 - Outreach to academic institutions to discuss partnership in development of educational program
- Experiential training requirements
 - Experiential/practical training requirements for practice areas to be specified by each subcommittee
 - Required content for supervisor declaration
- Incentives for Supervising Attorneys

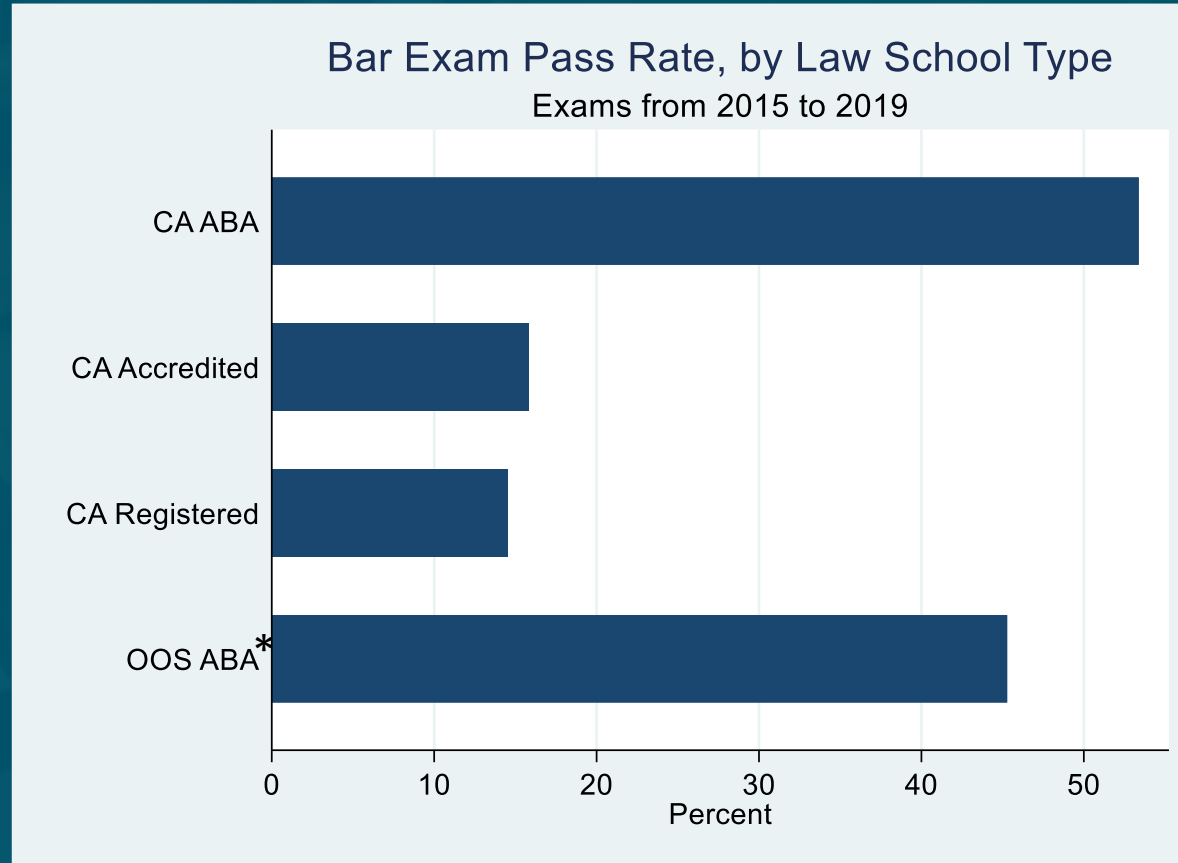
Comparison of Bar Exam Performance by Law School Type

Analyses of Bar Exam Performance

Ten Exams from 2015 to 2019

Law School Type	Number of Applicants	Number of Law Schools	Pass Rate (%)	Median Total Scaled Score
CA ABA	30,219	21	53.4	1,448
CA Accredited	7,284	19	15.8	1,328
CA Registered	2,865	18	14.5	1,319
Out-of-State ABA	10,892	181	45.3	1,411

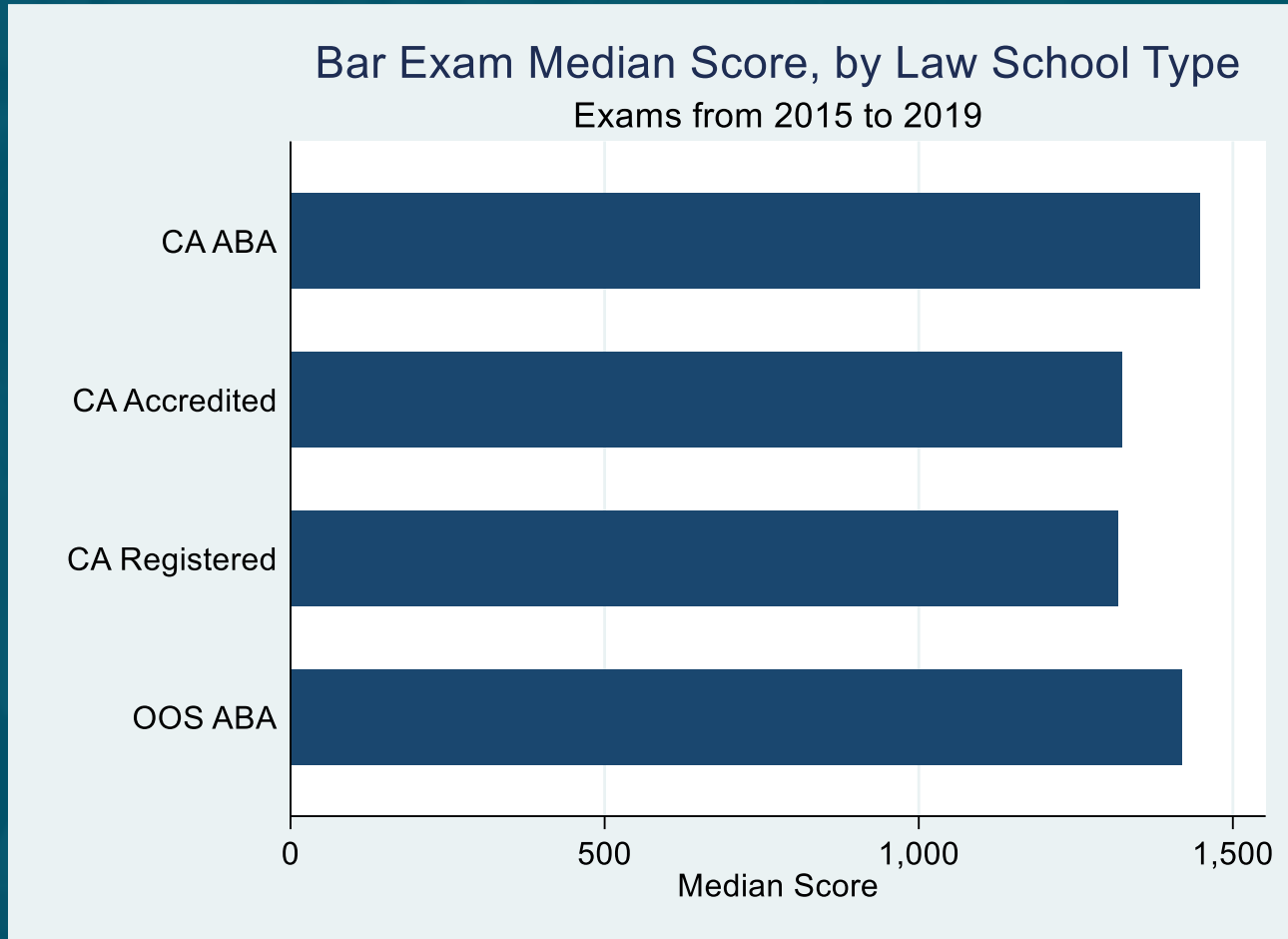
Analyses of Bar Exam Performance



In aggregate, bar exam pass rate is clearly different by school type, with small but statistically significant difference between applicants from CA Accredited and Registered schools.

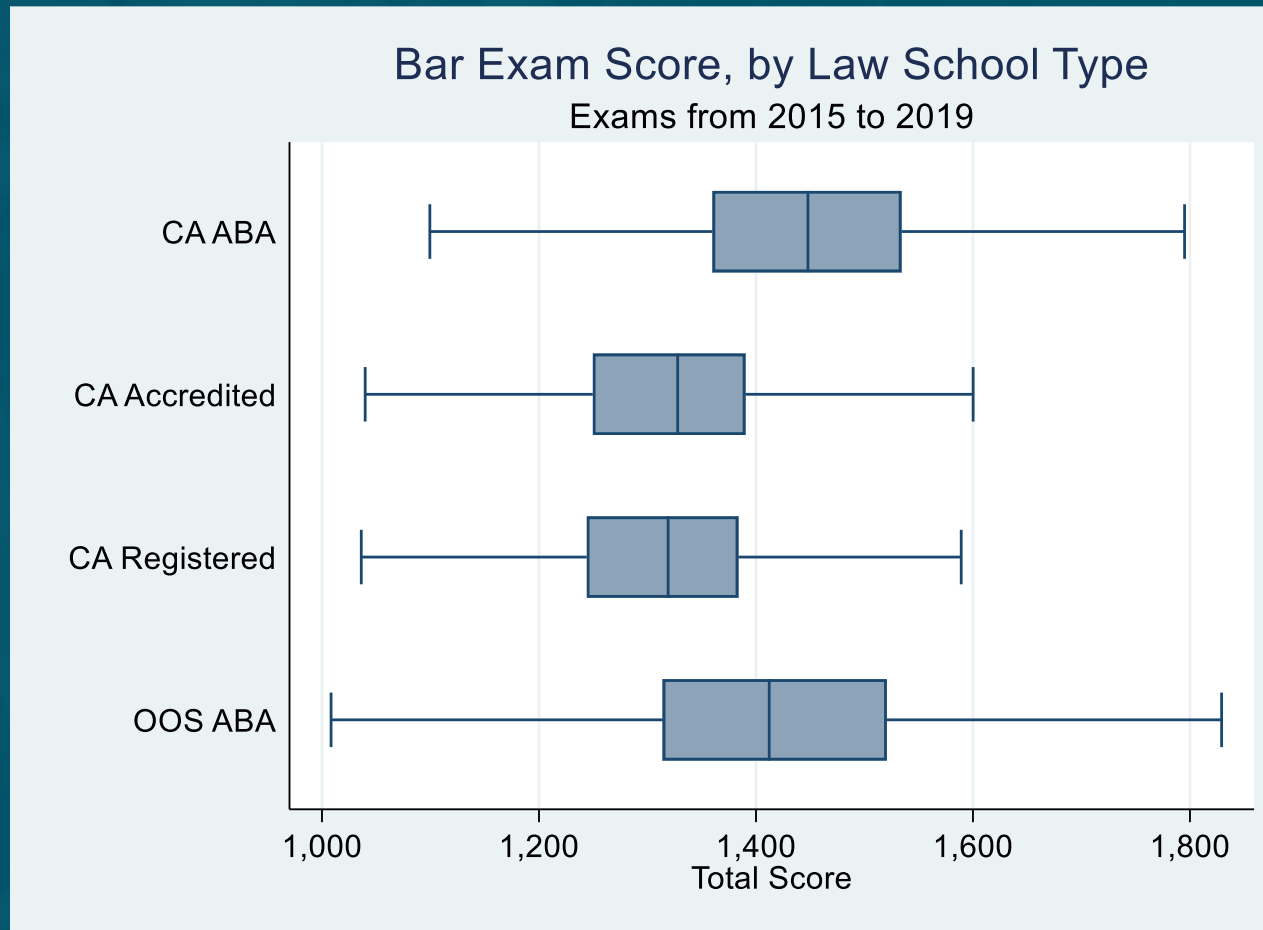
*Out-of-State ABA-Approved

Analyses of Bar Exam Performance



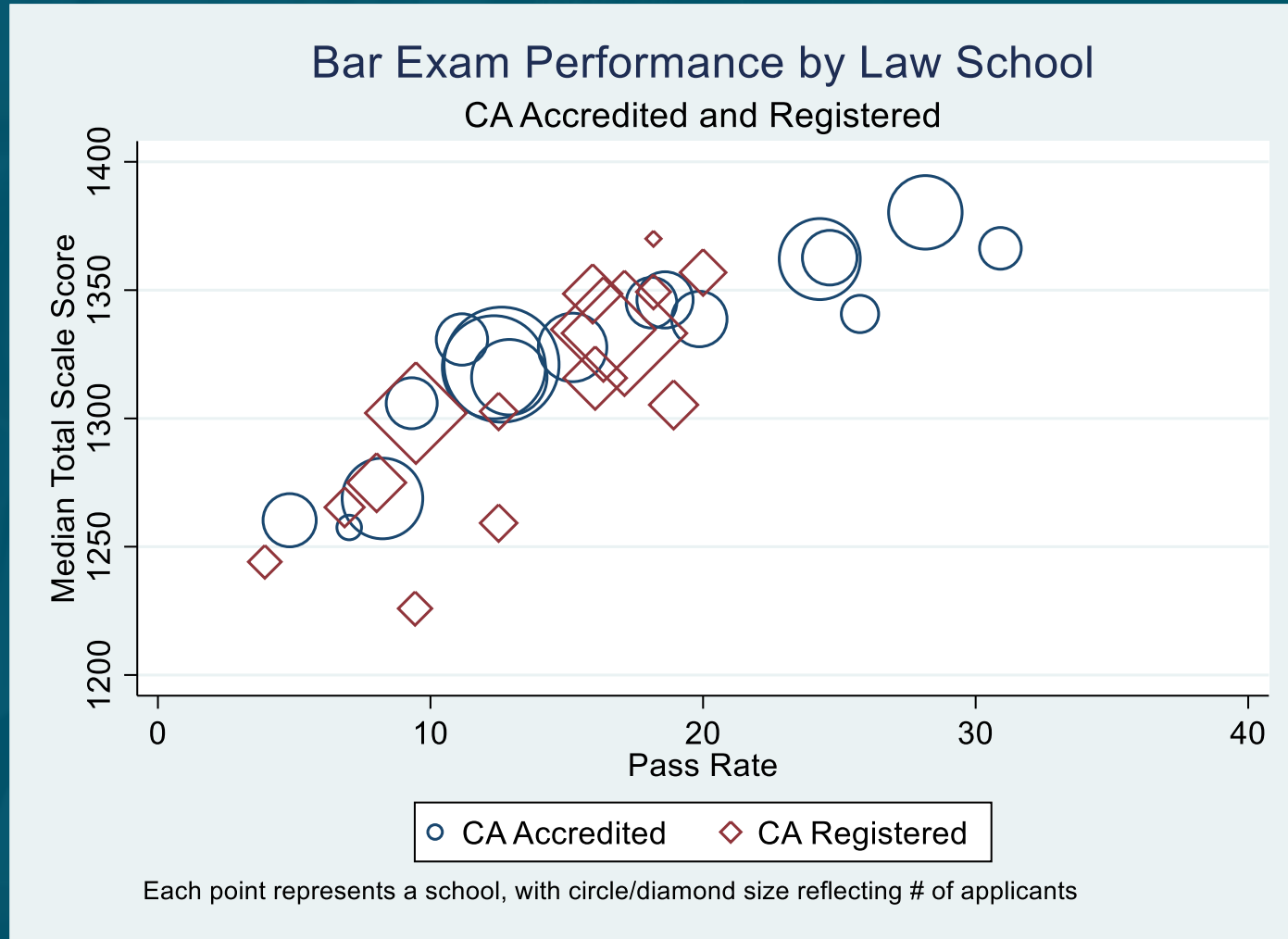
Similar differences are observed when bar exam score, instead of pass rate, is compared.

Analyses of Bar Exam Performance



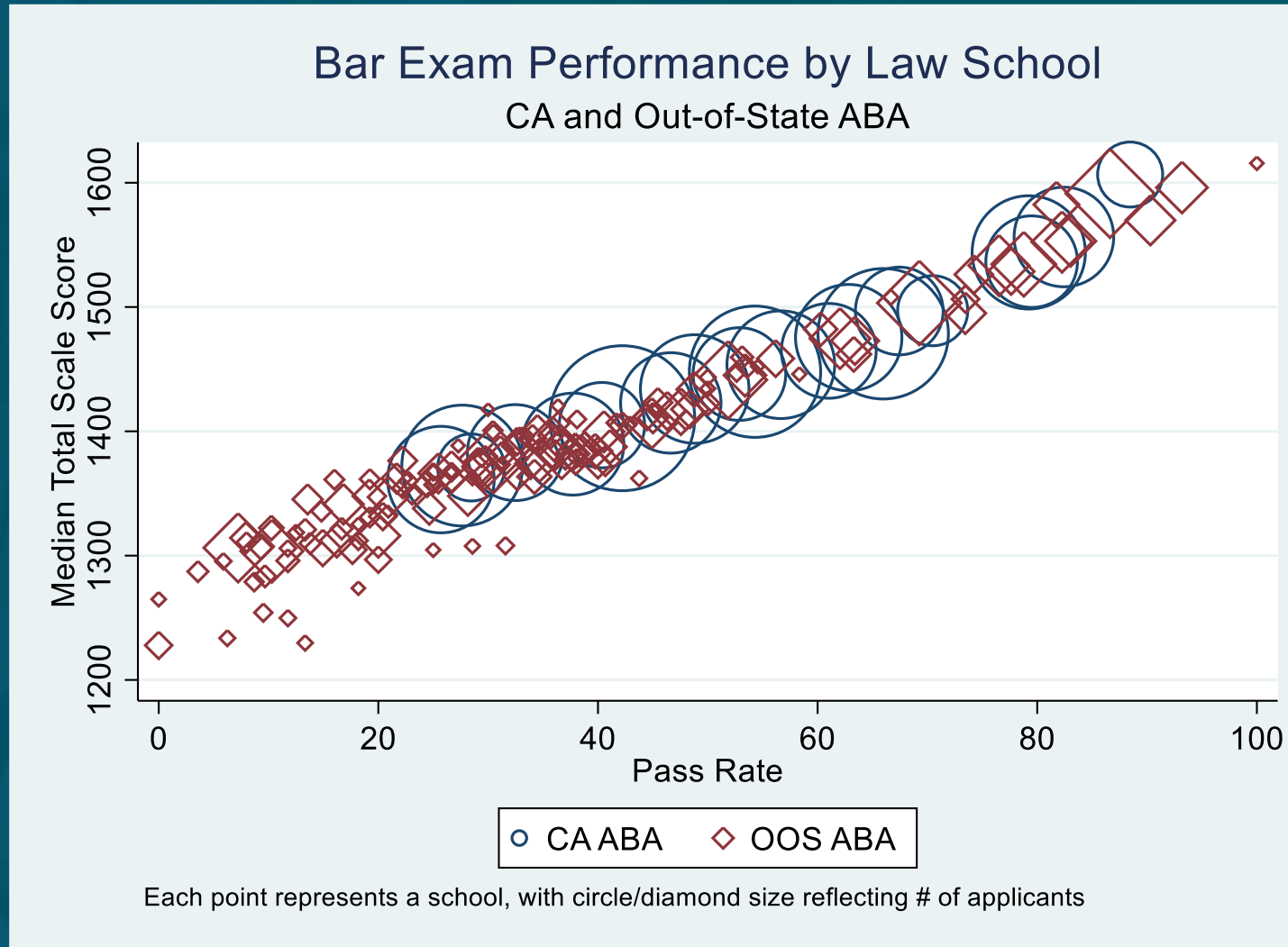
An analysis of the distribution of bar exam score across school type, as shown in this “box-whisker” plot, indicates significant overlap between CA and out-of-state ABAs, and CA Accredited and Registered law schools.

Analyses of Bar Exam Performance



Here is a different view of the overlap in bar exam performance across individual schools between CA Accredited and Registered schools.

Analyses of Bar Exam Performance



Similarly between CA and out-of-state ABA schools.

Analyses of Bar Exam Performance

First Year Law Students' Exam Performance

Ten Exams from 2015 to 2019

Law School Type	Number of Applicants	Number of Law Schools	Pass Rate (%)
CA ABA	91	2	22.0
CA Accredited	235	10	6.4
CA Registered	3,091	17	21.5
Out-of-State ABA	234	5	25.7

FYLSX is required as follows:

- Students enrolled in registered law schools
- Students engaged in study in law office or judge's chamber
- Students who have not completed two years of undergraduate studies
- Students conditionally approved for admission at ABA or CA accredited law school

LLM Requirements

	McGeorge	UC Hastings	USC	Pepperdine
Total Credits	24 units	24 credit hours	21 units	26 units
Required Courses	<ul style="list-style-type: none"> • LLM Legal Research, writing and analysis • Legal English • At least one of the following: <ul style="list-style-type: none"> ○ Civil procedure ○ Constitutional law ○ Contracts ○ Criminal law ○ Property ○ Torts 	<ul style="list-style-type: none"> • Introduction to Law • Legal Research and Writing for Masters Students • At least one of the following: <ul style="list-style-type: none"> ○ Civil procedure ○ Constitutional law ○ Contracts ○ Criminal law ○ Property ○ Torts 	Varies, depending on whether student intends to sit for California Bar exam	<ul style="list-style-type: none"> • Introduction to US Laws • US Legal Research, writing and analysis
Prepares Students for CA Bar Exam	Yes	Yes	Yes, if student elects this course of studies	Yes

MSL Requirements*

	McGeorge	UC Hastings	USC
Total Credits	26 units	24 credit hours	21 units
Required Courses	<p>Concentration in Health or Human Resources:</p> <ul style="list-style-type: none"> • Introduction to Legal Analysis • Contracts <p>Concentration in Government Law & Policy</p> <ul style="list-style-type: none"> • Introduction to Legal Analysis • Contracts • Legislatures & Lawmaking • The Executive Branch & The Administrative State • Government Law & Policymaking 	<ul style="list-style-type: none"> • Legal Writing for Masters Students (2 units) • Introduction to Law (3 units) • Online Legal Research (1 unit) • A foundational course in area of interest or a first-year law class (3-4 units) • A substantial research paper in connection with a seminar or an independent study aligning with the student's interests (2 – 3 units) 	<p>Introduction to the US Legal System</p> <p>Remaining courses are electives, based on area of interest</p>
Prepares Students for CA Bar Exam	No	No	No

*UC Hastings and USC offer a Master of Studies in Law; McGeorge offers a Master of Science in Law.

	Study in Law Office or Judge's Chamber	Practical Training of Law Students	Provisional Licensure
Governing Rules	State Bar Rules Title 4 Div. 1 Ch. 3 Rule 4.29	CA Rule of Court Rule 9.42 State Bar Rules Title 3 Div. 1 Ch. 1	CA Rule of Court Rule 9.49
Requirements for Participants	<ul style="list-style-type: none"> Study in office or chambers during regular business hours ≥18 hours/week for ≥48 weeks = 1 year of study Passage of First Year Law Students' Exam (FYLSX) 	<ul style="list-style-type: none"> Completion of 1 full year at ABA or CA accredited school OR passage of FYLSX Enrolled in 2nd, 3rd or 4th year of law school Completed or enrolled in evidence and civil procedure courses 	<ul style="list-style-type: none"> 2020 Law School graduate eligible to sit for Bar Exam between 12/1/2019 and 12/31/2020 Be employed or volunteering at a California law firm
Requirements for Supervising Attorney or Judge	<ul style="list-style-type: none"> Admitted to active practice and in good standing for ≥ 5 years Provide to the CBE an outline of proposed course of instruction Personally supervise the applicant ≥ 5 hours/week Examine the applicant ≥ once per month on study completed the previous month Report to the CBE every 6 months <ul style="list-style-type: none"> Hours applicant studied each week Hours devoted to supervision Specific information on books and materials studied 	<ul style="list-style-type: none"> Active licensee who has practiced or taught law ≥ 2 years Assume responsibility for students' activities Provide training and counsel Approve and sign documents prepared for clients 	<ul style="list-style-type: none"> Actively practiced in U.S. ≥ 4 years; in California ≥ 2 years Work at the same firm as Provisionally Licensed Lawyer Assume professional responsibility for work of Provisionally Licensed Lawyer
Number of Students Allowed Under Supervision	2 students	<ul style="list-style-type: none"> 5 students 25 students if employed full-time to supervise law students in a law school or government training program 	No limit specified in Rule