Report to the Supreme Court on the October 2020 California Bar Examination

Committee of Bar Examiners

March 26, 2021

OCTOBER 2020 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 OCTOBER 2020 CALIFORNIA BAR EXAMINATION

The State Bar of California received applications from 12,016 applicants to take the October 2020 California Bar Examination, which was administered on October 5 and 6, 2020, postponed by the Supreme Court from the original July 28-29 date due to the COVID-19 pandemic. Of those, 9,301 applicants completed the exam and received results. Of those, 8,723 applicants completed the General Bar Exam and 5,292 passed (60.7 percent); 578 attorney applicants completed the Attorneys' Exam and 323 passed (55.9 percent). A number of applicants begin the exam, but do not complete all portions. To be considered as having completed an exam, an applicant must have been in attendance for its entirety and have a complete set of scores for the six written questions, which may include zeros. In addition, for the California General Bar Exam, the applicant must have submitted answers to the Multistate Bar Exam (MBE) portion. Applicants taking the Attorneys' Exam included attorneys in good standing admitted to practice law in other jurisdictions for four or more years prior to the date of testing. Six of the 22 disciplined attorneys who took the exam as a condition of reinstatement passed the exam.

The October 2020 California Bar Exam was the first administered online and remotely proctored using ExamID and ExamMonitor software from ExamSoft, which had been approved by the Supreme Court. The General Bar Examination consisted of two days containing the following: Day 1: three (3) one-hour essay questions administered separately in the morning with scheduled breaks in between each question and two (2) one-hour essay questions administered separately in the afternoon with scheduled breaks in between each question; and Day 2: two (2) 90-minute sessions with 50 multiple-choice questions each administered in the morning, and one (1) 90-minute Performance Test (PT) administered in the afternoon. The 100 multiple-choice MBE-like examination was provided by the National Conference of Bar Examiners (NCBE) as an emergency remote testing option for local admission during the COVID-19 crisis. The normally one-day Attorneys' Examination was administered over two days to address the increased length of the testing day caused by the online remote exam format with scheduled breaks in between each question. During those two days, the same five (5) essay questions administered for the General Bar Exam were given on the first day, and the same 90-minute Performance Test administered for the General Bar Exam was given on the second day. Differing from the traditional exam format with several written questions being administered in a single exam session, the online remote exam required each question to be administered separately with 15 minutes scheduled for breaks and password delivery, plus 10 minutes for facial recognition security protocols and login between each question session. The multiple-choice portion of the exam also differed from the traditional exam format in that there were 100 vs. 200 questions and they were administered in 50-question sets instead of 100.

While the exam was administered online and remotely proctored to the majority of applicants, the exam was administered in person at six (6) test centers throughout the state to applicants granted testing accommodations that were not compatible with the testing conditions required to test remotely, could not be effectively provided and securely administered in a remote environment, to handwriters, and to applicants with extenuating circumstances. In order to take the examination using a laptop, applicants were required to pay an additional fee and download special security

software, as well as the encrypted exam question files, in advance. The encrypted question files could only be accessed by using unique passwords that were released at designated times on the days of the exam. Following conclusion of the exam, applicants who completed their answers using their laptops under standard time constraints were required to upload eight (8) separate files containing their answers to the written questions and multiple-choice questions and eight (8) separate video monitoring files for each session, to a secure server no later than noon the day following the last day of the exam. The electronic answer files were downloaded from the ExamSoft secure server into the State Bar's Admissions Information Management System for electronic grading. A total of 9,163 applicants (98.5 percent) took the exam by laptop.

A total of 747 applicants with disabilities were granted accommodations. Of those, 216 applicants were assigned to take the exam at testing accommodations test centers, while 531 applicants were granted accommodations for the online remote examination (e.g., additional time to test, permission to bring food/water into the exam room, etc.). One hundred and ten (110) applicants who were granted accommodations either withdrew their applications, had their applications abandoned, or were not eligible to take the exam. Of the 747 applicants who were granted accommodations, 54 did not show up the day of the exam.

Six grading groups, each consisting up to 16 experienced graders and four backup/apprentice graders, were selected to grade the essay and PT answers. The groups convened virtually via Zoom for the purpose of calibration on two Saturdays in October and one Saturday in November. Members of the Committee of Bar Examiners were invited to attend the second calibration session in October. A member of the Exam Development and Grading Team (EDG Team) 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 which weights to assign to the issues raised by the question.

After this discussion, the graders assigned grades to 15 answer books. These books were copies of actual answers 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 exam. 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 15 books, without further group discussion, the graders independently read a new set of 25 answer books 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 EDG Team distributed and discussed the grading guidelines they drafted based upon the discussion at the first meeting. Graders received statistical information concerning their independent grading of the 25 books distributed at the first meeting and reread and discussed any of the answers where they were in significant disagreement. An additional 10 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 November, graders discussed any problems they had been experiencing with their assigned books, and then calibrated grades on an additional 15 answer books to ensure that they were still grading to the same standards.

The October 2020 California Bar Exam was the first graded under the new 1390 (reduced from 1440) minimum passing score directed by the Supreme Court in July 2020 and the first exam graded under the new 2-phase (rather than 3-phase) grading system adopted by the Committee of Bar Examiners in April 2020. The October 2020 California Bar Exam was graded using California's two-phased grading system, the goal of which is to focus resources on those answers written by applicants with scores right around the pass line. 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 with total scaled scores after the first read of 1390 or higher were considered as having passed the exam, and applicants with total scaled scores of 1349.9999 or lower failed the exam (first read or Phase I). Applicants with total scaled scores of 1350–1389.9999 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.

The scores on the written portion of the October exam were scaled to the MBE-like multiple-choice exam, i.e., the written scores were converted to a score distribution that has the same mean and standard deviation as the multiple-choice score distribution. The NCBE provided the scaling formula for California to convert the raw multiple-choice scores into a scaled score. This procedure ensures that the difficulty of the exam remains consistent from one exam administration to the next. For the October 2020 California Bar Exam, the mean scaled multiple-choice score in California was 1427, compared with the national average of 1461. Beginning with the first administration of the modified exam in July 2017, the scaled written score accounts for 50 percent of the total score, and the scaled MBE score accounts for the other 50 percent.

Admission oath packets were mailed timely on January 8, 2021, to the successful applicants who have completed all the requirements for admission to practice law in California. Results were made available to them via the State Bar's website on January 8, 2021, and then were made available to the public at 6:00 a.m. on Sunday, January 10, 2021.