



The State Bar of California

OPEN SESSION AGENDA ITEM O-200 AUGUST 2021 COMMITTEE OF BAR EXAMINERS

DATE: August 20, 2021

TO: Members, Committee of Bar Examiners

FROM: Lisa J. Cummins, Program Manager III, Examinations

SUBJECT: Action on 2020–2021 Examinations Goals and Accomplishments

EXECUTIVE SUMMARY

Below are the Examinations Subcommittee goals and accomplishments in 2020-2021 for the Committee's approval.

BACKGROUND

The Examinations Subcommittee goals for 2020 – 2021, as previously approved by the Committee of Bar Examiners (CBE), are listed below together with a summary of accomplishments toward those goals.

1. In conjunction with Operations and Management, consider report prepared by the State Bar's Office of Finance on the financial and budgetary impacts of the transition to the modified (2-Day) California Bar Examination.

At its December 2020 meeting, the Committee reviewed and considered the report on the Financial Impact of the Modified (2-Day) California Bar Examination, which the State Bar's Board of Trustees (BOT) requested be prepared after the 2-Day format had been in use for two years, i.e., four administrations – two July and two February, as a condition of BOT approval of the change in exam format.

2. Edit and approve final versions of the essay questions and select performance test questions for administration on California Bar Examinations.

Questions were reviewed and approved as scheduled.

3. In conjunction with Operations and Management, review reports on the administration of the California Bar Examination.

Since the July 2020 California Bar Examination was postponed to October 2020 by the Supreme Court due to the COVID-19 pandemic, the report on the administration of that examination administration was reviewed at the Committee's January 2021 meeting. The report on the administration of the February 2021 California Bar Examination was reviewed at the Committee's June 2021 meeting. It is anticipated that the report on the administration of the July 2021 California Bar Examination will be given at the Committee's October or December 2021 meeting.

4. In conjunction with Operations and Management, review reports on administration of the California First-Year Law Students' Examination.

Since the October 2020 First-Year Law Students' Examination was postponed to November 2020 by the Supreme Court due to the COVID-19 pandemic, the report on the administration of that examination administration was given at the Committee's March 2021 meeting. It is anticipated that the report on the administration of the June 2021 First-Year Law Student's Examination will be given at the Committee's October 2021 meeting.

5. Consider draft reports to the Supreme Court of California on the October 2020 and February 2021 California Bar Examinations, which include analyses by the Committee's psychometrician.

At its March 2021 meeting, the Committee considered and approved the report to the Supreme Court on the October 2020 California Bar Examination. The report to the Supreme Court on the February 2021 California Bar Association was considered and approved by the Committee at its June 2021 meeting.

6. Training from State Bar Staff on the Phased Grading System for the California Bar Examination.

During its June 2021 meeting, the Committee received training from the Program Manager for Examinations and the Program Manager for Examination Grading on the Phased Grading System for the California Bar Examination.

7. Training from Subject Matter Expert on the Principles of Scaling Written Test Scores on the California Bar Examination to the Multistate Bar Examination.

Deferred to the 2021-2022 Committee year.

8. Consider next steps with regard to conducting additional studies relative to the content, format and scope of the California Bar Examination, including any recommended by the

Blue Ribbon Commission on the Future of the California Bar Exam and other studies as mandated by the California Supreme Court.

The Differential Item Functioning (DIF) Working Group began its work in December 2020 to review flagged items from the DIF Analysis Report and to develop guidelines to mitigate against DIF prospectively. That work will continue into the 2021-2022 Committee year. The joint Supreme Court and State Bar Blue Ribbon Commission on the Future of the California Bar Examination (BRC) held its first meeting on July 6, 2021. The commission is charged with developing comprehensive recommendations concerning the California Bar Exam's future, including whether and what changes to make to the exam and whether to adopt alternative of additional testing or tools to ensure minimum competence to practice law. The BRC is currently slated to present a final report on its findings and recommendations later in 2022.

9. Review and consider proposals on ways to reduce the time it takes to release results for the California Bar Examination, including the implementation of any other changes discussed in the "Report on the Phased Grading of the California Bar Examination: A Profile of Recent Results and Modeling the Impact of Alternative Approaches," prepared by Roger Bolus, Ph.D. and dated April 9, 2020.

Based on the April 9, 2020 "Report on the Phased Grading of the California Bar Examination: A Profile of Recent Results and Modeling the Impact of Alternative Approaches," prepared by Roger Bolus, Ph.D., and pursuant to the Committee's initial direction in April 2020 and modified direction in August 2020 following the Supreme Court's lowering of the bar exam's passing score to 1390, State Bar staff implemented three changes to the Committee's grading processes for the California Bar Examination beginning with the October 2020 administration of the exam (i.e., eliminate Phase III grading; compress the regrade band for Phase II grading; and add graders to each California Bar Examination question grading team).

10. Work with the State Bar's Office of Access & Inclusion and the Council on Access and Fairness to develop processes and procedures in Examination Development and Examination Grading that advance the Mission of the State Bar to support efforts for greater access to, and inclusion in, the legal system.

This work is ongoing and included the following: (1) broadened education and outreach to the legal community, including loosening geographic restrictions for potential graders and expanding duration of grader application availability, and targeted outreach to affinity bar associations to widen recruitment of graders; (2) provided mandatory implicit bias training during annual onboarding and/or orientation of all exam proctors, graders and the Examination Development and Grading (EDG) Team; (3) increased monitoring and tracking of grader performance, together with statistical analysis to ensure fairness and equity in the scoring process.

11. Continue to monitor the modified California Bar Examination in order to determine whether there are any problems or disparities.

This process is ongoing and will continue to be placed on the Examinations Subcommittee Goals for the foreseeable future.

12. Consider petitions seeking waivers of the Committee's examinations related policies, procedures and rules.

Such petitions were considered and decided as they were submitted by staff for review.

13. Review appeals from applicants with disabilities who are appealing Director for Admissions decisions relative to their requests for testing accommodations.

Testing accommodations appeals were considered and decided by the full Committee in connection with the regularly scheduled meetings of the Committee and by the Examinations Subcommittee, as duly delegated, in connection with the regularly scheduled conference call meetings of the Examinations Subcommittee between meetings of the Committee.

FISCAL/PERSONNEL IMPACT

None

RECOMMENDATIONS

It is recommended that the Committee of Bar Examiners approve the 2020 – 2021 Examinations Subcommittee Goals and Accomplishments set forth above.

PROPOSED MOTION

Should the Committee of Bar Examiners agree with staff recommendation, the following motion should be made:

MOVE, that the 2020 – 2021 Examinations Subcommittee Goals and Accomplishments be approved.

ATTACHMENT(S) LIST

None