

**DIF WORKING GROUP**  
**GUIDING PRINCIPLES IN EXAMINATION DEVELOPMENT TO MINIMIZE**  
**POTENTIAL BIAS IN BAR EXAM QUESTIONS**  
**(STAFF + WORKING GROUP DRAFT – January 6, 2022)**

Examination developers should strive to make tests that are as fair and accessible as possible for all groups of test takers, despite differences in characteristics that include, but are not limited to, ethnic group, gender or gender identity/expression, sexual orientation, regional background, native language, race, religion, age or generational differences, socioeconomic status, disability status, and veteran status. The goal of fairness in testing is to assure that test materials are as free as possible from bias and do not impose unnecessary barriers to the success of diverse groups of test takers. To test knowledge of the law and the ability to apply the law, test questions should be designed to ensure that the nonlegal aspects of any question are broadly understandable by the population of test takers and do not contain information that will have the effect of disadvantaging one population of test takers vis-à-vis the others.

To that end, the following guiding principles to enhance fairness, provide equity in accessibility, and minimize potential bias in the development of questions on the California Bar Examination should be followed:

- Describe contexts and scenarios that are accessible or equally familiar to all and use terminology that has more common meaning and understanding; provide short explanations or definitions for acronyms and uncommon terms when use of a more common term is not feasible.
- Ensure balanced representation of diverse and nondiverse groups in both positive and negative situations, in situations where individuals commit misconduct or are on the receiving end of misconduct, or where individuals are perpetrators and victims or witnesses.
- Ensure gender balance in the fact patterns and use gender-neutral names, where appropriate.
- Ensure balanced or neutral representation across gender, culture, ethnic groups, and disability status.
- Avoid using cultural references or idiomatic expressions that may not be equally familiar to all test takers.

- Avoid construct-irrelevant content.
- Avoid content that unnecessarily angers, offends, upsets, or otherwise distracts test takers; in that regard, minimize the use of fact patterns that involve unnecessarily sensitive or emotionally-charged topics.
- Avoid use of offensive language and stereotypes.
- Avoid language in questions that assumes all test takers have the same life experiences, socioeconomic status, or family background.
- In considering fairness and bias, sets of test questions should be reviewed as a group for each exam and names and scenarios adjusted to ensure a balanced exam.
- All developers of the California Bar Examination should participate in or receive specialized training each year, which may include subjects such as implicit bias and stereotype threat or any other subjects that are relevant to recognizing and addressing potential bias.
- The recruitment practices for all question developers should endeavor to create a pipeline of potential developers with varied perspectives so as to advance diversity and inclusivity, while also maintaining the necessary level of examination development and/or grading skills and expertise.
- Recommend that the Committee of Bar Examiners review all exam developer and grader recruitment processes and revisit term limits so as to advance diversity and inclusivity in the pool of question developers to include varied perspectives, backgrounds and experiences, while also maintaining the necessary level of examination development and/or grading skills and expertise.
- Recommend that the Committee of Bar Examiners develop recruitment processes for exam question pretesters so as to advance diversity and inclusivity in the pool of pretesters to include varied perspectives, backgrounds and experiences, while also maintaining the necessary level of pretesting skills and expertise.