



# The State Bar of California

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## **OPEN SESSION AGENDA ITEM DECEMBER 2023 COMMITTEE OF BAR EXAMINERS**

**DATE:** December 1, 2023

**TO:** Members, Committee of Bar Examiners

**FROM:** Amy C Nuñez, Program Director, Administration & Examination

**SUBJECT:** Action on Implementation Plan to Change Format of the First-Year Law Students' Examination to an All-Multiple-Choice Exam

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### **EXECUTIVE SUMMARY**

At their October 2023 meeting, the Committee of Bar Examiners (committee) voted to eliminate the essay questions from the First-Year Law Students' Examination (FYLSX) after [a discussion](#) and presentation from psychometrician, Roger Bolus, Ph.D. Dr. Bolus initially presented findings from his report about the FYLSX in August 2023. Dr. Bolus was asked to examine the FYLSX to determine whether it was continuing to meet its intended purpose, specifically to apprise students attending unaccredited law schools of their potential for eventually becoming lawyers<sup>1</sup>, and to aid qualified persons in judging the quality of training and education they are receiving in preparation for the bar exam.<sup>2</sup>

To address this, Dr. Bolus synthesized FYLSX performance data between 2000 and 2016 to examine a variety of factors, including how examinees have performed over time, the subsequent FYLSX experience for examinees who failed the FYLSX on their first attempt, and the bar exam experience for examinees who took the FYLSX. One of Dr. Bolus's key findings was that the overall reliability and predictive validity of the FYLSX would be improved if the essay section of the exam were eliminated completely, leaving the exam multiple-choice only.

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<sup>1</sup> A Report of President's Advisory Committee to the Board of Governors of The State Bar (1933)

<sup>2</sup> *Bib'le v. Committee of Bar Examiners*, 26 Cal.3d 548 (1980); *Lupert v. California State Bar*, 761 F.2d 1325 (1985)

Based on Bolus' findings, the committee determined that elimination the essay portion of the examination was appropriate and directed staff to develop a timeline for implementing a fully multiple-choice FYLSX. This agenda item presents a tentative timeline/implementation plan, developed in consultation with the Office of Admissions' psychometricians to ensure that the changes are made in a psychometrically sound manner. Staff recommend that the CBE approve the implementation plan for adoption at the June 2024 FYLSX.

## **BACKGROUND**

The FYLSX is administered twice each year in June and October. Law students completing their first year of law study in a juris doctor degree program at a State Bar-unaccredited, registered law school, or through the Law Office Study Program, and those without two years of college work attending a California-accredited or an American Bar Association (ABA)-accredited law school must take the First-Year Law Students' Exam after completing their first year of law study in order to receive credit for their second year of law school. Pursuant to the authority delegated to it by the State Bar's Board of Trustees, the committee determines the examination's format, scope, topics, content, grading process, and passing score (*Admissions Rule 4.56*).

The FYLSX is comprised of a 4-hour essay section made up of 4 essay questions and a 3-hour, 100 multiple-choice questions section. It covers the topics of contracts, criminal law, and torts. Eliminating the 4 essay questions reduces the exam time from a 7- hour exam (minus breaks) to three hours and changes the grading process. Currently, an applicant's total score on the FYLSX consists of the sum of the multiple-choice and essay scores (using scaled scores for both sections). Equivalent weight is given to each of the two sections in arriving at the final score. Given that the essays would no longer be a component of the exam, the passing score will need to be re-established. The process of re-establishing the passing score is referred to as standard setting and has been built into the proposed timeline.

Starting in 2022, Lisa Cummins, former Principal Program Analyst, worked closely with psychometricians, Dr. Roger Bolus and Dr. Chad Buckendahl, to review and refresh the multiple-choice question item bank. New questions were operationally pretested in 2022 and 2023 during the October 2022 and June 2023 FYLSX administrations. In addition, two full-day sessions were conducted with the participation of 20 law school faculty and administrators to review and provide feedback on all the multiple-choice items in the FYLSX item bank. Some of the work related to evaluating the item bank has been accomplished as a result of those activities.

## **DISCUSSION**

As noted above, significant work has already been undertaken to review and refresh the multiple-choice item bank. Based on the work performed to date and the remaining tasks, it is feasible to transition to an all-multiple-choice examination starting with the June 2024 FYLSX administration. The implementation plan does not jeopardize exam standards.

Below is the timeline outlining the next steps required to transition to a fully multiple-choice examination.

Task	Dates	Status
Evaluate Item Bank Capacity: assessing the number of viable multiple-choice questions in the State Bar's item bank.	September 2023	Completed
Content Map Approval: CBE approves the legal content under three areas appearing on the exam.	December 2023	Pending (On Dec.1 committee agenda for approval)
Blueprint Review: psychometricians and drafters review the content map approved by the CBE.	December 2023	Not started (to follow CBE 12/1 approval)
Gap Analysis: psychometricians and State Bar staff compare viable multiple-choice questions against approved content map to ensure sufficient number of items covering legal areas. This will determine whether additional item writing needs are required to fill in gaps in the blueprint.	December 2023/ January 2024	Not started
Review of Archival Data: Evaluate item statistics and determine whether to retain, revise, or remove items from the item bank.	February 2024	Not started
Draft Forms Development & Review: Develop new forms of the FYLSX to meet content.	March 2024	Not started
Standard Setting: Psychometricians will evaluate and recommend a passing score on the exam. Staff will bring this item to the CBE for their review.	March 2024	Not started
Administer New Forms	June 2024	
Post-Exam Analysis, Equating (if needed), and Scoring	July 2024	

Furthermore, eliminating the essay questions allows the exam to continue meeting its intended purpose, specifically, to apprise students attending unaccredited law schools of their potential for eventually becoming lawyers, and to aid qualified persons in judging the quality of training

and education they are receiving in preparation for the bar exam.<sup>3</sup>

Staff plan to bring updates to the CBE as the project unfolds and decisions need to be made. The first decision that requires CBE input involves the approval of the content map, which is scheduled to occur in closed session at the December 2023 CBE meeting. The CBE will be updated on the standard setting process, specifically, on the determination of the cut score given that the score is no longer comprised of two components (essays and multiple-choice items), but solely of the multiple-choice items.

## **FISCAL/PERSONNEL IMPACT**

Eliminating the essay portion from the First-Year Law Students' Examination will reduce the cost of developing, administering, and grading of the FYLSX.

Costs for acquiring the questions, editing the questions, grading the answers, and the services of a psychometrician are roughly \$100,000 per year.

In addition, there would be cost savings attributable to shorter exam administration time and other factors.

## **RECOMMENDATION**

Given the work that remains, it is recommended that the committee adopt this implementation plan.

## **PROPOSED MOTION**

Should the Committee of Bar Examiners agree with the staff recommendation, the following motion would be appropriate:

**MOVE** that the committee adopt the implementation plan to change the format of the First-Year Law Students' Examination to an all-multiple-choice exam starting with the June 2024 FYLSX administration.

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<sup>3</sup> Passage of the FYLSX is required for applicants meeting their licensing educational requirements via Law Office Study or Judge's Chamber's Study, as well as "special students". Special students are those who have not completed at least two years of college prior to matriculating at an ABA-approved or California-accredited law school.