



The State Bar of California

OPEN SESSION AGENDA ITEM IV.B. MARCH 2024 COMMITTEE OF BAR EXAMINERS

DATE: March 15, 2024

TO: Members, Committee of Bar Examiners

FROM: Adrian Galang, Program Manager, Examination Development & Grading
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SUBJECT: Review and Approval of Standard Setting for the First-Year Law Students' Examination

EXECUTIVE SUMMARY

At their October 2023 meeting, the Committee of Bar Examiners (committee) voted to make a significant change to eliminate the essay questions from the First-Year Law Students' Examination (FYLSX) following [a comprehensive discussion](#) and presentation by the State Bar's psychometrician, Roger Bolus, Ph.D. Dr. Bolus was tasked with evaluating the efficacy of the FYLSX in fulfilling its intended objectives, particularly in assessing the potential of students from unaccredited law schools to pursue a career in law, and in assisting individuals in evaluating the caliber of education and training they receive in preparation for the bar exam.

Dr. Bolus synthesized FYLSX performance data between 2000 and 2016 to examine a variety of factors. Notably, one of the pivotal conclusions drawn from his analysis highlighted that the overall reliability and predictive validity of the FYLSX would be improved if the essay section of the exam were eliminated completely, thereby transitioning the exam to a solely multiple-choice format. Subsequently, in December 2023, the committee approved a timeline for the implementation of a fully multiple-choice FYLSX, scheduled to be rolled out for the June 2024 administration, contingent on the committee approving the content maps and standard setting analysis. Considering that the current exam scoring model allocates 50% weight to essays and 50% to multiple-choice questions, a crucial subsequent step in the essay elimination process is a reassessment of the cut score that establishes the threshold for pass/fail decisions.

This agenda item presents the standard setting analysis conducted by the Office of Admissions' psychometrician, Chad Buckendahl, Ph.D., ACS Ventures. Dr. Buckendahl has evaluated options

and developed a recommended approach based on the committee's interest to revisit the FYLSX passing score.

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 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. Applicants without two years of college work attending a California-accredited or an American Bar Association (ABA)-accredited law school must also take the exam. 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 four-hour essay section made up of four essay questions and a three-hour, 100 multiple-choice questions section. It covers the topics of contracts, criminal law, and torts. Eliminating the four essay questions reduces the exam time from a seven-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. With essays phased out, the establishment of a new passing score becomes imperative, a process known as standard setting, and has been built into the approved timeline.

At its December 2023 meeting, the committee approved the timeline below, which delineates 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	Completed
Blueprint Review: psychometricians and drafters review the content map approved by the CBE.	December 2023	Completed
Gap Analysis: psychometricians and State Bar staff compare viable multiple-choice questions against approved content map to ensure a sufficient number of items covering legal areas. This will determine whether additional	December 2023/ January 2024	Completed

Task	Dates	Status
item writing needs are required to fill in gaps in the blueprint.		
Review of Archival Data: Evaluate item statistics and determine whether to retain, revise, or remove items from the item bank.	February 2024	Completed
Draft Forms Development & Review: Develop new forms of the FYLSX to meet content.	March 2024	In Progress
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	Pending (On March 15 committee agenda for approval)
Administer New Forms	June 2024	Pending
Post-Exam Analysis, Equating (if needed), and Scoring	July 2024	Pending

DISCUSSION

The current passing standard for the FYLSX has been 560 for over 30 years and was initially calibrated to ensure that a roughly equivalent proportion of examinees would pass (relative to historical rates) after scoring changes were made to the examination in the late 1990's. As the FYLSX was being modified, two distinct standard setting studies were conducted. The first enlisted external panelists comprised of deans and faculty members from ABA, California Accredited, and Unaccredited law schools who evaluated a sample of answers written for the June 1998 FYLSX, and the second tapped into the expertise of seasoned FYLSX graders¹. The outcomes indicated regular attorney graders of the FYLSX would have set the standard at 574 while the external panelists evaluation would have set the passing score at 538. Additionally, panelists from the unaccredited schools were statistically more likely to say an answer was passing than panelists from the other two school types were not. Despite these findings, the committee opted not to change the standard from 560, and the passing standard has not been revisited since that time.

In the context of the forthcoming standard setting study, Dr. Buckendahl delineates three prospective methodologies for appraising an appropriate passing score for an all-multiple-choice FYLSX. The first method entails delving into historical data, particularly past exam pass rates, to proactively implement a new passing score ahead of the June 2024 exam administration using equipercentile equating. This analysis pivots on anchoring multiple-choice scores to ensure alignment with the current 560 passing benchmark. An advantage of this method is that the interpretation of the existing passing score would be maintained. However, because of changes to the exam's content map, design, and question types, preserving the

¹ Klein SP (1998) "Panelists and reader judgements regarding the passing score on the FYLSX". A report prepared for the Committee of Bar Examiners of the State Bar of California.

existing cut score may not account for changes to the content or the student's experience with the exam.

The second approach pivots around utilizing data from the June 2024 exam to effectuate any adjustments subsequent to that administration, leveraging a comparative analysis between historical data and outcomes from the upcoming MC-only exam. In this approach, a panel of subject matter experts would be assembled following the exam's administration to provide question-level judgments about expected student performance in content from first year courses in criminal law, contracts, and torts. An advantage of this approach is that the passing score would be developed specific to the newly designed exam and consider any changes to content. A primary disadvantage of this approach, though, is that the time needed to conduct the study has the potential to delay score reporting when factoring in the multiple steps of data analysis, the standard setting study, and review and approval for potential changes. The timing of the study would also logistically potentially create staffing challenges as schedules begin to overlap with preparation for the July bar exam administration. In addition, changes to the student population taking the exam since the last standard setting may change the interpretation of the predictive relationship between FYLSX performance and eventual bar exam performance.

Lastly, the third method advocates for leveraging the revised FYLSX content map to effectuate changes and subsequently validating or refining them post the June 2024 exam administration. This method engages the panel of subject matter experts in advance of the administration to discuss and make recommendations for a passing score based on the interpretation of expected performance of first year students. Then, following the initial administration of the new examination, these content-based recommendations would be evaluated by the committee as the policy body to determine the reasonableness of the panel's recommendation. That raw score recommendation could then be transformed to an interpretative scaled score and would serve as the baseline for equating future exams. The advantage of this approach is that initial judgments would be anchored in the new content and design of the exam while using the results from the initial administration of the new exam to inform the baseline passing score. Another advantage of implementing this analysis at two phases is that it will reduce the time needed post-administration to evaluate the recommended passing score. A disadvantage of this method is like the second approach: changes to the population of students taking the exam could change the predictive relationship between the FYLSX and eventual bar exam performance.

The committee has added the exploration of modifying, whether by increasing or decreasing, the FYLSX passing score to its 2024 goals. Dr. Buckendahl's analysis and recommendation will allow the committee to examine various options, and to proceed with changes, should they determine that it is necessary.

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 remaining and approved timeline, it is recommended that the committee adopt the recommendation of Dr. Buckendahl.

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 plan to evaluate the passing score using the First-Year Law Students' Examination Content Map to implement any change to the passing score prior to the June 2024 First-Year Law Students' Examination administration, and subsequently confirm or adjust the change after reviewing data from the June 2024 exam administration.