

From: [Raymond Hayden](#)
To: [AdmissionsDirector](#)
Subject: 16 Apr 2024 Meeting submission
Date: Friday, April 5, 2024 6:46:12 PM

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I might have sent this to the wrong addresses initially - sorry about that.

I would like this note distributed to the 16 April 2024 Meeting, and as always, I thank you all in advance!

Ray Hayden, JD
ray@rayhayden.us

I want to bottom line this because humans do not read until things are broken, and I want to save you all some time here.

CAVEAT - if you want the MORE details, contact me and ask me, I have tons, and can talk for hours on end, but this is going to be short.

BOTTOM LINE UP FRONT: This process MUST Assure a more Competent Newly Licensed Lawyer, provide Greater Protection for the General Public, and Guarantee a more Diverse California Bar Membership. Anything less is a complete failure.

Less than a 90% PASS rate is a failure of the exam, not the exam taker!

The FYLSX MUST have a passing rate of better than 90% - anything less than that is a complete failure of that exam.

I sat for it six times, I scored two 65's and three 72's before I nailed the 78 on the FYLSX that I passed in Oct 2014. I have tons of information that others, and myself, had been looking into all this time to prove it, less than a 90% pass rate on the FYLSX is wrong on every single level.

The MCQ's MUST be HONESTLY Objective, no tricks or traps, no nonsense! They must also be FAIR... no more East is driving west on North Avenue when South was travelling north on Eastern Way... STOP IT!

The Feb 2025 CGBX MUST be remote, ONLY MCQ's, and MUST have a Pass Rate of greater than 90% - anything less than that is a complete failure of the exam, not the exam taker!

CalBar tells us what to study, and how to study it. I've done the math, it is IMPOSSIBLE to justify the insanely lame pass rate of the California Bar Exam - or any other bar exam!

- 1) All bar exams, everywhere, are invalid.
- 2) The MBE portion of the Bar Exam, is specifically invalid.

IAALS, and the NCBE themselves, determined TWO key points after MULTI YEAR STUDIES.

I was at ALL of the Blue Ribbon Commission meetings on the Future of the California Bar Exam, they both presented on it... and it is true. In 2020, IAALS reported first, and the NCBE blew a gasket... two months later? The NCBE released their results CONFIRMING what IAALS had reported after their OWN multi year study...

In case anyone missed it? This was the reported reason WHY the NCBE tossed the entire exam to start up the NextGen Bar Exam in the first place!

Oh, and in case anyone missed THAT - the MBE was released in Feb 1972... it has NEVER been valid... and this demonstrates that NOT ONE SINGLE ATTORNEY, anywhere, who passed the bar exam with an MBE component, has EVER passed a valid bar exam.

I have a relatively short way to create what must be done for the Feb 2025 CGBX - but you're going to have to invite me to speak at the meeting to hear how to (almost free) create honestly objective, and FAIR MCQ's within a period of less than three months time!

I could get it done in two months with help from CalBar, but I cannot create the actual questions... but I can tell you how to get it done fast!

From: [Teresa Belville](#)
To: [AdmissionsDirector](#)
Subject: Re: Agenda and Materials Posted: Stakeholder Forum on Bar Exam Question Development with a New Vendor | April 16, 2024
Date: Saturday, April 6, 2024 1:11:27 AM

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CalBar Admissions Director,

I have read the Executive Summary for the proposed bar exam changes.

My understanding of this proposal is as follows:

- If exam administration continues as-is, then the Admissions Fund is projected to be insolvent by the end of 2026.
- The realization of the benefits of these cost-savings opportunities is contingent on independence from the NCBE and its exam administration requirements, which includes its prohibition on the delivery of the MBE by remote delivery or in a vendor-owned test center.

First, I fully support the State Bar to declare independence from the NCBE, in order to pursue a potential adoption of an alternative cost-effective bar exam administration. It appears that bar administration costs are escalating, and at this point, with insolvency on the horizon, the State Bar clearly needs to make reasoned changes.

Second, I do not believe that bar exam administration is compromised either in testing remotely or in a test vendor center. I have taken several exams in test vendor centers (e.g. national insurance exams for professional designations, and a PMP project management certification exam). Remote testing generally uses AI functionality, which is already used in many commercial applications (e.g. technical writing, creative writing, radiological or MRI imaging medical analysis, research areas).

Third, given today's alternatives, I feel that my disabled colleagues taking the bar exam are far too constrained within the current methodology. Generating more alternatives for this group will likely help some of them to have less challenges in getting to the exam, and hopefully to have more of them pass. I feel that this group is better equipped to understand disabled or disadvantaged clients. Additionally, I see this group generally as being disadvantaged by both explicit and implicit biases within society.

Fourth, I see passing the bar exam as just one metric, and certainly no guarantee. I have

read countless postings from the State Bar about people who passed the bar, and are now suspended, on probation, resigned pending charges, or disbarred. Moreover, not all of those persons with active licenses are actually practicing law, and resulting in no contribution in those areas where it is potentially most needed. Then for those who converted their licenses to inactive (and are not limited by some physical or mental challenge), I feel that there should be some encouragement or incentive for them to activate their license for pro bono matters or clinics, some of which can be done remotely/virtually.

Fifth, I would encourage the State Bar to continue to explore innovative pathways to licensure, especially those pathways focused on promoting competence with diversity and inclusivity. I feel that those of us not fitting within a particular socio-economic stratum are the ones struggling the most with bar costs, bar preparation and then the bar exam. I see that other neighboring states have derived alternative pathways, such as Oregon and, recently, Washington state.

I certify that the aforementioned is my own assessment on this topic, and I used no AI suggestions or toolkit to create a response.

Thank you for consideration of this comment.

Teresa Belville

From: The State Bar of California - Office of Admissions <admissions@calbar.ca.gov>

Sent: Friday, April 5, 2024 2:17 PM

To: teresab306@gmail.com <teresab306@gmail.com>

Subject: Agenda and Materials Posted: Stakeholder Forum on Bar Exam Question Development with a New Vendor | April 16, 2024



From: [Andy Murphy](#)
To: [AdmissionsDirector](#)
Subject: New Vendor to Develop a Multiple-Choice Exam for the State Bar of California.
Date: Sunday, April 7, 2024 4:40:28 PM

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RE: New Vendor to Develop a Multiple-Choice Exam for the State Bar of California.

The bar exam has become expensive for applicants. Preparing for the bar exam can be expensive too. This is an undue hardship on applicants with little money, like me.

I therefore support the State Bar looking to reduce the cost of taking the bar exam, and I do support the proposal to get a new vendor to develop a multi-choice exam. And I understand the MBE is going away in 2026, so if the State Bar wants to use a multiple-choice exam, it must develop its own exam.

However, I think it is a mistake to make the exam too much like the MBE. The MBE can test some obscure points of law that have no relevance to the practice of law. The MBE can hardly be described as a fair exam to assess minimum competence to practice law. So I urge the State Bar to develop a fair multiple-choice exam that should be passable by anyone with a law degree.

Andy Murphy, JD.

From: [Jaesang Lee](#)
To: [AdmissionsDirector](#)
Subject: Cost Reduction Initiatives Related to the Bar Exam: Comment from a Stakeholder
Date: Thursday, April 11, 2024 4:19:19 AM

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Dear Audrey Ching, Cody Hounanian, and Amy Nunez,

Thank you for the invitation. I am very glad that I have the opportunity to provide feedback and input regarding Cost Reduction Initiatives Related to the Bar Exam to the State Bar.

I **agree with** Staff's perspective that "Vendor-owned test-center exam administration with newly developed MBE-like multiple-choice questions presents an appealing option for cost savings and operational efficiency enhancements," **on the condition** that the State Bar can implement a system of internal control to ensure that newly developed MBE-like multiple-choice questions meet the State Bar's standard and that the Vendor-owned test-center appropriately administers the bar exam.

To ensure that the newly developed multiple-choice questions, similar to the MBE, meet the State Bar's standard and do not compromise the effectiveness of the State Bar exam, it is imperative to implement a verification procedure. This will ensure that a new vendor adheres to the content validation methodology and IRT in developing new questions that meet the exact goals of those methodologies.

To achieve this, the State Bar should closely work with the new vendor during the development stage to ensure that the new vendor follows the instructions and that the newly developed questions maintain the same level of difficulty, rigorousness, and comprehensiveness as previous MBE questions. The State Bar should not give complete discretion to the new vendor regarding how it applies those methodologies.

In order to address any complaints from stakeholders about the reliability of the newly developed questions, the State Bar should document all the steps that the new vendor has taken to ensure the proper application of those methodologies and that the State Bar has

taken to ensure the validity of the new vendor's work. By doing so, the State Bar can ensure that the newly developed questions meet the State Bar's standards and maintain the same level of rigor and comprehensiveness as previous MBE questions.

To ensure that the changed exam, including newly developed MBE-like multiple-choice questions, is appropriately administered at the vendor-test center, the State Bar may consider the following, among others:

- 1) getting periodic audits of randomly selected testing centers from an outside audit firm that provides affordable audit services,
- 2) regularly reviewing video footage of exam administrations,
- 3) examining what algorithms or mechanisms a test-center vendor will be using to choose which questions from the question bank will pop up on each applicant's computer screen,
- 4) determining whether those algorithms are fair enough,
- 5) looking for any risk of hacking or system error, and
- 6) adopting a disaster recovery process in case something goes wrong at a vendor-test center.

This approach will help the State Bar to uphold the integrity of the exam and ensure that the exam results are reliable. This will also help to maintain the trust of stakeholders in the State Bar's examination process.

Thank you.

Sincerely,

Jaesang Lee

jslee875@gmail.com

From: [Merritt, Deborah](#)
To: [AdmissionsDirector](#)
Subject: Comment on Bar Exam Question Development with a New Vendor
Date: Monday, April 15, 2024 6:46:23 PM

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I applaud the State Bar's proposal to pursue development of exam questions with a new vendor. This step seems essential for financial reasons. It is also laudable from a public policy perspective: Having more than one vendor creating bar exam questions may lead to an improved product nationally. Other states might choose to adopt California's questions rather than the ones offered by NCBE.

My one reservation is that the State Bar should not let this short-term need affect design of the California exam recommended by the Blue Ribbon Commission. After investing in creation of new MBE questions, it may be tempting to incorporate those questions wholesale into the new exam. The Blue Ribbon Commission, however, stressed the need for an exam with "a significantly increased focus on assessment of skills," one "de-emphasizing the need for memorization of doctrinal law," and one that "is fair, equitable, and minimizes disparate performance impacts based on race, gender, ethnicity, disability, or other immutable characteristics." MBE-style questions are unlikely to meet any of those objectives. I trust, therefore, that the State Bar will separate this initiative from its design of the future California exam.

Best wishes on this endeavor, Deborah

Deborah Jones Merritt
Distinguished University Professor
John Deaver Drinko/Baker & Hostetler Chair in Law Emerita
The Ohio State University Moritz College of Law
Cell: 614-361-6402

For up-to-date information on lawyer licensing, see <https://lawyerlicensingresources.org/>

From: [Julian Sarkar](#)
To: [AdmissionsDirector](#)
Subject: Re: Agenda and Materials Posted: Stakeholder Forum on Bar Exam Question Development with a New Vendor | April 16, 2024
Date: Tuesday, April 16, 2024 7:02:33 AM

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To the Office of Admissions:

I am providing this comment in response to the proposal to retain a new vendor to develop bar exam questions, including the development of multiple-choice questions to replace the Multistate Bar Examination (MBE).

The Office of Admissions has recently represented that it is spending more than the tens of millions in revenue it generates from the bar exam, even after having recently increased the bar exam fees. The Office of Admissions has not identified what constitutes the current tens of millions in expenditures, such as money currently spent towards question development and on the NCBE.

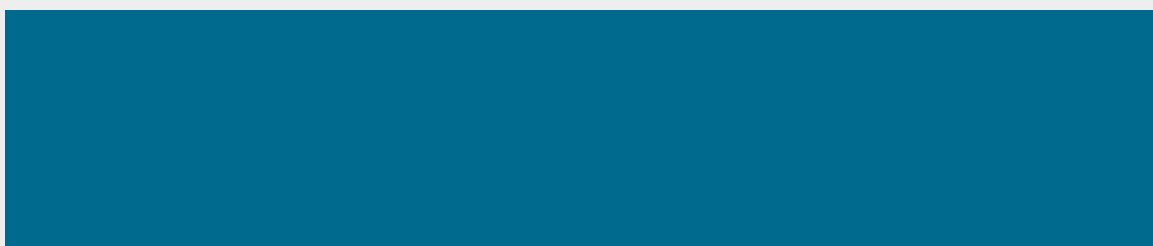
Based on these representations, it seems unfeasible for the State Bar to hire a new vendor for exam question development at this time. The State Bar should strongly consider ceding its responsibility and financial burden over attorney admissions to the Department of Consumer Affairs. Finally, the Office of Admissions should consider whether hiring a vendor is necessary for the proposal. For years, the State Bar has benefited from volunteer committee members that represent a wide array of the legal profession, including law school faculty. The Office of Admissions can explore creating a subcommittee of volunteer law school professors and legal professions.

Thank you for your consideration.

Julian Sarkar (he/him/his)

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On Fri, Apr 5, 2024 at 2:17 PM The State Bar of California - Office of Admissions <admissions@calbar.ca.gov> wrote:





Re: Agenda and Materials Posted: Stakeholder Forum on Bar Exam Question Development with a New Vendor Meeting | April 16, 2024

The State Bar of California is exploring the possibility of retaining a new vendor to develop bar exam questions to be used as soon as the February 2025 administration. This would include the development of multiple-choice questions to replace the Multistate Bar Examination (MBE). A proposal was initially discussed at the Committee of Bar Examiners meeting on March 15, 2024. A written agenda item describing the proposal can be found [here](#) and a recording of the meeting can be found [here](#).

[The State Bar's Office of Admissions invites you to a Stakeholder Input Forum on Tuesday, April 16, 2024, from 10:00 a.m. to 12:00 p.m.](#) The State Bar seeks public comment and input from stakeholders to identify considerations that will further inform the exploration of this initiative. More details about joining the forum and providing public comment can be found [here](#).

If you would like to submit written comments in advance, you may do so by sending them to admissionsdirector@calbar.ca.gov.

Please, note that the State Bar is continuing to explore options. The facilitators' comments during the forum should not be interpreted as committing to or rejecting any particular course of action. Rather, the State Bar hopes to gather input from the stakeholders and the public.

Thank you,

Office of Admissions



State Bar of California, 180 Howard Street, San Francisco, CA 94105, 415-538-2000

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