ONLINE PUBLIC COMMENTS SUBMITTED WITHOUT A CLEAR SELECTION OF THE OPTIONS PRESENTED

ORGANIZED IN CHRONOLOGICAL ORDER FROM THE EARLIEST FIRST.

Anonymous Per the study the cut score should be reduced by 2 standard deviations to 1380. Additionally the grading methodology of the essays should be considered as well. The grading is very subjective a reviewed a failing score and a passing score when read double blinded will not get the same results.
Anonymous It should be a combination of average of the hardest exams in the county, ie..New York, Illinois, Florida. I heard that if CA would use the NY pass score, that the bar passage rate for CA would in the 80%. If the CA bar examiners are worried about unaccredited schools, keep the Baby bar exam hard.
Perry Stottlemeyer - n/a The State of New York has a cut-score of 1330 AND they have approximately 3000 more lawyers than does California, despite our significantly larger population. Several States have had better than 90% pass rates during some years. Exactly what is Calbar's objective? Are California lawyers better than out-of-state lawyers? Curious!
Anonymous It should be 1330 like in other states.
Raymond Hayden - Student Obviously, the first option is an absolute "No!" The second option is in insult. It is less than eight MBE's. Hey, I know, for grins and giggles, take the cut score from EVERY other state in the union that uses the MBE's, add them all up, divide by the number of jurisdictions using the MBE, and see what you come up with. Once you get that figured out - go to work on the First Year Law Students' Examination, because the 80% failure rate is flat out fraud on the public!

Peter Luong - Law Office of Robert Chang

By implementing a high cut score of 1440 or 1414 to further its mission of protecting public and consumers, The State Bar has inflicted serious harm and more harm to the public and consumers instead.

Legalzoom, Rocketlawyer or other online legal services providers are not licensed attorneys but they attract millions of customers to use their services.

Non-lawyer providing legal services are booming and helping millions of customers in navigating legal access.

The questions that Calbar should ask is:

What make people come to a machine (computer) for the legal need? and,
What make people come to a non-lawyer, who are not graduated from law school, and unlicensed for their legal needs?

The common answers is the COST.

I am sure Bill Gate would not use Legalzoom.com or going to a non-lawyer to have his will drafted. But people like Bill Gate is just 1% of three hundred millions people living in the United States.

The rest 99% hardly afford to pay lawyer for their legal needs. They have to seek an alternative way.

When seeking helps for their legal needs from online or untrained non-lawyers, big consequence happened.

For example: I had a disable old lady walked into my office to ask me to help her to obtain her IRA payment because the holding company refused to make distribution when she turned to 65, and ask for a QDRO signed by a Judge to determine her portion of her community IRA.

20 years ago, she asked a non-lawyer to do the divorce for her. Since the IRA was under her name, she thought that it belong to her totally and she did not mention it in the disclosure.

The divorce went to default and the judgment entered without mentioning the IRA.

Now the IRA told her that her ex-husband has a portion of the account and need an Order of the court to divide it or confirm it to her.

Since it was not mentioned in the divorce, the Judge did not sign the QDRO.

The old lady could not find the ex-husband because he already relocated to the Philippines.

The old lady got stuck!

Above is just 1 simple example that I counter everyday.

So what make lawyer so expensive for the public? There are two factor, one from the lawyer and one from the State bar:

From the lawyer: She must collect money to off set the expenses that she had spent for her law school, especially for her multiple bar exams
From the State Bar: Low passing rate causes less availability of lawyer for the public.

When people facing those two factors, they choose anything affordable and convenient.

Dont consider lawyer like a knighthood title in the old day. It is no longer true.

Giving new lawyer a license to practice like giving a 16 years old high schooler a driver license. With the license, she can travel and learn new things, and overtime her driving skill must be improved as she grow.

If Bill Gate was not granted a diver license so that he could start his life, I am not sure if his name could be known as nowadays.

If the Driver License allows people to start life. The law license will helps law graduate start life and career too.

They will learn as they go. If they dont, the public will put them sideline.

Here is the challenge:

Pick up a candidate who has the highest score and ask her to draft a will, or to do a amicable divorce, or to file a limited civil suit. I am sure not many of them can do it and they have to learn as they go, and so others.

All must learn if she want to survive and thrive.

Let the public choose who is his lawyer. Economy Market is always good.

Thanks a lot for readying my comments!

Julia Vietor - none yet - still trying to pass the CA Bar Exam

I think the cut score should be 1330, which is the New York state Bar Exam cut score. This is reasonable because the New York Bar Exam is reputed to be the closest in difficulty to the California Bar Exam.

Hardy Delaughter - United States Bankruptcy Court for the Eastern District of California

I support lowering the cut score to somewhere between 133 and 136, which is in line with the practice in the following jurisdictions (27 states + D.C.): Arkansas, Connecticut, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Iowa, Kansas, Maryland, Massachusetts, Michigan, Montana, Nebraska, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Vermont, Washington, West Virginia, and Wyoming.

Also, I support applying the lowered cut score to February 2017 and July 2017 exams because news of upcoming changes to the bar exam has been circulating for all of 2017, leaving this year's examinees at a disadvantage if they decided that they would rather wait to take the exam until a new passing score has been established. To me, this year seems to be surrounded by uncertainty regarding the bar exam, its procedure, and its pass rate. Fairness would indicate that all 2017 examinees be re-evaluated under any modified cut score.

Anonymous

1. I reject keeping the cut score at 1440 since it exceeds the standards in similar states.
2. I reject lowering the score to 1414 since that too does not reflect the typical passing score in similar states.

In order of population, Texas had a 66% pass rate in 2016, Florida 54%, New York 57 % and CA at 40%. It seems as if CA prides itself on being dramatically different than the rest of the country which is pretentious and unnecessary if being done for the purpose of weeding out unsuitable candidates. I think achieving a pass rate of 59% (the average of the 3 largest states not including CA) should be the target and would give out-of-state attorneys a better shot at practicing law in CA versus a college grad with no experience except for an education in CA bar prep. Quit making the bar prep companies rich and make the test realistic for those that already practice law elsewhere.

Anonymous

Hi. 1350 makes much more sense. Thanks.

Reem Allos - Reem Allos Patent Services

I would propose the following for the CA Bar Exam.

1. Allow candidates to pass each section separately. (Written Essay, MBE, PT), and retake only those sections requiring passage.
2. Allow candidates to take their highest (Written Essays), their highest (MBD), their highest (PT), and combine them, to see if they would pass given those combinations from multiple administrations. A computer can figure this out, and send notices to those that passed using this combined method.
3. Allow the new cut score to be retroactive allow those that did not pass in previous administrations to have their scores considered for the new cut score, rather than studying another 4 months and retaking the exam under the new cut-score methodology.

I am a well educated professional. I hold a BS in Computer Science, MS in Software Engineering, and JD in Law. I currently own and manage my own Patent Law Firm in San Diego, CA. I have passed the Patent Bar Exam from the USPTO and I am licensed to practice Patent Law as a Patent Agent.

I have been practicing for 2 years and I have not had any malpractice claims against me. I maintain a client trust account and keep to ethical rules from the USPTO/ABA.

I have taken the CA Bar Exam on 4 occasions to date. Three out of the Four administrations, I have come so-close that I had a second reading from a second grader, and also, I missed passing the CA Bar Exam by 5 essay points.

In order to study for the CA Bar Exam, one needs to study for 4 months at the very least. As a working professional that has to put food on the table and pay the mortgage, it does not make sense to keep re-taking an exam only to fail by 5 points each administration.

It's not useful to have students take this exam over and over when they technically passed if you combine their highest score. Also, why not break it up into parts, so people can have a life and earn a living and still study for the exam.

The Bar needs to be fair to the applicant. The Bar should be changed to accommodate the needs of students.

I am hopeful that the CA bar will adopt the MBE, as adopted by many other jurisdictions, even NY.

Finally, I am hopeful that the State Bar of CA will change, either by reducing the cut score or adjusting the grading format (as outlined above).

Anonymous

The CA Bar Exam now weighs the MBE portion at 50% of the value of the overall score. Considering that the MBE is a standardized test that is used in almost every jurisdiction (the exception being Louisiana) its "cut score" should be the same in every jurisdiction, at least in terms of the MBE portion of the exam.

There is no logical reason for CA to have a higher cut score on an examination that tests Federal Law and Common Law principals. Though a current standard score does not exist for the MBE as of yet, CA should align itself closer to the national average.

With regards to the written portion of the CA Bar Exam, the committee of bar examiners have stated that this portion of the exam tests CA law predominantly and that there exists a need to set the competency standards more strictly. However, in practice the examiners still rely predominantly on Federal Rules and Common Law for the written portion of the exam.

The committee of bar examiners' study, which is the subject of this open comment period, does not discuss the MBE portion of the examination, and therefore should only be considered when examining the cut score for the written portion of the exam. Provided that 1414 accurately reflects an acceptable pass rate for the written portion, then it should be made the cut score. However, the MBE must be considered independently, as stated previously.

It would appear that the national average for the MBE cut score is approximately 135 (1350). As such, taking 1414 for the written and a more standard 1350 for the MBE, CA would be within logical reasoning to set its cut score at 1380.

Anonymous

The California Bar Exam, like the California Bar Association is run by a cabal of misogynistic douchebags and sadists and autistics gone wild, and bares little to no relationship whatsoever to law or any other form of practice of adjucating matters of dispute.

Furthermore, in the US and in CA in particular, it's by a large run by white supremacists whose sole function is to facilitate state sponsored murder of non whites for menial or trivial reasons. This has also filtered into a dozen other areas and obviously makes non pure whites lives a bit difficult.

Anyway this is a long way of getting to the point, but the culture and environment of the bar exam is simply to check whether you are super white, all non-whiteness is weeded out.

As a substantive exam, the legal concepts tested are no different from any first year law students class. For me, having gotten very high grades at times in class this was facilitated by having the actual laws tested nearby, as factoid conglomeration was of no value. No practicing lawyer recalls random facts out of midair and neither do the vast majority of law students.

I mean property isn't even a fucking legal field, it's like a static bureaucratic concept. The only subjects that should be on any actual lawyer's mind are Constitutional law, criminal law, and remedies. Everything else is just bullshit autistics made up to feel good about themselves.

This hazing ritual/whiteness supremacy abomination has gone on simply because it exists at the end of the law school experience,, when many have sunk lots of time and energy and are therefore being mostly gangbanged by the mafia (the ABA) at the tail end.

The only option for the ABA at this point is to dissolve into nothing, ,the time for "adjustment" has long since passed. I would strongly reccomend getting rid of the bar exam and having everyone who graduated from ABA law schools be certified lawyers. I'd also then pray that no one ever prosecutes you lot for mass murder, because they would totally have a case.

But in your narrow retarded universe, obviously lowering the "score" would make it less of a hazing ritual, and so better than keeping it where it is or whatever, but this is trying to put out a 900 acre fire with a water hose, good luck with that.

Anonymous

Do you honestly believe you produce better attorneys merely because your score is higher than the national average?

Anonymous

Cut to 1380, which is a fair score.

Anonymous

The "methodology" used in the Buckendahl study is horribly flawed and thus the recommended 1414 cut score should be completely disregarded. Instead, one of the following two options should occur: (1) A new, completely independent study that determines an appropriate cut score from scratch after evaluating both the written and MBE portions of exam should be conducted and concluded in time for its results to apply retroactively to the July 2017 bar examinees; or (2) the cut score should be lowered to the national average of 135 until such a proper study can be conducted.

Shelby Luchesi

The cut score should be the same level as New York at 1333.

Amit Pendyal

I took the bar in Feb 2017 and contrary to popular opinion, had a positive experience overall. Even though, I did not pass, I did not think the exam was difficult at all. I think with adequate preparation, ample support of law schools and the State Bar making its standards of evaluation highly conspicuous, all or majority of candidates should be able to pass the exam.

But herein lies the fundamental problem, bar takers are required to memorize thousands of irrelevant rules, in areas of law, they don't even intend to practice or are remotely interested in and then are subjected to write judicial opinions and solve multiple choice questions. Shortsightedly, the most pertinent part of the exam, namely the PT's have been reduced in weightage. This arrangement has absolutely very little to do with actual practice, as any practicing attorney, law professor or allied person will attest to.

Moreover, once "licensed" these new attorneys are required to again undergo practical training of practicing law, that neither law school nor taking the bar exam is preparing them for. Even then, there are practice guides, reference materials, mentors and other affiliated resources, available to every new/seasoned attorney, that negates and renders this exam taking exercise, completely meaningless.

Lowering or having a high the cut score does not address the fundamental issues with the current structure of licensing, namely having an absurd standardized test for a dynamic profession and practice this is entirely about learning, cooperation, information gathering and creativity among other values.

Much ink has been spilled about the pro's and cons of standardized testing. Now, the current proposal for change has morphed into a political/ideological theatre between the traditionalists and the one's arguing for change. However, it is ironical that both camps completely overlook and miss the point about relevancy. All this, while many law schools quietly abrogate responsibility to prepare students for the profession and State Bar is reduced to just running the faulty system without any introspection. This, very much has cast a dark shadow of suspicion on, law schools, the State Bar and the profession in general.

It is interesting that many of the law schools advocating for change, have seen their bar passage rate plummet, while for the other so called "top tier schools" it has remained consistently high. The schools experiencing a decline, rather than exchanging information with their successful counterparts and implementing positive changes, have done everything to deflect the blame. Instead of preparing students for actual practice and suggesting ways to State Bar to veritably, make the licensing requirement clear and relevant to the profession, they are campaigning for reduced cutoff score, citing State Bar's own statistics, all while quietly raising the tuition, further burdening the candidates.

If the fundamental goals of the State Bar are to protect the public along with ensuring competency and ethics in the profession, conducting an inane standardized test achieves neither. This is glaringly evident by the disbarred list of state bar, that is published each month, among others. Presumably, all the former attorney's there, passed the exam.

For a positive step towards change maybe we can look to the German or the French systems where both the law schools and State ensure rigorous study/testing and practical experience before a candidate is admitted to practice. Alternatively, the example of a how the medical profession has changed its requirements to make the process of school and licensure more practical, can also be quite instructive to make changes to the current legal system.

California is and has always been at the forefront of experimentation. Maybe it is time that State Bar also experiments with a new ways of establishing competency and protecting the public more efficiently.

Thomas Eisweirth - United States Bankruptcy Court

Adopt the Uniform Bar Exam (UBE).

Anonymous

I disagree with option 1 and 2 and believe the cut score should be lowered by at least 100 points and/or making the cut score in CA comparable to other states. A person should not have to kill themselves in CA trying to reach the current 1440 score because I have seen people commit suicide...have a stroke..etc. trying to achieve their dream...putting their lives on hold...not living...then die trying to get there. Having sat for the exam, the stress and anxiety of the exam alone is enough to send anyone to the hospital. The 2 day exam only made it worse...having to stress about every subject you learned in law school followed by the 90 minute PT was beyond doable...and then raising the MBE score factor to 50%...really caused even more stress and anxiety. Unbelievable!

John Lauerbach - Stanford Law School

The cut score should be lowered to 1330, if not less. The bar exam purpose IS NOT limiting the access to the profession but client protection. Stop distorting the meaning of this exam. A minimum competence can be proven with a minimum result. The actual score is ridiculous and you need to get an excellent score to pass.

Steph Cheng

Given the need for lawyers, CA should not maintain such a high cut score to maintain an illusion of prestige. The cut score should reflect the majority of those of other states. It should be around the mid 130s. The bar exam tests only memorization. The law it tests can easily be found online. The arbitrary cut score and the exam itself does not adequately differentiate between adequate and subpar lawyers.

Christopher Young - Unemployed law student

The cut score should be lowered to be commensurate with other economically significant states such as NY, i.e. 133, or lowered to the median of all state scores in the country, which is 135 (as recommended by 20 ABA law school deans). The current cut score of 144 and the proposed lower score of 141.4 are arbitrary and such scores would continue to exclude students who are otherwise competent to enter the profession. The status quo and proposed cut score unduly restrain the right of qualified individuals to offer their services to the public. If an employer has chosen to employ a person, why should that individual be pushed into unemployment simply because s/he failed to meet an arbitrarily high passing score? Is it in the best interests of the community to force that student out of the state of California to pursue her/his career in another state with a more reasonable bar exam? If there is no rationale for the original cut score of 144, then there is no valid reason for the score to be lowered to 141.4 which is based on the original, admittedly, flawed score. Lowering the cut score to either 133 or 135 is the most reasonable and defensible course of action.

Anonymous

The cut score should be temporarily lowered to the national average of 135 until a better, not rushed study can be completed.

The overall important takeaway is that the cut score MUST be lowered. We all know it's arbitrarily high - California consistently performs above the national average and yet has one of the lowest pass rates. Not only is this problematic just from the sheer absurdity of it, but it's also hurting the legal profession. As baby boomer attorneys retire there will be a dearth of lawyers.

Most significantly, though, is that the current lack of attorneys in rural areas and practicing in the public sector will only be exacerbated if we maintain status quo. Law school is criminally expensive, preparing to sit for the bar exam is expensive, the cost of the exam itself is expensive. Unjustifiably low pass rates which result in people taking the exam multiple times means that people who intend to practice in lower-paying positions will be driven to give up those aspirations upon passing in lieu of the high-paying jobs just to make up for the financial ruin that law school plus multiple bar attempts causes.

Mitchell R. Miller - Mitchell R. Miller, Attorney at Law

The question is not whether the cut score should be raised or lowered to achieve some irrelevant goal; the question is, whether an applicant who achieves that score has demonstrated adequate preparation for the practice of law. If not, the cut score should be raised until it does reflect such capability. If that score is above the standard needed to reflect adequate preparation to be a lawyer, it should be lowered. That's what the test should measure: nothing more, nothing less.

Philip Hess - Law Office of Philip J. Hess

I have taken two bar exams in my professional career, New York (1975) and California (1991). In both cases I became convinced that the bar exam is a 19th century tool that has long since outlived its usefulness. The range of general knowledge that it tests is best suited to an era when newly minted lawyers (presumably having completed a course of study for an experienced practitioner since there were very few law schools in the 19th and early 20th century) would pack a set of Blackstone in their saddlebags and journey forth looking for a town or village in which to hang up their shingle. They had to be prepared for whatever walked in the door, be it wills, commercial lawsuits, property disputes, personal injury or tort matters or anything else. The bar exam required knowledge that is a mile wide and an inch deep. It does not provide any meaningful assurance that today's attorney, who will almost invariably start or quickly gravitate to a field of concentration or specialization, has any competence in that area. The fact that a bar exam candidate can faithfully regurgitate the rules on how to draft and witness a will, or what constitutes a claim of adverse possession, will of little help to prospective clients if that attorney presents herself to them as a competent practitioner in the field of medical malpractice or intellectual property. The bar exam should be redesigned from the ground up to test for analytical ability and not for the retention of a certain residue of legal rules.

The California bar exam I took had, in the practical component given in the afternoon of the second and third days, a modicum of this element. But I do not believe the weight accorded to that portion of the exam would same a candidate who did not perform well on the MBE and morning essay questions. That puts the cart before the horse. A candidate for admission who can comprehend, evaluate and analyze a problem can look up what the applicable rules are since one thing that law schools do well is teach legal research skills. A candidate who cannot demonstrate minimal analytical proficiency but who scores perfect numbers on the rule memorization portions of the exam will not provide meaningful assistance to clients.

One other point to note about the California bar exam. When I took it in 1991 it did not even test California law in the subjects covered. The rules that candidates were required to absorb were of a nationwide, federal or general nature. When I passed the exam and was admitted to practice in California, I had no idea of how to file a lawsuit in California, what the structure of the court system was, or any other topic of California law. The New York bar exam, when I took it in 1975 was better suited to that need, and required candidates to memorize vast swaths of arcane New York practice tidbits in order to pass. Of course in neither instance did it ensure the successful candidates would actually make competent attorneys.

Anonymous

Wouldn't Option 2 only increase the pass rate by about 3%? Ridiculous! Something's wrong with the bar exam, not the applicants.

Anonymous

The CA Bar is the biggest joke in the country. It is simply a anti-trade barrier the elderly, white males use to prevent normal access to this profession. As a 30 year member of the NY Bar and member of the CA Bar, I am embarrassed to be part of this organization and to have had to pass the CA bar when I was over the age of 50.
Shame on the greedy few in the CA Bar.

Andrew Jacobson - Bay Oak Law Firm, APLC

To improve the legal profession, the cut score needs to be raised, not lowered, as part of a more comprehensive re-design of the legal profession for the 21st century. Besides raising the cut score, we need to:
1. Reform the law school experience, by shutting out schools that are more successful at creating law school debt than good lawyers. If a school cannot get an average of 40% of their students to pass the first time they take the bar over a three-year period, and 75% after two attempts, they should be prevented from being allowed to place students in the bar exam (or at least prevented from relying on student loans). While diversity is worthwhile, ABA law schools are just as diverse as the general population, and they better prepare their students for the realities of the profession. Get rid of the unaccredited schools, which largely exist to take advantage of those seduced by Hollywood's depiction of lawyers, but do not have the skill set to match. Ignore the law school deans -- their bias is to the continued existence of their school, not the good of the profession.
2. Law schools teach students to become generalists, but there is little demand for true generalists. While every lawyer should have the first year basics -- contracts, civil and criminal procedure, constitutional law, real property, and torts -- one test testing some 18 subjects (family law, trusts and estates, corporate law, securities law, tax, etc.) over a short period (now, just two days), is insufficient. Every law student should test in and pass the basics. Thereafter, there should be regular testing of other modules (3 hours, maximum) over a several year period. It is my understanding that architects do something similar.
3. An apprenticeship program should be required as part of the modular testing, to give practical, real world experience. My value as a lawyer truly arose by learning from good lawyers I worked with.

Anonymous

I believe there needs to be more diversity in the law profession. Dropping the cut score is not the way to do it. The way to do it is to a) close down horrible law schools; b) give more scholarships to minorities; c) make it easier to become an attorney without taking the bar exam; d) having loan forgiveness; e) having Bar scholarships for minorities to take courses such as Barbri. Too many attorneys in the profession are "smart" but have absolutely zero ethics.

Steve Gupta

The passing score should be based upon student performance as a group.

All scores of first time exam takers from full time, accredited schools, should be plotted on a graph. Then the cut off level should be about 15 or 20% from the bottom.

Steve Gupta MD JD

Henry David - The David Firm(R)

The cut score must be substantially increased. Have you seen the poor quality of the attorneys who passed? Clearly, people who are not qualified to practice law are passing; why add to that? How is the public served by being misled into believing that even less qualified people are, in fact, qualified?

Further, if you do the statistical analysis of apples-to-apples, our pass rate is not low. We just have more unqualified people taking the bar (again and again--in Colorado, three strikes and you are out; here, if it takes you 13 times to get lucky, you get a front page story in the LA Times).

In addition, lowering the bar (pun intended) encourages people to go to law school even though they may not have the skills to be an attorney and may never make enough money to justify the investment in law school. Not doing anyone a favor (except the law schools).

Address the problem of lack of available resources through other means, e.g., expand what paralegals can do under an attorney's supervision, increase funding for legal services, etc.

While you are at it, require real continuing education and retesting (every 5 or 10 years).

Other countries do fine with a lower ratio of attorneys per 1000 people; we don't need more lawyers--we need better ones.

Marcy Tiffany - Tiffany Law Group, P.C.

I agree with the law school deans that the cut score should be between 133 and 136, which would bring it closer to the national average.
The current high cut score has an adverse impact on the availability of attorneys who are willing to devote their practice to less lucrative practice
areas such as special education, the area in which I currently specialize. Not all attorneys are destined to join high power law firms. Not all
attorneys can afford to go to top law schools. The high cut score is a huge obstacle for individuals who have turned to the law later in life, who may
have attended law school part time while employed at other jobs, and who cannot afford to devote three months of full time study of a bar review
course to prepare to take the bar as do many young law students from high power law schools. If a law student who graduates from an accredited
law school has to work that hard to pass the bar--and they do--there is something wrong with the system.

David Thompson - Department of the Army

lower to 1330 to 1360

Richard Myers - Richard V. Myers attorney at Law

I was admitted to the Bar in 1988. My memory is that the pass rate for the Bar exam in 1987 was somewhere in the 30% range, if not the high 20% range. Lowering the bar pass rate below what it currently is will virtually guarantee the admission of lawyers to the Bar who are not qualified to practice law.

I have been a criminal practitioner for almost 30 years. The impact of admitting unqualified lawyers in the criminal arena at a percentage higher than it is now will be significant.

Anonymous

The CA bar exam score should be on par with other states, meaning a score of about 1300 or 1330. Our state is at grave risk of losing smart and competent individuals who simply cannot pass our capricious and unfair exam. Please reduce the score so we can gain attorneys versus losing these individuals to other states. The integrity of the exam is not at risk in reducing the score. However, by not reducing the scores to be on par with other states the CA bar exam will jeopardize its integrity in that the readers seem to be inconsistent and unfair and unduly burden the applicants. Please reduce the scores immediately!

Anonymous

The article in the following link sums up my thoughts rather succinctly:

https://www.dailyjournal.com/articles/342590

Fred Kimpel - Self

Bar exam and licensing for bar must include some actual face to face interaction with an applicant.
Bar exam and licensure should include completion of online courses directed at nuts and bolts of actual law practice. These courses and accompanying test can be offered year round. Passing the bar exam as currently given does nothing to protect the public, does nothing to develop lawyer ethics, and only minimally relates to what lawyers actually do in actual law practice. The Bar Exam is an island onto itself.
Study for the current exam and pass -- no assurance to anyone.
The licensure should include training and testing on line. Talk to a State Bar human who signs off as to a minimal level of identity and acknowledgment of what it can mean to be a member of the State Bar.
A one or two day (10 hours) period of testing can be administered.
It should be troubling to State Bar that exam is basically same exam that has been given for decades.

John Williams

Why is the declining rate of law school graduates passing the bar exam even an issue? Is California experiencing a shortage of attorneys? This question is best answered by the ever increasing number of unemployed recent admittees. Law schools, public and private, have seen a dramatic drop in applications and in order to keep revenue streams positive they are admitting students that otherwise would not have been qualified for admittance. How could you not expect anything other than a lower bar pass rate when the admission pool's academic and achievement scores are lower than in years past.
The State Bar's solution to the " problem," which isn't really a problem at all, is to simply lower the "bar" for admission. Lowering the threshold for admission to the practice of law may help law schools maintain or increase enrollment due to potential student's higher expectations of being admitted to practice yet does nothing to protect the public from incompetent representation and instead increases the chances of incompetent representation.
The concept of an "interim" cut score, dependent upon future studies, is laughable.
I find it very interesting that the survey to which I have responded seeks " demographic and other information to provide appropriate context for your (my) response". I can only speculate as to what " demographic and other information" may be deemed "inappropriate" context for my responses to the survey.

Anonymous

Bar exam score requirement needs to be increased not maintained at current level or decreased.

Bar exam itself should be modified to be "less parochial" and "American-Ethnocentric" and include a component that measures understanding to "different cultures" and "ideas", i.e. a more "international common sense-consensus" type of approach (e.g U.N. law on international sales, human rights, etc.)

The entire legal profession in California is poorly organized and does not serve the interests of practicing attorneys. It is a DISGRACE.

ABA is controlled by CRONY self-serving law school members who are only interested in lining their own pockets based on federal student loan program. California state bar should not be a TOOL for Cronies by providing superficial solutions for deeper root cause problems.

Technological progress and Global Streamlining of Investments and Trade is causing economic disparity. There is simply fewer people in California who can afford legal services. (Basic economics means you don't increase SUPPLY when there is less DEMAND).

During economic downturn of 2009 ADA (American Dental Association) ordered Dental Schools to "REDUCE CLASS SIZE". ROOT CAUSE OF ISSUE IS ABA.

The legal profession already has the GUTTER REPUTATION on par to politician, used car salesman, finance and real estate industry.

LOWERING STANDARDS will only mean more miserable, less competent lawyers who cannot find work, further denigrating the reputation of lawyers, and switching one problem for an EVEN BIGGER PROBLEM.

By San Francisco Attorney

Jason Kornfeld - covington & burling

The cut score should be decreased to 1400.

New York, considered the second-hardest bar in the country behind California is a 1333. In the legal community, California and New York often are the standard setters of legal precedent. It goes without saying that these jurisdictions should have more challenging bar exams to maintain the reputation. However, California's cut score has become unprecedented and surpassed unreasonable. Even dropping the score to 1414 is too high and hardly increases the pass rate. Dropping it to 1400 would still be well-above New York, and would still achieve the purpose of admitting qualified lawyers that truly deserve to practice.

I went to a top 20 law school, and I know far too many peers from my school and other top law schools that have failed the California bar multiple times. Many of these people had job offers coming out of school. The biggest travesty of the exam is how it puts a person's life on hold potentially for years, and the examiners continue to expect people to wait under surmounting debt payments with no career prospects. If they quit people call them a quitter. If they continue to fail they remain poor.

Likely the biggest problem with the grading is the essay grading. I know multiple students who were mere points off due to their essay grades being all over the spectrum due to second reads. One peer crushed the MBE (90% percentile) and did ok on her essays. She had multiple tutors and professors look at her essays and none had much to say besides you got unlucky. I heard the same from many retakers who hired tutors to help them improve only to have tutors tell them to try again and just have faith. You have created an arbitrary grading system that is broken.

The bar exam has failed these students, and has even failed those that passed such as myself. I am a corporate attorney and 90% of the exam was useless, and did not even test on a single aspect of my current practice. How can you say the exam shows I am qualified to be licensed versus someone that failed?

Additionally, if the cut score is reduced it should be retroactive to February 2017 test takers at the very least (if I had my way I would allow anyone in the last 5 years with a passing score to be waived in assuming they have continued to retake the exam). This was the lowest past rate in decades. The bar should not force someone who technically has passed to retake this exam. They're already qualified. This would be ludicrous and cruel, especially in light of such inconsistent and arbitrary grading.

Please California Bar Association be reasonable for once. People who are qualified lawyers have loans and want to be lawyers and deserve to be lawyers. Let the economy be the determining factor as to whether a licensed lawyer succeeds it is not the bar association's job. This should be an easy decision, not one that takes months to conclude. The decision is obvious.

Paul Nash - Law Offices of Paul S. Nash, APC

It is highly likely that "low" pass percentages have far more to do with the quality, depth and breadth of undergrad and law school programs, than the test itself. To lower the passing score or to make the exam easier is to permit less-qualified individuals to become lawyers, a result inconsistent with the Bar's ethical and public-protective goals. The idea that lowering the bar permits more to become lawyers is counterintuitive to the purpose of the Bar exam in the first place: testing knowledge, critical thinking, ethics, and analytical ability as reasonable measures of competency to practice law.

If the "issue" driving the concern over passing rates is really one of "diversity," that minorities are failing at a higher rate than whites, how is the State and profession benefited by having less qualified minorities, who then may well become a disproportionately high percentage of lawyers in the discipline/disbarment/probation system? The underlying problem is the quality of education and what is asked of the student. Universities that admit otherwise unqualified or "underqualified" minorities, and then do not provide adequate tutorial and other support to supplement the regular studies for minorities so they then actually acquire the reading, writing, analytical, historical education competency required to succeed in a higher profession, do the minorities no service, nor the professions.

I have no problem with minorities and "under-represented" peoples of whatever category being given opportunities to succeed just as "white" people have those opportunities (and in many cases better schools), but to lower the admissions bar, and then profession exam-passing bar, just to produce a higher percentage of minorities into the profession, benefits neither the poorly-taught/underqualified person, nor society, in the long run.

Meghan Mccormick - sheppard mullin

In 2017, California lawyers are still at a huge disadvantage. If they wish to move due to an ailing parent or family member or any other reason, they are unable to practice in any other state in the country without taking a bar exam. The bar exam is only offered twice a year. If you have to move in between examinations, you are faced with (1) not being able to work (2) working on the contingency that you pass (a very difficult task, when you are working full time). It is simply not fair, and is frankly unjust. The solution to higher passage rate is not lowering the "cut score" it's adopting the uniform bar.

Anonymous

There is no correlation between law school studies and the bar exam. Why is it necessary, even for those attending a top 5 law school, to take a bar exam review course after three years of schooling to pass the bar? The bar exam has little correlation to what is taught in law school. That is the central reason why passage rates are low. Either get rid of the bar exam or mandate that law schools teach how to take the bar exam.

Elaine Morinelli - Morinelli & Lieberman Law Group

I don't think that the Bar Exam can really say whether a lawyer is competent or not. People don't test well, they try to say too much, or too little, etc. I passed on my third try because I took a course that showed me how to simplify my answers. I was throwing in the kitchen sink and it was just too much.

In other words, just because it takes a few times to pass the bar doesn't mean you are incompetent. And just because you pass on the first try does not mean you are competent. There are plenty of real a******* that get good marks and grades that gouge people and let their own egos get in the way.

When I took the bar the pass rate was 38%. You can't tell me that we all got stupid one year, this was a manipulation of the scores to control the number of attorneys in California.

Moreover, there isn't a single subject on the bar exam that you would have to wing once you were in practice. In fact, if you DID wing it and did not do research, it would be malpractice. So the taking of the test itself is based on false assumptions.

I've had a long career as a sole practitioner who sometimes did project work for other attorneys. Not all of us have to or want to work at big firms that pay $140,000. Some of us want to actually do real work with real people and actually help them. I consider it my responsibility to share my knowledge because I have the knowledge and clients don't. Yes I think we should be decently paid for our work but not overly paid. I've known attorneys to take $10,000 retainers in divorce cases and toss the clients out on their ears when the money was spent. Come on, people! Who has $10,000 lying around? Plus, once they get to be pro per they mess up the system for all of us - it is horrendous the kind of mistakes I am asked to correct when a pro per comes to me and asks for help. I can help them but I can't bring a dead horse back to life.

I think the exam should recognize all of the ways people are lawyers, not just the high end. Some of us can be good technicians, while not particularly brilliant. and still do our jobs well.

I'm an old hippie, what can I say. Law for the People!!

Gary Roberts - Self

Lowering the standard so that otherwise unqualified candidates will become members of the bar is ludicrous. It is analogous to raising the acceptable blood alcohol concentration to 0.2 to eliminate drunk driving. Option 2 will allow more unqualified attorneys to practice and my example will allow more impaired drivers on the road even though they will not meet the standard for impairment.

The potential indebtedness of law students who fail to pass the bar is not relevant. The Bar is neither an employment agency nor a debt relief service.

The fact that California has the second highest cut score in the nation is irrelevant. According to the ABA, California has 42.7 lawyers for every 10,000 residents.
https://www.americanbar.org/resources_for_lawyers/profession_statistics.html Do we really need more?

California already retreated from the three day Bar Exam to two days.

Protecting the public from unqualified attorneys and maintaining the integrity of the profession should be primary concerns. How does increasing diversity contribute to either if the person who passes with a lowered score threshold is not competent?

Joshua Rosenfeld

As I understand it, the primary purpose of the bar exam is to ensure that only qualified applicants practice law. This is a worthy goal. However, in my experience, the bar exam does not always work. I have personally known many law school graduates who were well-qualified but who - for whatever reason - failed to pass the bar through multiple sittings. I have also known many practicing lawyers who are walking malpractice suits, and who are only saved from this fate because their clients, having no frame of reference for legal competence, don't know any better.

Because of these experiences, I do not believe that the bar exam, in its current form, does a good job of separating the wheat from the chaff. Nor do I believe that the bar exam, in its current form, is even relevant for most aspiring attorneys. Rather than forcing graduates who want to practice a specific area of law to learn just enough to be dangerous in all areas of law, I propose allowing aspiring attorneys to specialize off the bat, and to be licensed in specific areas of law. This would allow applicants to be evaluated in greater depth on specific areas relevant to their practice, and not force them to learn principles that they will never use.

As an aside, I wholeheartedly oppose lowering standards for the sake of increasing the pass rate. This seems like action for the sake of action. At the same time, I have a hard time believing that the pool of applicants can be that much worse than my cohort was when we took the bar. It seems as though there is a problem with the either the test or the evaluators, or a growing disconnect between the contents of the test and the contents of preparation courses.

Anonymous

California is already saturated with lawyers as it is. And despite having to pass the supposedly-difficult California Bar, a lot of them are minimally competent at best. Instead of lowering the pass score, why doesn't CalBar align with the rest of the country and require that applicants receive their legal education from an ABA-accredited law school?

Michael Michelena - LA District Attorney's Office

I have been a practicing attorney for over 12 years. I passed the bar exam on my first attempt and went to an accredited law school. There are few attorneys in the state who have handled the level of complex litigation cases that I have handled as a gang homicide prosecutor in the busiest office in the country. I have tried cases against attorneys from Harvard and against attorneys from unaccredited schools. I have tried cases against attorneys with 50 + years of experience and against attorneys with no experience. The best attorneys I have seen are those with practical experience. I can assure you that the bar exam is the worst barometer in determining a successful attorney that could exist. I doubt if I have ever used one tiny morsel of what the bar exam quizzed me on in my actual practice of law. It is a useless right of passage, akin to hazing on a sports team. The arbitrary nature of the scoring makes no sense in logic. To assume that making the scoring more difficult means that smarter/more qualified applicants will be admitted to the bar is a faulty theory that assumes that the bar exam tests the skills needed to be a lawyer. It does not. After taking the bar exam, I can only assume that the people who wrote it never practiced law, never tried a case, and never went to law school. The exam should either be abolished or the score should be lowered so that 80% of test-takers pass on their first attempt. The exam is absolutely pointless and I am embarrassed that my profession still requires brilliant young potential attorneys to suffer through this process.

These opinions are mine alone and not the views of my employer.

Richard French - The French Firm CO., L.P.A.

California has been dumbing down the bar exam since my admission in 1979. STOP IT!

IIRC, about 32% of first time bar exam takers passed in the late 1970s. Now, far more pass.

There has been grade inflation in high schools, colleges and law schools in the past several decades.

New, young lawyers, as a group, are lousy writers. Many law firms have remedial writing courses to try to teach the dumbed-down new lawyers basic writing skills, without which these people should have failed the bar exam.

The easier it is to become a lawyer, the stupider new lawyers will be, the the everlasting detriment of the public.

I am strongly opposed to dumbing down the bar exam even further, allowing unqualified people to represent clients in their darkest moments, ie, screwing the clients.

Lawyers are already the brunt of jokes; please do not make us the brunt of DUMB LAWYER jokes, due to the lawyers being dumber.

INCREASE the score needed to pass the bar exam, and protect the public.

Law is a service industry. Lawyers service clients. Too few lawyers understand that. Now, the Bar is trying to serve the new wannabe lawyers, instead of protecting the public.

SHAME ON THE BAR FOR EVEN ENTERTAINING SUCH A DETRIMENTAL IDEA AS MAKING THE BAR EXAM EASIER SO THAT INCOMPETENT PEOPLE CAN PASS!

This proposal is a way to make sure that more clients obtain adverse results due to incompetent lawyers handling their matters.

STOP DUMBING DOWN THE BAR EXAM; STOP DUMBING DOWN THE INTELLIGENCE OF THE AVERAGE LAWYER.

PROTECT THE PUBLIC. KEEP LAWYER INTELLIGENCE AND TRAINING LEVELS HIGH. DEMAND HIGH PERFORMANCE FROM THE DUMBED-DOWN, OVERLY ENTITLED, SPOILED YOUNG MEN AND WOMEN WHO ASPIRE TO A LEGAL CAREER. LET THEM WORK AND STUDY HARD FOR THE PRIVILEGE OF HAVING A LAW LICENSE.

A LAW LICENSE SHOULD BE VERY DIFFICULT TO EARN, ENCOURAGING ONLY THE BEST AND BRIGHTEST TO BECOME LAWYERS; OUR CLIENTS DESERVE NO LESS.

INCREASE THE SCORE NEEDED TO PASS THE BAR EXAM.

Andrea Hughes

There's no benefit having attorneys as smart as the regular joe. You really ha e to ensure these attorneys can handle
The claims coming at them. Please don't lower the bar.

Steven Rein - Law Offices of Steven Rein

I have been a practicing California attorney for 47 years. In the mid-1980s I taught courses in legal research/legal bibliography/legal writing at a then unaccredited law school. My experience was that 25% of the people were equivalent to the people from accredited schools I have dealt with. 25% were marginal. 25% were functionally illiterate. That was years ago. I am not convinced that the quality of candidates since then has gotten better. I do not want to see it become easier to pass the Bar for these reasons, among others.

Anonymous

Forget the "cut score" and think about the applicants and the public interest. We should seriously reconsider how valuable the bar exam is. Example: A colleague came highly recommended into the firm where I was working as an attorney. This person attended an Ivy League school as an undergraduate, and an Ivy League law school, and was in fact a Rhodes Scholar. This person was white, from a socioeconomically disadvantaged background. While this person was stoic, I know that at law clerk wages this person was literally hungry, and could barely afford to live in our city.

This person took the California Bar Exam once, with (expensive) test prep, and did not pass.

I mean, really? This person had certainly managed to pass everything else in life, and was certainly more than competent at the firm. How is it that all those Ivy League and Oxford professors who thought this a brilliant mind could have been so wrong? Are we to suppose the bar exam grader rushing through papers, perhaps devoting a few minutes to hers, somehow knew better than all of them? Was she perhaps just much smarter than the grader, and incapable of sufficiently dumbing down her written essays to pass?

This person took the California Bar Exam again, and failed.

This person decided to take the Exam a third time, and during preparation for this third effort I saw this person growing visibly emaciated. The law clerk wages did not increase. The firm did not sympathize, and after two attempts was inclined to cut the strings and made it plain that this person was on thin ice. Family could not help. I am sure depression factored in.

The third time came and went, and this person did not pass.

So this extraordinary individual left California, and abandoned any further effort to become a lawyer.

I just ran a search and found no record of any attorney with this person's name, anywhere in the world.

Or at all. Did this person commit suicide?

Please explain clearly, because I do not understand: How did this benefit anyone?

Rhodes Scholars with Ivy League backgrounds should be reasonably assured of becoming lawyers in California if that is what they want to do. It is clearly in the public interest. So make it happen.

Perhaps it means pre-qualifying students through a modified LSAT, or through some other exam administered toward the beginning of the law school career, rather than after one has already incurred the equivalent of a small mortgage, in good faith, upon a social contract that the Bar seems determined in many instances to break.

People who attend ABA-accredited schools, particularly in California, should be reasonably assured of becoming lawyers in California if they so choose. People who attend any school that California has chosen to accredit should be reasonably assured of becoming lawyers in California if they want to.

Schools that the Bar, in its estimation, deems incapable of presenting a virtually complete graduating class competent to practice as attorneys in California should be closed. Or their entering student bodies should be restricted to include only such competent individuals.

Let's please have no more of this leaving of some of the most outstanding students in the world out to twist in the wind, upon the pretext that it somehow protects the public. Preventing manifestly qualified applicants from practicing doesn't protect the public; it does the opposite. It is plain by examples with which we are all by now surely familiar that in any given administration of the Bar Exam, large numbers of qualified individuals are excluded from practice for no defensible reason.

Patrick Sullivan - Patrick Sullivan, Atorney at Law

We should raise the standards for admission, not lower them. Don't we have enough dumb lawyers?

The argument that bar scores must be lowered to admit more appliicants of color in order to promote "diversity" is offensive and bogus. There are many well qualified and talented bar candidates who are non-white. They do not need charity or special favors from anyone. As the a song from the late James Brown said "Don't give me nothing; Just open the door".

Timothy Sandefur - Goldwater Institute

The State Bar should be concerned with basic competence, nothing more. In fact, it shouldn't even be doing that--ideally, it should concern itself solely with forbidding force and fraud, because competence is ensured by competition in the market, not by managing to pass a one-time, all-or-nothing examination. Be that as it may, keeping the score at an unnecessarily high rate harms consumers by restricting the supply of legal services, with little accompanying benefit. As Morris Kleiner and other economists have demonstrated, there is little empirical data to support the idea that occupational licensing protects the consumer in the first place, and much evidence to the contrary: that it results in the "Cadillac effect," whereby lower-income consumers are unable to afford the few practitioners who manage to pass the examination.

Keeping up the required passing score is self-interested cartel behavior: it imposes a barrier to entry to drive up prices for attorneys. This is why it is not consumers, but attorneys, who militate to keep the score up. Nor is this anything new--as I explain in detail in my 2010 book, The Right to Earn A Living, licensing laws have been abused for this purpose for aeons. As for maintaining the dignity of the profession--that is not a proper function of government, and the dignity of the profession has been sufficiently undermined by licensed attorneys already that the very notion of maintaining it through a high bar passage score is laughable.

In short, an artificially high required score is contrary to the spirit of Cal. Bus. & Prof. Code 6068(h), which requires California attorneys, "[n]ever to reject, for any consideration personal to [themselves], the cause of the defenseless or the oppressed." Nobody is more defenseless than a person who cannot afford an attorney. Yet the practice of restricting the supply of legal services, which does not appreciably benefit consumers, but instead benefits those of us who have managed to make it past the barrier to entry, is, at bottom, to prioritize considerations personal to ourselves. Not only would it be wise policy to lower the score to below 1414, but it is, in my view, truer to the spirit of our ethical aspirations.

Anonymous

Increase the scope. We should not be lowering the bar, we should be reading it.

Timothy Davis - solo

I don't think scores on the California Bar Exam are relevant. Unfortunately, I don't see a relationship between taking an exam and ability to competently practice law.

While there are a large number of licensed lawyers in California, law continues to be an employment growth IF lawyers, like the rest of the working population, identify areas of practice that interest them and they then undertake solid, sensible PLANS to obtain competence. That said, it would be unmanageable for the State Bar to require a certification like we now do with specialization areas. This brings up another point: I've had interactions with certified specialists who were NOT competent. Accordingly, the examination process for specialists has faults as does the General Bar Exam. The real question should be: How can the State Bar repair the Exam such that those who are admitted to the Bar are actually competent? I've wrestled with this question and I've looked at the history of law admissions across the U.S. I think some combination of the exam and "carrying a lawyer's briefcase" is the only answer, and we can institute checks and balances to avoid the issues of nepotism and other discriminatory admission issues that long ago resulted in States requiring an Exam for admission.

In my own experience, I went into public service after law school (JAGC). We had Naval Justice School in Newport Rhode Island to try to expose us to the kinds of information we would need to practice law in the Fleets. But when I got to my first duty station, no one threw cases at me and said, "Here you go. You're a lawyer. Practice law." Rather, I was thrown in with someone who had a year under their belt doing exactly the same kind of cases I was first assigned to do to help me. And beyond that, I had a Division Officer and a Department Head, to consult with. I also had a razor-sharp legal mind in my first Executive Officer - I'd yell from my desk into his office a question and he'd yell back, invariably with the correct answer, "I don't know", or "here's how you find that." My Commanding Officer was a Michigan Grad who was always available to help me. The point is, I had a lot of help available for the asking. After leaving government service and trying to go into solo private practice, I was lost BUT one of my first cases was a Medical Malpractice case. Not knowing one thing about Med Mal other than it was a "negligence" case, I told my client I didn't know BUT I would help him find counsel. I called around (again, help was available) and found the Med Mal attorney in town with the best reputation. I took my client to her; she wanted his case; and my client, bless his heart, said, "OK, I'll hire you on one condition. (Pointing at me he said) if HE gets to sit second chair." The Med Mal lawyer agreed and over the next 18 months I learned a great deal about the competent practice of law. The only time a lawyer had to stand before a Bench Officer and swear that I was competent to practice law was when I was admitted to the Central District in Los Angeles. I had worked with that office as a SAUSA when I was a JAGC and they knew me. I asked the serving USA to "take me in and get me admitted" and he took me before Judge Denny Chin - and he told the Judge I was a friend of his office and that I did the research on cases that went up to the 9th Circuit and that I should be admitted. I was admitted. But the USA knew my methods and ability. I was not admitted on the strength of the California Bar Exam, even though I did need that ticket punched previously.

Those who get a job with a good law partnership out of school will have a similar grooming that I described above. But too many graduates don't have guidance and are too stubborn, shy, or arrogant to call experienced professionals for help. I've called a LOT of lawyers for help over the years and no one has ever said, "I'm too busy." In fact, they've done whatever it took to make sure I knew what I needed to know to do a good job. We don't require that. It just happens when one attorney calls a competent practitioner for help.

A law school friend of mine actually took a Med Mal case without ever having done one. He did not seek out help. He also did not hire an expert, required as an element to prove a medical malpractice claim. Summary Judgement. Suspension. Malpractice. All of these terrible things happened because he just didn't know what he could or should do. Law school doesn't teach us how to seek help.

I don't care how many or what percentage of people pass or fail the Bar Exam. It's irrelevant, Your Honor. I care that those who take on clients do a good job for those clients. Similarly, a law school graduate's debt is not relevant. The cut score doesn't mean anything. Diversity will result from good students who do good work - and no lawyer should be turning down or accepting cases on the basis of prospective client diversity - we take cases primarily to promote justice. If we do good work, the money will be enough.

The loss of legal services for the poor is a reflection of the economy. The wealthy bid up the price for the best lawyers they can find. Not many lawyers will work for $50 an hour (that's $100k a year, but with support staff and office expenses, it's less) and even that much money is out of reach for many. Government tries to help with Public Defenders. Non-Profits assist with landlord-tenant, bankruptcy, and other areas. But the fact of the matter is, no amount of pro-bono work will make a dent if we expect lawyers to also have roofs over their own heads. Flooding the profession with poorly competent lawyers isn't much help for the poor, either. Currently, government has made a decision to fund only so much help for the poor. The unintended consequences of providing so little help is what shames and angers us. Good lawyers want to help.

Neither does the Bar Exam protect the integrity of the profession nor does it protect the public. Look at the State Bar Journal and the suspended and disbarred among us. Most of these disciplinary actions are directly related to incompetence or, worse, criminal behavior directed at their own clients. Theft. Fraud. Missed filling deadlines. I graduated law school in 1984. I still remember my FIRST DAY. A dozen of us sat around a large table at lunch after our official law school greeting where we were told, "Look around. Next year only half of you will be here." That didn't stop us from talking about one thing only: How much money we thought we were going to make. I don't remember anyone, myself included, talking about all the people they would help and how satisfying that would be. It took me a year of law school and reading about how people lost Justice in our system to change my thinking. That same process didn't take the same path for some of my peers. Too many of us think that law school was too difficult and, upon graduation, that the hard work was over. As everyone bothering to read this already knows, after passing the Bar Exam, the hard work just began.

The Bar Exam is necessary because until a law school graduate takes it, the Supreme Court doesn't know if a student has learned the minimum. The only thing I've heard that would help young lawyers best is a change at law school. I'm unsure a 4th year is necessary, but if the 3rd required students to work at a firm with a training program - or maybe if law schools ginned up some programs for representing the under served populations and required students to work that 3rd year under supervision of a practicing lawyer/professor, maybe we could kill a few birds with one stone. If we do this in required course form at law schools, it costs taxpayers nothing. If the same reduces the number of unrepresented litigants, the consequences could include more Justice served for them.

I assert that a student who leaves law school more prepared to practice law or who carries a good lawyer's briefcase and is certified by that lawyer as ready to practice, would result in better representation for the consumers of legal services.

Anonymous

The Bar Exam (and I haven two of them, CA and NV, and passed both on the first attempt) is not just a test of knowledge. It is, for better, NOT worse, an exam that tests ability to think under pressure, ability to handle stress, stamina, thinking on your feet, issue spotting, thinking logically, writing well and in an organized fashion, changing subjects quickly and/or with crossover issues, and doing these things timely - all things we as attorneys are called upon daily to do and are supposed to be able to achieve. If you cannot handle these things -- and blame them for your failure -- then find another career because you are a danger to your clients, you lessen the practice of law, you should not be an attorney -- and the Exam has done its job. Its bad enough that it has been reduced to 2 days (unfair to all prior members that had to take a 3-day exam), without also lowering the standard to reach an "acceptable" figure. Other states numbers should not factor into the discussion. California is a larger state, with complex and diverse issues, and a comparatively enormous body of law. Practicing law in CA is difficult, strenuous, and at times, arduous. Don't change the figures to match other states; examination takers that want an Examination like other states should move to those other states.

Anonymous

I attended a California law school, and took and passed the California Bar Exam in July 2011 on my first attempt. The Bar Exam (in all states, but particularly in California) is truly an outdated tool that has little (if any) relevance to the actual practice of law. While I understand there must be some form of licensing, the California Bar appears to be more of a money-grab than a useful diagnostic tool. It is unclear to me why California continues to insist on its own bar exam when the vast majority of other states have found the UBE to be sufficient. It is time for California to follow suit.

Barbara Miller - Former ALJ for State, now part time arbitrator and Hearing officer

It is difficult to choose an option without getting some additional information. If it is included in the report, I missed it, and I apologize. As I understand it, there is some concern about the low pass rate and also a concern that the low pass rate is below that seen in other states. So I would like to know how those taking the California Bar Exam compare with other states on the Multi State exam. I would also want to know if the percentage of those taking the exam after attending unaccredited schools in higher in CA than in other states. I would also want to know if any effort was made to specifically evaluate those who received scores between 1414 and 1440. I realize that the answers to these questions might not fall into the type of framework needed for a scientific survey, but such information would be more meaningful to me.

Moreover, if the goal is to get not merely a higher pass rate, but a higher rate of qualified lawyers, perhaps the bar could provide special training for those candidates with scores in between 1414 and 1440.

As presently presented, I see that the percentages may go up, but I can't tell if there is any impact on quality.

Anonymous

The cut score should be lowered to 1340 or 1330. Right now the New York cut score is 133. The California current cut score is 144 which translates to 1440. Lowering the cut score to 1414 only lowers the overall cut score to 141, a mere 3 points. If New York can have a cut score of 133 then California can manage with one that is 133 or 134.

Anonymous

I disagree with either option. The problem is not the test but rather the instructors and institutions that provide the training for the students. Get rid of tenure... get rid professors that may have been top of their class but cannot teach the average student the law. Get schools to do their job. Give the students what they are paying for rather than diluting the quality of attorneys.

Lauren Harriman

Every student who graduates from law school in California and who has demonstrated a set number (perhaps 300) of supervised practicing hours should be admitted to the California Bar. The consequences for graduates struggling with debt from law school who are unable to pass the bar exam with the current cut score are unacceptable: they are smart, able graduates, but they are unable to obtain jobs as attorneys until they can pass the Bar Exam. Those graduates could be helping the millions of Californians without affordable access to legal advice, but instead they are struggling to come up with the thousands of dollars to retake an exam with little to no correlation to success as an attorney in California while also struggling to pay back student loans.

Anonymous

The cut score should be raised. Californian lawyers love to discuss how difficult their bar exam is, and how low the pass rate is. Having taken and passed a truly difficult bar exam (New York), I can say from experience that the California test is relatively easy. Lawyers that can't pass the California bar should think twice about whether they're in the right profession. I am frequently surprised by lawyers in Los Angeles who are unfamiliar with basic legal principles, who are discourteous, who lack professionalism. A number of lawyers here seem to be allergic to grammar. I'm not talking about people whose first language isn't English. I'm talking about native Californians that are simply incompetent and inarticulate.

What is the reason for lowering the cut score? Certainly we are not running low on lawyers. I understand that law schools are suffering from low enrollment, which is primarily a result of the high cost of graduate school education. However, I strongly disagree that the answer is to lower standards to enhance admission rates. I'd rather the system be geared toward producing a smaller number of quality lawyers than a larger number of hacks.

Anonymous

We need to make a choice as to what is the gatekeeper. In California we've traditionally used the bar exam as the Gatekeeper, and not cared about school pedigree compared to other states with high passage rates but a much more narrow educational requirement. Heck, in our state it's possible to still not have any actual degree, just a combination of college courses and study in chambers. As a result, we have been cut off from reciprocity from other states. We, in turn, have an increased focus on California law, such as the CEC and other areas where California differs.

The change to a two day bar was a mistake as we have done it. We're now in a mixing and matching our differences.

Under the old 3-day bar, we could weight PT, Written and MBE equally. A good lawyer would make up losses on the MBE with a good PT score and a good written. The change to a two day system make those who would show their skills on those sections unable to do so. Many who are in non-ABA schools simply do poorer on multiple choice questions. They got a bad LSAT, and thus will do a bad MBE. If we have more weight to the Written and PT sections, we allow them to show their skills.

The way I see it, we either go one or two ways.

1. We reverse the last few years of changes. We go back to three days. We keep the high MBE score, but increase the PT and written. California stays its own island. We allow qualified students from what ever background to take the California bar, confident that between the high MBE and requirements of the written/PT to act as a gatekeeper for professional quality.

2. We go full UBE. We move toward the multistate in all categories, with perhaps a small coda test on California specific law. However, in order to ensure quality we will need to up the educational requirements, and only allow students from accredited schools to pass the bar.

To be honest, I prefer 1. I've met good lawyers from small unaccredited schools who had difficult lives and managed to become good lawyers. But we cannot lower the bar exam standards without risking our quality. If that means 40% passage rates, so be it.

Also let's make schools with under 40% passage rate justify their accreditation.

Anonymous

I believe there is no justifiable reason to keep the score where it is (1440) or merely lower it to 1414, besides the argument that "that's the way it's always been." I don't see a unique reason why California should have such a disproportionately high passing score while the median passing score in the country is 1350. As has been commented on, California test-takers have outperformed the average test-taker in rest of the country on the MBE portion of the bar exam. Is, for example, New York being reckless by having a lower passing score?

What I believe goes unsaid is the business / economic motivation of keeping the score where it's at. The State Bar profits from students spending thousands of dollars just to take it once and even more from students re-taking the bar exam. Changing the passage score radically impacts how much money will come in and I believe this is an unspoken motivation for why those in the State Bar organization would like to keep things the way they are.

Next, it's unclear if the exam truly reflects the nature of legal practice. There are some aspects of the exam that are good personal challenges, but mostly the rote memorization and studying of several topics that will never come up in one's legal practice makes the exam feel bloated and tenuous. Contrast this with the MPRE, which has a defined focus and specific testing form (50-60 multiple choice questions).

Finally, there is the untold human cost of young applicants not passing, spending thousands of dollars, losing jobs, the emotional toil, and mental health issues that flow from the disproportionate burdens they bear by virtue of wanting to locate in California, a burden which lacks sufficient justification.

As the letters from the deans of the accredited law schools wrote, I too believe the passing score should be lowered to 1350 in the interim and applicable to the July 2017 exam and all exams in the foreseeable future until the State Bar can come up with adequate and justifiable reasons for setting the passing score at a higher threshold.

Edward Lester - MASTAGNI, HOLSTEDT, APC

Don't cut the passing score for the bar exam at all. Lowering test standards will bring more unqualified lawyers into the profession. Maintain the integrity of the profession and focus on protecting the public against unqualified lawyers. I am disappointed this idea, lowering bar exam pass rates, is taken seriously. Imagine if we lowered professional standards for doctors, dentists, financial advisers, and accountants. Would you trust your medical condition or tax return preparation to an unqualified doctor, or accountant, who couldn't meet the minimum standard to obtain a professional license? Absolutely not. The result will be more malpractice lawsuits against lawyers. Moreover, fewer qualified potential law students will go to law school and become attorneys, because the number of diminished job opportunities will make the legal profession an unworthy pursuit compared to medicine, dentistry, or finance.

Steve Lowery

If anything, it should be more difficult to become an attorney. Law schools are graduating attorneys who can't find jobs. Why would you want to lower the score and flood the state with more attorneys? What's sinful is to take $50000 in tuition from someone when there is no job. The problem is that colleges in this state are taking in the students from high schools with poor skills in the 3 Rs. Then they give the degrees in political science, communications or art. And what do you know, they cannot find jobs. So they go to law school. Keep the score high -- consider raising it. Trust me, you are not going to run out of lawyers in this state. But if you lower it, the quality of lawyers will suffer -- it already is. I am running into lawyers and judges who can't think or write. Didn't a law school recently close (Whittier?) because they can't find graduates jobs? Keep the bar high.

Ken Kaplan

It seems to me that the State Bar of California, by suggesting a reduction in the cut score necessary to pass the California Bar Exam, is implying that the pool of future California attorneys should be less competent than the present pool. The fact that the average score of Bar applicants is falling indicates (to me) that either the relative intellectual capacity of the pool of law students is falling (perhaps because individuals are choosing to enter other, more lucrative and less stressful professions); or that the relative intellectual capacity of the entire population is falling (which may represent a national health emergency). In either case, the solution is to first determine the underlying cause of the problem -- not to make the Bar Exam easier.

By analogy, were this same issue applicable to medical students, you can bet that the public outcry would be monstrous – as no one would want to be treated by a physician whose competency is inferior to his or her peers from prior generations.

This principle should no less apply to lawyers.

To be sure, there are problems with the methodology under which lawyers are licensed. The lack of required internship (once again, by analogy to physicians) allows newly minted lawyers to "hit the streets" without most of the skills necessary to competently practice law – which, by extension makes finding suitable employment extraordinarily difficult for all but those lawyers who graduate from a top-tier law school. But, this is not a reason to reduce the cut score on the Bar Exam. If anything, the bar to enter the legal profession should be made "more" – not less difficult.

I could illustrate numerous potential solutions to the problems surrounding the Bar Exam -- and to the problems of licensing of lawyers in general. But, I've likely already offended too many of my colleagues – so, I'll quit now and hope that I've made a useful contribution to this discussion.

In summary, don't lower the cut score -- "raise" it!

Anthony Lewis - The Lewis Law Firm

I have been practicing law for 18 years and have passed the bar exam in three states that do not have reciprocity (in California, I took the attorney's exam).

The main study in the series of studies seems to be focused on the impact of a reduction in the score on pass rates. While that is an important consideration, we must always keep in mind that the bar exam is a barrier to entry and there is no evidence this barrier results in licensees who are more competent or more ethical than those who are precluded from licensure because they did not overcome this barrier. Thus, we should acknowledge this barrier is an artifice, and it is causing severe damage not only to bar applicants but to all the law firms and other employers seeking to employ bar applicants. I am an employer, and I dumbfounded by how the California Supreme Court has let things get this bad.

One major shortcoming of the studies in this series leading to the recommendation alternatives is that the studies do not examine or adequately account for the qualifications of bar examinees. Many examinees who do not meet the cut score but have objective and subjective qualifications external to the bar exam score that would demonstrate their competence to practice law.

In my quick review of the studies, I also did not find much discussion of the content validity of the exam itself, which needs to be thoroughly questioned, or score scaling and the possible conflation of interval and ordinal levels of data that exaggerate the performance differences of examinees. What is the difference in performance between examinees who score 1414, 1339, 1440, and 1460? Are there validity concerns with the way the exam is scored?

Behind the raw numbers are people who generally perform similarly, but some pass and others do not, and the differences can be attributable to things such as chance and cultural background.

For many examinees, the trend from the past three examinations will devastate their career opportunities and place them in inescapable financial ruin.

The California Supreme Court must exercise wisdom, responsibility, and compassion.

The California Supreme Court must also live in the reality that it is not so much bar applicants that are failing the bar exam as it is that the bar exam is failing applicants. There is very little about the bar exam that reflects what an attorney must do in the practice of law on a daily basis. The bar exam is an unrealistic test of skills that are not really utilized in practicing law, at least not the way such skills are tested on the exam. Something is very wrong with our legal system when fine people who would become exceptional lawyers are prohibited from practicing law because of this artifice.

The presumption should be that the vast majority of people who graduate from law school would be competent lawyers, and the "cut score" should reflect that presumption.

Anonymous

The cut score should be even lower. It is ridiculously high and students from good schools and grades are not passing. California is doing everything not to pass more applicants. Totally unfair

Anonymous

We should not make bar examination easier to pass. There are already too many attorneys in California. Many young attorneys are heavily in debt and have great difficulty paying student loans. As a result, there are a lot of money hungry attorneys advertising for personal injury claims and other easy money claims and lawsuits.

Francis Cole

I have been practicing law for 17 years successfully after attending a night law school, Lincoln Law School of San Jose, I worked 50 hours a week at my regular job while attending and I still managed to graduate 2nd in my class and serve as Editor in Chief of the Law Review. I was also involved in public service during these years. In my opinion, passing the Bar Exam was relatively easy, especially after the horror stories I had heard. Although I was invited to become a grader and attended a few calibration sessions as a visitor, I declined to serve in that capacity due to time constraints.

I strongly disagree with lowering the pass rate. I have already encountered a shocking number of incompetent attorneys in the past 17 years and I believe lowering the score could only increase those numbers. Yes, graduating from Law School and passing the Bar Exam is a daunting and difficult task. However, that task seems minuscule in its difficulty when compared to the true task of practicing law. We are asked to serve the public in matters that are critical to their lives and at the same time balance our personal and family lives. The stress attached to being responsible for the critical matters that our clients bring to us in trust and the duties these endeavors entail, far outweigh the difficulty of Law School and passing the Bar Exam. It is only the daily stress and difficulty of completing the requirements to practice law that prepares us to have a chance to honorably practice law.

The problem with the Bar Exam, (and Law School as well), is not that the bar is set to high but rather that graduating law school and passing the Bar Exam are not reliable indicators as to whether or not the individual will be a credit to the profession. Law School teaches one so little about anything to do with the practice of law and the Bar Exam in large part has become a mere reading comprehension exam. The exam disfavors diversity by testing speed reading comprehension and thereby putting all immigrants at a severe disadvantage. In my humble opinion, the Bar Exam is irrelevant to the actual practice of law and yet Law Schools are forced to continue this tradition of teaching to the exam because their enrollment, indeed their very survival, demands that they do so to succeed.

The question proposed, whether or not lower the scoring bar, misses the whole problem. Our time would be better spent actually critiquing the way we teach and train lawyering in this state. If our schools were actually to teach and test a more rounded curriculum designed to train those who pass the exam to be ready to lace up their shoes and practice law. Problem solving requires critical thinking wherein the attorney identifies the legal issue, locates the relevant law and arguments, analyzes and marshals the law and facts in order to prepare a cognizant brief or oral argument. I don't believe students are being prepared to be ready to do the same. We need to reinvent our schools and our curriculum and adjust the Bar Exam accordingly. Then, it seems to me that it would be more realistic that the exam could set a pass line that could be greatly more predictive of those who are ready to take on this enormous responsibility.

Terence Kilpatrick - Kilpatrick Law Offices, P.C.

In answer to options 1 and 2: The State Bar should RAISE the cut score, not lower it.

During the economic downturn, I recall that law school enrollment dropped. Instead of adapting to fewer qualified students, the schools responded by lowering requirements for student admissions. Isn't that great, I thought - now, California will not only have too many lawyers, but more and more of them will be unqualified to be lawyers in the first place.

Now the Bar is talking about reducing the pass rate for the licensing exam? I figure this is in direct response to the lower admission requirements instituted by the law schools - the students admitted under lower admission requirements can't pass the test. The proverbial chickens have come home to roost.

California already has WAY too many lawyers. The Bar should not make it easier to become a lawyer in California - frankly, it should be made more difficult because we already have more lawyers than we can use.

You need to read the column published in The Daily Journal on August 8, 2017, by Judge William F. Fahey, Los Angeles Superior Judge, titled "The Case Against A Lower Bar Pass Score." He introduces his column as follows: "[I]n discussing this issue with my colleagues on the bench, I have not heard that there is a shortage of lawyers in our state. Nor have I heard the proponents of a lower passing score address the likely impact on the public and the court which would result from such a solution." I heartily agree with Judge Fahey's comments.

Here's the link to Judge Fahey's column if you would like to read it: https://www.dailyjournal.com/articles/342590

Don't lower the bar pass rate - if anything you should raise it.

James Terence Kilpatrick
California State Bar #119419

And by the way, I passed the Bar exam on my first try.

Anonymous

I don't know that the cut score is the problem. The problem might be letting so many unqualified people take it in the first place. People from unaccredited schools, etc. There are so many ways to be allowed to take the bar exam in California. The bar exam is a learned skill. If you take it enough times, you'll pass, regardless of cut score and regardless of the quality of your legal education. And the skills involved are very different than the skills involved in being a lawyer. How about raising the standard of legal education requirements in California, and then you can lower the score to something more reasonable so people don't have to spent years trying to pass it?

Andrew Isaac - My opinion is my own

Neither the Bar exam nor CLE requirements serve any rational purpose. They do nothing to guarantee competence or integrity. They are a sham and a fraud on the public.

James Atkins - San Diego County District Attorney's Office

The standards for admission to the California State Bar should be raised, not lowered.

First and foremost, there is not a shortage of lawyers in our state. In fact, there is an excess of lawyers as many are not able to find employment in the legal profession.

The problem lies not in the state bar admission standards, but in the law schools themselves.

Some law schools are complaining about the pass rate because it affects their bottom line, namely their ability to pay their expenses.

Law schools tout their bar passage rate as a means of attracting and encouraging qualified students to attend their schools. But, for the past decade or so, there has been a decrease in the number of qualified applicants applying to law schools. Instead of decreasing their expenses in this age of declining law school enrollment, some law schools choose instead to accept applicants who are less qualified, thereby maintaining their enrollment level, and thus their income level. These less-qualified students pass the bar exam at an even lower rate, thereby lowering a school's bar passage rate. When a law school's bar passage rate declines, that school attracts even fewer qualified students. The law school must then enroll even more unqualified students to maintain its enrollment level. When those unqualified students lower the school's bar passage rate, the school's response, to maintain its bottom line, is to admit even more unqualified students.

This cycle needs to stop.

If admission standards are lowered, more unqualified lawyers will be admitted to the bar. In a state that already has an excess of lawyers, adding more unqualified lawyers will have a dramatic impact on the public and the courts.

Vida Holguin - Law Office of Vida M. Holguin

The declining state bar exam pass rate is not a phenomenon unique to California. The pass rates are declining countrywide. What that indicates to me is that the education system is failing in this country. I have not seen any evidence that California is reaching out to other states who are experiencing the same declining rates, some even greater than California. I don't think that lowering the State Bar pass rate will fix the problem. There needs to be an in-depth study into this country's education system. International students from abroad who attend our high schools are taken back about how "easy" the classes are. The State Bar pass rate is merely an indicator of a bigger problem, and lowering the pass rate will not solve it. It merely masks it. This is a very tough issue to tackle, and I feel for these law students who attend law school, incur debt doing so, and then cannot pass the bar.

I still remember a law school professor telling me as I complained about his heavy assignments that anyone could be a lawyer; that it took 10% brains and 90% ass - meaning that you have to sit and do the work. Not everyone can do that. Once you the pass the bar, that fact does not change either.

James Whitemyer - Chirstensen Ehret

Based on what I've read thus far, I have not seen any evidence to support the notion that the cut score has anything to do with the current low passage rate.
If the lower passage rate was primarily the result of the decline of the abilities of those taking the test, then we would expect to see a gradual decline in the passage rate over all states.
However, if the lower passage rate was primarily due to a change with how the tests are graded and/or if the test got harder in California, then we would expect to see a sharp decline in the passage rate in California relative to other states.
We have seen more of a sharp decline in the passage rate in California relative to other states. This suggests that the test got harder, and/or the essay portions are being graded more harshly, by virtue of a change in policy of the California Bar - likely to deliberately limit the number of admittees. This agenda seems confirmed by the loaded nature of the Bar's survey on the subject that went out recently - appearing to tie the drop in the passage rate in California to a policy of restricting the number of new admittees - in order to ensure quality. If this is happening, then the cut score is an arbitrary number that has nothing whatsoever to do with the lower passage rate.
If the foregoing is true, then I can't say I appreciate what is currently happening with the Bar's publicity and survey campaign vis-a-vis the cut score. Focusing on the cut score as the reason for the lower passage rate (as opposed to a change in policy by the Bar) allows the Bar to (a) deflect responsibility, and (b) operate according to an unstated (and I think unfair) agenda.
That being said, if the foregoing is easily dispelled (with data and sound reasoning), then the Bar has done a less than stellar job thus far of stating its case, because I haven't seen it yet.
- - - -
I cannot stand the idea of young law school graduates with more school debt than anyone before them having more official hurdles to jump through to become an attorney than I had. When I took the bar exam in 1996, there were I think about 35 non-accredited schools supplying graduates into the pool of test takers, yet the passage rate was almost double what it is now, when there are about half as many non-accredited schools. This whole thing smacks of a policy (that I certainly never got to approve) that selfishly and unfairly states 'I got mine, and to heck with everyone after me! Couching this policy in terms like maintain the quality of the Bar is bogus, unless we are all going to admit that half of us were unqualified to become attorneys when we were admitted 20-30 years ago.
- - - -
I do not feel as though anyone enters the profession as a polished attorney ready to practice. It takes training and experience to become a responsible and productive member of the legal community. Restricting the bar passage rate to 30 something percent isn't going to change that paradigm. It isn't going to make attorneys better, it's just going to make them more scarce (and likely more expensive) in the long term, but most importantly, it is unfair to young people - and I cannot overemphasize how much I despise that.
- - - -
Something needs to change - immediately; not at the end of a survey, and deliberations, and debate. The Bar's apparent policy to screw over your people didn't have to go through that time consuming process, so it's only fair that is stop immediately as well. Again, if there is evidence that everything I suspect about the decline in the passage rate is incorrect, I would really appreciate seeing that spelled out by the Bar. Show me exactly why the Bar has not made an effort to make the test harder to pass, and I will do a 180 - I'm more than willing to change my mind. However, until that happens, this whole episode with the passage rate has put a really bad taste in my mouth with regard to the entirety of the current Bar leadership.

Anonymous

If the law schools sink, the state bar will follow... don't be stupid. At least 60% of people MUST PASS

Anonymous

I think the California cut score should be consistent with all the other states. I have just a few opinions:

•California is not protecting the public from unqualified attorneys if that same attorney would have passed and become licensed in another state with a lower cut score.

•I agree an exam should be required to obtain a professional license, however, the bar exam has nothing to do with qualifying an attorney. There isn't anything I learned in studying for the bar that can be used when working in the legal field.

•With the low pass rate, The State Bar of California can guarantee an enormous stream of repeat examinees, and therefore a nice stream of revenue.

Robert Conaway - solo

Factoring in other experience should have a weighting in the score somehow. I have seen people who were good writers, hard workers and care passionately about clients who can't seem to pass the barn exam. People with public service, prior experience as law clerks, paralegals and or legal assistants should be given an opportunity to use some of their experience as a factor in bar exam scoring. Similarly, people with the ability to step into underserved communities and low income areas, who already work there, should be given a probationary status and perhaps create a mentor oversight program with a licensed attorney and or legal services group for exam results not passing but close to passing. We want people with the passion to serve in the system.

Anonymous

The cut score should be lower than Option 2 in order to facilitate an increase in the number of public service attorneys in California.

Anonymous

Ridiculous. The majority of applicants fail all the essays (getting mostly 50s, 55s, or 60s). Either lower the score by 10-15 points or curve the essays higher.

Anonymous

The Passing set score should be set lower. I support the recommendation of the law school deans. I agree with a cut score of 1350.

The main culprit is the system of the grading the State Bar has chosen. The current system creates an opportunity for a corrupt grading system. Almost no written essay is read completely or graded properly. Further, after grading of the written portion, it allows unnamed officials manipulate the grades. If a total score is below the review cut-off limit, then the person is out of luck with no opportunity to have a review. MBE's consistent grading practices is a proof that California applicant's know about law. The average of California applicants in the MBE portion of the exam is above the national average. Further, the California applicants are not out of ordinary less intelligent or unwilling to study. Further, certainly there is no lack of efforts to learn about the profession compared to national applicants or California applicants of previous years'. The grading system needs to be corrected, controlled, and monitored.

Anonymous

Al relevant information should be considered by the State Bar and the Supreme Court in the evaluation process aimed to find a reasonable and evidence-based passing score for the Bar Exam.
This should include the MBE scores of applicants and the passing scores of other states, which would give a more more wholistic view in arriving to a more solid conclusion.
The passing score interim score to be retroactively applied to the July 2017 Bar Exam should be aound 137, which represents the median score of all the other states combined.

Anonymous

After looking at your reports I still fail to see why you believe the cut score should be kept at 1440 or even dropped to just 1414. Are you seriously taking into consideration how keeping people out of the state bar of California (people who many times fail by a margin where they would have passed in any other state besides Delaware) is truly serving the legal community. It is undeniable that the exam weeds out qualified people at an alarming rate. It was reported that 1,700 people who failed the CA bar exam in July of 2016 would have passed in NY. How can you justify that those people who are qualified to practice law in Manhattan are not qualified to practice in California. It's quite absurd. Furthermore if your goal is to make sure that the state bar of California stays overwhelmingly white then congratulations you're on your way to doing so. It is no secret that standardized test disproportionately affect people of color and people who come from low socioeconomic status. As soon as you mention race many people will automatically get defensive and not want to hear the argument and those people are a part of the problem. Being moral and qualified lawyers you should know this to be true if you have looked at the facts. I speak three languages fluently and have failed the bar exam by a slim margin, I lost my job, had to move back to my parents house, and drive for Uber to try to make enough money to take the bar exam again. Now while I wait for results to come out for this Nov. I am doing legal work for just above minimum wage, where my boss comments that my writing is so good that he rarely has to do any edits on my work. I do everything but sign the paper because apparently, according to the California State Bar, I'm not qualified to do so. I have my student loans in deferment until December and my life is literally on hold thanks to your arbitrary exam. So congratulations on keeping me and hundreds of other multilingual, multicultural, smart and capable lawyers who would be working in every other state besides Delaware out of the bar. You refuse to acknowledge changing trends. The cut score should be the same as New York state. It's also really refreshing to read about Spanish speakers seeking legal counsel who cannot find representation because they cannot find a lawyer who speaks fluent Spanish and is willing to help them, while hundreds of us willing to do and are fluent in the language have to sit on the sidelines taking any work that will have us. Again, congrats.

- none

I have a B.A., and a J.D., and have failed the bar, after devoting most of my adult life to passing it. Even the dean of Stanford University School of Law failed the California Bar Exam. I know other's who have spent nearly an entire lifetime 1) trying to pass, 2) not passing, and 3) that are excellent students, and 4) very intelligent and 5) good members of society.

I think the bar rewards very highly qualified students that are good "test takers," but it may not give some amount of credit to people that not good test takers, but that are nevertheless good people, caring people, and people that would be up-standing lawyers, and contribute to the dignity of the legal profession and benefit the public. I feel that the consequences of not passing the bar are beyond devastating, because all the months (indeed, years) some people spend studying for it, and missing time from 1) work, and 2) their family, 3) as well as their own lives being (the time of which that is sacrificed studying) for what can be years, or even an entire life time, could also be spent on the study of law, and even the practice of law, despite not meeting the bar's standards of achieving 1440, or even 1414 or even 1300, which to me would still screen off unqualified would-be lawyers.

I think that if the bar had a way that people such as myself (who are intelligent, and kind, sincere, and caring) would provide a lower score to meet, that California, would be benefited, because despite the test, I would be a very good asset to the public, because I would fight for justice, and I would do everything that the public expects in an attorney such as being timely, modest, caring, smart, loyal, kind in heart, and I feel, naturally fair. My personal plight is unfortunate, because not passing the bar, has not simply deprived my family (as well as myself--a life, literally), but I feel that it has impacted California residents, because I know I would make a good addition to the community of lawyers, and I would work tirelessly to make my clients proud of me (for my passion and care for them), and proud of the profession, and proud that the California Bar granted a license to me, because I would never rest knowing that any client I had was not going to bed, or to work, without KNOWING he/she was cared about, and knew they had someone earnestly caring, (with integrity) fighting very diligently for them. With the public that I serve, knowing that they have an attorney who is working astutely, and devoted, and zealously for them, would seem to give them peace of mind, I would think. I also think I would win my cases more often than not. I also think the public would be alarmed at the lives that are essentially left devoid of a profession, despite 4-years of undergraduate work, and 3/4-years of law school, and (in my case 10+ years) of trying to pass the bar.

I also think the Bar does not desire this result. I think that if the Bar would lower the "cut score" to 1300, that people (such as myself) would be able to contribute to our society, and it would give people who do not do well on Bar Exam's, still, a chance to prove they can nevertheless be a very great asset to the profession. For example, simply because a person does not meet the 1440, or even 1414 score, does not mean he or she would not be a great lawyer, because he or she could take very few cases, and perhaps devote more attention to each case than a person who may be more intelligent, yet, takes more cases, and more complex cases, and perhaps losing more than necessary, or even not upholding the dignity of the person, despite passing the cut-score, whatever that score is.

Finally, I think if the Bar would lower the cut score to 1300, that people who perhaps do not have the IQ of people that pass as it is, can still make great lawyers, because I have seen in my life, people who can pass a test, but do not have all the qualities of a person with a lower IQ. For example, I think someone who need not study very diligently to pass a test, may not in life, study as diligently to win a case; whereas, a person with a lower IQ, may study harder, and indeed, do better, than the person with the higher IQ. As another example, Albert Einstein was not recognized for his brilliance as a student, and he may have failed a math exam, yet, no one disputes the fact that he revolutionized the way in which we view the universe. I think the public is missing out on having people that did not do well in law school (perhaps), or get high scores on tests, (such as bar exams) represent them as otherwise great attorneys. If the California Bar would lower the cut score to 1300, I think that it would 1) give people with lower IQ's a chance to engage in the profession, and 2) it would allow people who do not do necessarily well on tests, to still do well in a court, or legal sitting, 3) and it would give people a chance to contribute to the profession, because by having a cut-score that eliminates people that does not do well on tests, may still deprive the public of people that could be an Albert Einstein of lawyers...

I honestly think there is no recipe for success that outmatches hard work, and that a person that is not as gifted or

even as intelligent as the California Bar has deemed necessary for them to be good lawyers, may still make up for their lack of the skills that California requires by good old fashion, hard work and good-work ethics. For a final example, the Dean of Stanford who failed the bar, may very well still be as good of a dean, had she passed. Indeed, who can dispute the integrity of her law school? And, finally, Professor Whitebread who is renowned for inspiring countless thousands of law students at USC, and lectured for Barbri Bar Review, and helped so many pass the Bar from my own understanding, he never passed the California Bar Exam. Indeed, there is no question he would have passed it. My only point is that if a person does not pass the Bar, at the 1440 requirement to pass, I think it would still be good for the public because the California Bar would have lawyers that would not pass at the 1440, or 1414 level, but could more than make up for their lack of test taking skills by hard work. Also, I feel Hasting's College has very qualified professors, and students, yet, despite that, my understanding is that approximately 50-percent of their alumni failed the last Bar Exam--despite arguably graduating from one of the best law schools (in my humble opinion) in the United States.

Yet finally still, I agree with the letter endorsed by the 20-law school deans in that if a person taking the California Bar scores below 1440, he or she would still more than likely be licensed in another state. I know lawyers from our sister states, such as F. Lee Bailey (who passed a bar even recently, but did not retain his ethics later in life because he was disbarred), and Professor Dershowitz who did not pass the California bar, (from my knowledge) have still contributed greatly to the profession, and to the public as well. Likewise, there are so many so-called "bar reviews," and "bar tutors," and "bar prep" that are run by people who have passed the bar--that cost law students endless countless thousands of dollars, yet, they themselves have been closed such as PBMR. Because the California cut-score is (to me) too high at above anything above 1300, California is giving the public the best people it can by screening off people who cannot attain 1440, or even 1414, yet, I feel (just in my own humble opinion) that it could be denying our state otherwise really good lawyers, and since people in other states who have passed with lower cut-scores that would have FAILED in California have gone on to become world-renowned lawyers and made incontrovertibly good contributions to the profession, thus, I think (very humbly in my opinion, 1414 is even too high). I feel that if California would lower the score to 1300, that the 1) public would benefit, 2) some of the countless bar reviews would not be predatory, which would help the public (in so far as the students taking them), and 3) students who have dedicated essentially their whole life to passing the bar would be better contributors to our society rather than simply left behind endlessly and tirelessly studying. This fact can illustrate that law schools are possibly prematurely granting a J.D., or that the California Bar's standards are above what 3-4 years of law school can provide their students. I honestly think that if the cut score were dramatically lowered, the public would be greatly benefited because there would be more legal help available, more people could have access, and there would be more competition between lawyers, and perhaps present incentive for all lawyers to work even harder to serve our great state.

I think 1440 is meant to test "minimum competency." I see no reason that California is obligated to lower what it believes is the lowest level to serve the public. However, I think a cut-score of 1300 would still be sufficiently high to protect the public from unqualified attorneys, and if California licenses attorneys, they must still take an oath to uphold our laws, and ethics, and morals. And, since so many fail 1440 (countless thousands), the public could be discouraged from attending law school, and, at least, not have faith in our great law schools with which California has licensed to be law schools. Thus, there could be a sweeping decline in attendance, and even more astonishingly low pass rates, but my fear is the public could be somewhat alarmed by knowing that many people (perhaps in the 1000's) have dedicated their lives, careers, and incomes to a non-worthwhile endeavor. The profession could suffer a lowered public opinion which would not promote the pursuit of justice.

Lastly, I would never disagree with the California Bar, or even pretend to question the California Bar's motives for keeping the cut-score high, because I feel the California Bar has produced some of the best attorneys in the entire world, and the California Bar has licensed as far as I can tell, the best judges, and law professors the world has ever known. And, in that respect, I am not questioning the California's Bar's wisdom in making its decision to retain the score, raise the score, lower it, or leave it alone. Even after 8-years of college, (four of law school), and 10-years of trying to pass the bar, I am not one to question the California Bar's motives, or rationale. I only offer this as a personal observation and opinion, not to question the California Bar's rationale or motives in any way, shape, or form. I am very honored that California has given me a chance to make my own dream of becoming an attorney possible, even if I do not achieve my dream--I would never question anyone except my own self for not meeting the requisite 1440, or 1414, (or perhaps even 1300) cut-score.

James Musselman

I propose a much better Option 3: Allow anyone who passes the Multistate part of the test with a score of 70% or higher to be admitted. That is the fairest and best way to go. Those who oppose that option do so only to protect their personal fiefdoms. They don't want more competition. But I do want more competition. I want everyone who has the wherewithall to get through law school to be able to gain admission. If they can't do the work, they will otherwise be eliminated from the field because of that.

James Musselman

Anonymous

My opinion is that the California State Bar should now implement the Uniform Bar exam. The current system has demonstrated a bias which has pushed to legal profession into the control of elites, and those who can afford to pay up to $12,000 for bar exam review courses.

Anonymous

Do not ruin our beautiful state's reputation. California has the best scoring lawyers but they are seen as the worst lawyers because of the lowest pass rate. LOWER THE SCORE TO 133-135 MAX.

Anonymous

1414 is a joke, you need to listen to the law schools. Wasn't the point of this standardized exam client protection? Looks like we are just hazing here...

Anonymous

I SAT FOR THE BAR 5 TIMES AND I HAVE BEEN AN UNDERPAID ASSOCIATE SINCE I CAME OUT OF LAW SCHOOL. STOP THIS PLEASE.

Anonymous

I am a client being ripped off by a lawyer who passed the bar and was excellent on paper. Cum laude and passed the bar at his first try. He will be disbarred hopefully but what's the point? He passed the bar and he was not competent. Make the bar easier for lawyers who are better at other things other than test taking.

Anonymous

I am a 1992 graduate of an ABA accredited law school and a former editor of law review while a law student.
For over 25 years I've practice law in state, federal and military courts. My practice includes, trial and appellate work.
In addition, I took and passed bar exams in three states on my first attempt,
I took the bar exam in a state which used the Uniform Bar Exam (UBE) and scored 276 points and passed.
I took and passed the Oregon Bar Exam which also has a high cutoff score.
My MBE scores (using all bar exams to compute the result) average 163 points.
Unfortunately, even after full time study for eight weeks for the California Bar Exam, I have not yet passed.
I have not received a passing score in California despite taking the three day exam where my average MBE score should boost my final score.
It appears to me that the high threshold for California is arbitrary and serves to restrict competition.
As a result of the high cutoff threshold it also appears that the public is undersearved while the purported notion of superior practice of law in comparison with other jurisdictions appears to have no basis in fact.

I ask that the standard be set to be similar to the average threshold of jurisdictions which use the UBE and as a result lower than 1414 points.

I am not providing my name or contact information because I believe there is a stigma attached to failing a bar exam, however, my statement is honest in all aspects.

I now live in California andinability to pass the bar exam here threatens my ability to keep a roof over my head in a place that is my home.

Anonymous

The study conducted by the State Bar was based solely on the "written" portion of the exam, and did not include the MBE. The fair assessment of an applicant's "competency" would have included the MBE score because the weight of this exam section has been substantially increased. The study should have also taken into consideration the process of deliberation that different jurisdictions have used to come up with their respective "cut-off" scores. This evaluation would very likely produce a lower cut-off score but the standard would be at at par with the majority of other states.

Therefore, the cut-off score should be close to the mean or median score of all jurisdictions considered, which will be between 135 (1350) and 137 (1370).

Anonymous

I disagree with options 1 & 2 because it is unrealistic.
Having sat for the CA bar exam, we are killing our selves trying to achieve our dream. The score should be lowered 100 pts or more and/or be made equivalent to the rest of the states. The new made equivalent to the rest of the states. Also, the new format of 2 days only made the exam worse...not easier...and beyond doable!

Karen Drake

I believe the cut score should be similar to those across the country. The California cut score should be reduced to the 130's.

Maziar Rahimi - None

It does not matter what score you indicate for the passing score because for example you can raise the score to 1800 but then make the topics as easy and have the grader to grade easily and then this will allow for all to obtain a score of 1900.

So, the score should not be a factor in this discussion the grading and the subjects should be the discussion because you can lower the score to 1000 but then your subjects and the grading it would be so difficult that no one could get pass the score of 900.

If the subjects and grading is not considered to meet the standards of the rest of the states then lower the score to the majority of the states.

Since California and New York are similar in many aspects of legal representation then the scores should be the same. Many people take New York and practice federal law here in California. Many people who pass the New York then sit for California but the MBE is waived. New York passing score is 1330. So many take the New York bar and since the score is way lower they have a highly chance of passing it and then sit for California without taking the MBE!!! This is unfair and unjust for the rest.

However, if the score of California is the same as New York then this will resolve many problems!!!

In the survey from the state bar of California that I had just filled out and submitted, two of the questions were related to the integrity of the profession and unqualified attorney. Thus, are you suggesting that the people who pass the New York Bar have a lower quality and integrity because the passing score is 1330 being lower than California? So many people who pass a much lower bar grade from other states are able to come to California and take the California bar without the MBE and they have a much higher chance to pass the California bar without the MBE. So why you are not concern about the integrity and unqualified lawyers over this situation???

You are conflicting two separate issues and comparing them together. This is a wrong approach to resolve the problem. The best is to meet the standard of the majority of all the states in the nation!!! Add all the 49 states scores and divide them by 49 and that would be the norm!!! Or just use what New York is using 1330.

I strongly reject the notion that because California has too many attorneys therefore it must be tougher and harder than any other states. There are so many people that take the bar and fail but based on their scores would have passed many other states bar. Thus, they do qualify for other states and are reasonably capable of practicing law in other states but not California.

My view is that the entire nation must have the same score because if one takes the Hawaii exam and the passing rate is 89% then they would be able to come to California and waive the MBE for the California Bar. This is unfair and unjust!!! Thus, the entire nation should provide the same score and grading!!! However, that is a long shot at this stage.

In conclusion, I recommend to either use the New York score or use the majority of state score.

Thank you for giving me this opportunity to express my views about the grading and score of the California Bar Exam.

Anonymous

lower it more

Anonymous

Dear California Bar Examiners,

My name is Valery Nguyen. I am a first-generation immigrant, and one of the first in my family to attend graduate school. Three years ago, I made the decision to go to law school, with the hopes that I might someday open my own private practice specializing in immigration law. I've always considered myself a good student. However, it wasn't until law school that I realized that up until then I was a big fish in a small pond, and that there were hundreds if not thousands of other students who were equally if not more qualified than I was in one way or another.

Nevertheless, I persevered through my first year, when our first midterm results put me on notice that I would have to change my study strategies and possibly even my perception of myself in order to keep up with my fellow classmates. I persevered through my first summer, when I helped dozens of homeless individuals in San Francisco's Tenderloin district fight to keep their welfare benefits and state-run housing. I persevered through my second year, when I represented clients at the UC Davis Immigration Clinic in challenging the deportation orders against them. And I persevered through my third year, when I drafted hundreds of pages of legal orders and memoranda while working for a District Court judge in San Francisco.

While I am proud of all that I have accomplished, I recognize that I am not among the top five, ten, or even twenty percent of my class in terms of ranking. However, like most other law students, I must secure employment, pay off my debts, and make a life for myself out of the opportunities provided to me. Unfortunately, this seems unlikely to happen given the current trend in California's passage rates. The bar preparation process seems to assume that applicants live in a vacuum where they can study 24/7 for the test. This viewpoint may be acceptable or at the very least tolerable in other states, where the vast majority of applicants pass the first time and must only go through the process once. But it is not acceptable in California, where fewer than 35% of applicants passed the February 2017 bar exam. Of the 65% that did not pass, many are invariably students of color who have been shut out of the legal market time and time again, or those who are otherwise in precarious financial situations. These students do not have the time or the resources to devote an extra 800+ hours to studying for the bar a second time.

When I saw that the California State Bar was finally going to do something about the abysmal passage rates, I was hopeful but cautiously optimistic. However, my optimism quickly turned to disappointment and frustration when the Bar emailed us today with the news that it may only lower the cutoff score for the written portion of the test by 26 points. I, the Committee of Bar Examiners, and the thousands of other July 2017 test takers know that the Bar's proposed solution would do absolutely nothing to curb the horrendous decline in California's already-low passage rates. If the Bar truly wishes to remedy the problem and provide a chance to the thousands of future test takers and those currently awaiting bar results, it must take immediate and substantial action, action that is long overdue. Anything less is a slap to the face of those who have pinned their hopes, dreams, sweat, and tears to getting through law school and preparing for this exam.

Sincerely,

V. Nguyen

Anonymous

NOPE NOPE NOPE NOPE

Sharaz Dean

As someone who has taken bar exam without success and working in the profession, I feel that the exam does not determine ones competence to practice law. The reason is that I am great at what I do and have been told by many lawyers and judges that I surpass the minimum competence to practice law. However, just because I am not a good exam taker, I cannot get a license to practice law. The court should consider Applicants' experience and opinion of their supervising counsel as part of licensing requirements.

Respectfully submitted.

Vida Ahmadi

I believe it should be lowered to what the law school deans recommend. They know what's best in order to make the system just for all students, attorneys, law schools as well as the integrity of the field as a whole.

Jennifer Carlson

The California Bar must maintain its high standards for membership. This state already provides unique paths to membership by allowing students of non-ABA accredited schools to move forward with studies after passing the "Baby Bar," and by allowing persons to skip law school altogether and apprentice in the practice of law in order to qualify to sit for the Bar Exam. Both of these paths create opportunities for diversity within the Bar. Additionally, many ABA accredited and non-ABA accredited schools within the state have diversity programs of their own. Lowering the standards for passing the Bar Exam only lowers the minimum qualifications that the Bar guarantees are held by every one of its members, thereby bringing down the repute of the entire group. We don't need that.

Perhaps the Bar Examiners should consider changing the Exam itself to a two-day affair like that of so many other states which might yield the results you are looking for without sending the message that we are lowering our standards so that there is "a more diverse group of attorneys available to represent the underserved segments of our population," which sadly is exactly what your survey conveys.

Ira Jacobowitz - CUIAB

Given the documented (discipline recods) and observable (common experience) evidence of dishonest, unqualified, and
poorly trained lawyers, the current test and testing method do not effectively screen for unacceptable candidates. I suggest abandoning
the test and creating a peer-reviewed exam during and at the completion of a two year (or longer) practicum. If this plan requires more money
than is already spent on the admissions process, I suggest a sliding scale assessment on stakeholders. For instance, a 2% tax on
gross incomes above $100k annual earnings, rising by.1% for each additional $100k in earnings.

Kelly Wells

The recommendation would only make a marginal difference in the pass rate, and does not go far enough to bring California into line with other states. As an attorney licensed in two states (NY and TX), who now works in CA serving detained indigent immigrants, I would like to get license here, so that I can provide the full scope of services my clients need (including habeas petitions and 9th Circuit appeals). However, given the Bar pass rate here, it is fairly likely that, despite my two licenses, five years of practice, and excellent service and win rate for my clients, I would not pass the California Bar Exam. By erecting pointless hurdles for people like me, you are doing a disservice to the people of California, who desperately need the services I am currently unable to offer.

Furthermore, there is no reason to keep the Bar passage rate so artificially low.
The Bar Exam is supposed to be a test of basic competency, not expertise. It is well known that recent law graduates, even those who do pass the Bar, are not skilled lawyers and generally require several more years of mentorship and training before developing the expertise to handle complex cases on their own. The Bar Exam should, therefore, emphasize basic skills and issue-spotting, not an encyclopedic knowledge of the law. To the extent that there is concern that lowering the pass rate could permit less competent people to become licensed, the Bar could compensate by increasing CLE requirements. However, I feel confident that practicing law in California is not so much more difficult than, say, in New York, as to merit such a dramatically higher barrier to entry.

Robert Wealleans - Cal Bar 075432.

I'm a retired CA attorney, Bar number 075432. I disagree with option two because I say lower the score to 1400. The exam questions reminded me that I was STILL in law school and not truly testing me as a lawyer. I passed the first time in 1977. But, did I know how to file, amend, cross-complain, examine a witness, or where the clerk's office was? Or, in my case as an immigration lawyer, what a G-28, or G-325-A or N-400 application was or all the laws governing US Citizenship or alien exclusion and deportation, or immigration court procedure? Just what are you testing for with this exam? That the applicant can think like a lawyer? Just how objective are the graders of essay questions? How many arguments that succeeded in high courts and changed the law would have been red-penciled and "dismissed" by a bar examiner? I believe that a student who graduates from a California accredited law school with a "B" average of better or 3.0 or better as a cumulative grade should be granted a waiver of the bar exam and admitted. There's 95% more to learn about the practice of law in so many different niches of law practice and you don't test for that! Frankly, the bar exam is an ancient tool that merely adds a barrier to the practice of law without regard to the fact that an applicant taking the bar is faced with enormous stress, uncertainty, and the possible coincidence of illness or unwellness on the dates the exam is taken. So, for unaccredited law graduates and for those who achieved less than a 3.0 or "B" average in an accredited law school, give them the exam but at 1400 as the cut-off. Either that or have law schools devote more to actual practice and procedure than mind-bending questions about when someone made an "attempt" to commit a crime. Remember, we're taught to pound on the facts if the law is against us, or pound on the law if the facts are against us, and to pound on the table when both are against us. We're advocates and not law school professors or academicians. Ask yourselves if an admittee passing the bar yesterday can competently represent someone in an immigration matter on the following day, or a tax matter, or any specialized practice of law. Community property, I can understand those questions, but the rest and their supposed difficulty? I do not believe they truly measure competence or that hey truly measure a lawyer's thinking. Take the "law school" and academic mentality out of the exam.Encourage accreditation standards that teach practice of law, structure of law, the anatomy of a lawsuit, presentation of evidence, picking a jury, procedural aspects of appearances, motions, mandamus, habeas corpus, court deportment, court procedure, and more critical thinking. A single question each about contract, tort, civil procedure, community property, and practice of law should suffice. When a person with a high average from an accredited law school fails the bar exam, I believe you, as Bar Examiners, have failed that person. Thank you.
Robert Grant Wealleans

James Orr

As we know, California has the second highest cut score in the nation. Lowering the cut rate to 1414 would put us just slightly below Oregon, giving us the third highest cut score in the country. More than two thirds of states use a cut score of 1350 or less, while only seven use a cut score of 1400 or higher.

The bar exam should be a test of competency, not a rite of passage. We should establish a cut score in accordance with established national norms. 1414 is still significantly out of sync with the vast majority of the country which uses a cut score of 135 or below---only three out of fifty states seem to consider this high of a threshold necessary. My recommendation is to establish the cut score somewhere between 130-135 so as to be in-line with national norms.

Anonymous

If it wasn't for my parents I would've defaulted my law school loans. Just saying.

Anonymous

We don't have the relevant information on how candidates who would be allowed to take other states' exams will fare. The report continually refers to the lower standards for eligibility in California in justifying its determination. But data should be used (and is available) showing how the more broadly qualified (I.e. grads of ABA accredited schools) would fare in California compared to other large states. As a professor at a fully accredited school, I have to consider whether my grads would be better off moving to another large state, like Texas, and what that says about the California exam. As a member of both the State Bars of Texas and California, I can say there is not a notable difference in the quality of this practicing attorneys.

Anonymous

The 1440 is the second highest cut off of all the states in the United States. New York has a lower cut off score. There is no evidence to show that New York attorneys are providing less viable legal services. Several prominent top attorneys including Kamala Harris and the dean of Stanford Law School did not pass the unnecessarily high standards for the bar, but went on to become great attorneys. I don't see a purpose for having a higher standard than the mean cut off required in most of the states. It unnecessarily gets rid of incredible attorneys. 1414 is not an improvement. Many clients could benefit from the attorneys that would otherwise be passing the exam with a median score. I know many people who have gone on to clerk at prestigious federal circuit courts and have made incredible careers who did not pass the California bar exam the first time because of the nearly impossible standard. Not only is the bar not capable of measuring attorney skills. It is unnecessary and only serves the interests of excluding qualified attorneys.

Anonymous

is this even a question? majority of retakers who fail would pass in NY... BS

Anonymous

As a law school graduate and recent bar examinee, I think the score should be lowered further than 1414. There is no justifiable reason why the cut score should remain that high. Every other state has a much lower cut score and California should do the same. No one, who completed the majority of their bar prep courses and extensively prepared for this exam, should have to take it multiple times. The high cut score is putting more students in debt and is preventing capable and intelligent lawyers from learning, practicing and ultimately helping others. Until I learn of a justifiable reason why the cut score should remain at 1440 or 1414, I strongly urge the California State Bar to lower the threshold.

Anonymous

The Bar Exam cut score should be set so that the vast majority of examinees pass the exam. The Bar Exam is a poor predictor of performance as an attorney. The cut score should reflect that by being set at a level so that only those whose performances very clearly indicate inability to practice law should fail the exam.

It is absurd that so many people who have graduated from law school cannot practice law because of the arbitrary standards set in connection with the exam.

Anonymous

Lower to 1200

Anonymous

There is no evidence that attorneys from other juridictions are any less capable than California attorneys at protecting their clients rights and interests. Nor, to the best of my knowledge and belief, has thete been a showing that states with cut scores in the mid 130's have greater problems with malpractice. It may be a point of pride that we pass the most difficult of exams, however pride does not prepare for practice. Neither does this bar to the bar. An underlying concern may be that there would be little work for an additional X number of novice attorneys, or alternatively that increased competition in the marketplace may depress billable hours and rates. Those concerns are neither ethically sound not do they allow for market forces to sort out the economic impact naturally.

Anonymous

The Study states that there is evidence to support with 95% certainty that scores ranging from 1388 to the low 1500s would be sufficient for minimum competency. Arguably, the lower end of score ranges should be sufficient for determination of passing the California bar exam. Why not a cut score of 1388 or 1390 rather than 1414? The 1440 cut score as well as the proposed interim score of 1414 are completely arbitrary numbers. There is no evidence to support it. A cut score of 1414 will not make much of a difference or drastically improve pass rates. It is not clear, whatsoever, as to what information supports an amended cut score at a phantom, random number of 1414. Further internal studies related to collusion and other federal anti trust violations of the state bar of California must be investigated rather than accepting an age old argument of "poor aptitude" and "lack of intelligence" as a reason for the decline in bar examination scores. The state bar is a rouge trade association masquerading as a government regulatory agency as a pretext for "protection of the public." This issue must be addressed immediately.

Anonymous

cmon, u can do better than this

Chad Kauffman - prior military JAG

I would lower the cut score to less than 1414 for the new attorney bar. Also, for practicing attorneys who took the one day attorney exam, I would lower the cut score even lower than the cut score for the two day exam.

A licensing exam for new attorneys should exist, but 1414 is too high for the two day bar. The one day bar should be a number significantly less than the two day bar. As a practicing attorney with over 17 years experience, I can attest that the CA bar in the current form is not a fair exam for practicing attorneys and new attorneys. Practicing attorneys should be able to waive into CA. Short of a waiver, the attorney bar should be a cut score number significantly less than the number needed for the two day bar.

Carolyn Walter - Platinum Equity Advisors, LLC

Lower the cut score to the national average.

I am admitted in other jurisdictions and have been practicing law competently for a number of years, and so the fact that I didn't pass the California bar first time is not a reflection on my ability to practice law, it is a reflection on the cut score being set too high given the demands, constraints and particular nature of the bar exam, and has a significant economic impact on me and my family. If you want applicants to score higher, then change the bar exam itself. More performance tests, longer but less essays testing multiple subjects, test real lawyering skills, not the ability to take an exam in a particular way which has no real bearing on the practice of law, forcing applicants to take it numerous times at significant cost, when they could be honing their real lawyering skills in actual practice.

I have successfully held legal jobs at some of the world's largest blue chip companies, so my inability to pass the CA bar exam is a sign that the exam itself and pass rate is flawed and is not accomplishing it's task of admitting qualified applicants, but is serving more as a barrier to the effective practice of law.

Please, in the interests of justice, lower the cut score. If this proves to have an adverse impact on the practice of law in California, you can always raise it again.

Thank you sincerely.

Anonymous

The two options are flawed in that they choose not to separate the MBE (200 objectively scored questions) and the Essays (subjectively scored utilizing a numerical system that purports to be objective, but is not). California applicants score statistically higher than the rest of the nation on the objectively scored MBE portion of the exam. California applicants have a higher MBE than almost all other states nationally. The fact that there is not a correlative increase in the pass rate (and in fact is lower than the rest of the nation) is clearly indicative of the Essay portion of the test being the area that should be studied. None of the studies thus far are focusing on this area.

The Essay section of the exam is graded by part-time graders (often advertised for on Craigslist). What motivates someone to want to be a bar exam grader is open to speculation. Is it monetary gain? Or the chance to be a gatekeeper to the profession. This grading is often done independently, in private, in remote locations and for profit. Which is to say, the more you grade the more you get paid. Failing grades are not re-graded the person paying you and there is no appeals process by the person whose paper you grade. Graders are paid per essay. So if you take 5 hours to grade 100 essays or 50 minutes to grade 100 essays you get paid the same. This creates a clear incentive to "go fast" in order to get more money per hour. And an incentive to err on the side of failing the essay. You still get paid and no one questions you, it's quicker to grade a fail, and you move on to the next essay/payment. There are stories about seeing graders on busy commuter trains grading papers on the way to their "real job". There is a distinct and clear gap between the MBE scores which are higher than average across the nation for California applicants, and the essay grades which are clearly the limiting factor in passing. It is the essays that are dropping the pass rate to historic lows. In short- It's the essays.

More specifically - it's the grading of the essays. It's the people who are hired part-time to make subjective determinations following a template that attempts (but fails) to create a numerical score that gives the appearance of uniform subjectivity across the nearly 10,000 essay writers. Some graders, it has been stated, feel they are personally responsible to be the gatekeepers of the profession, not for "minimum" competency but to reduce competition. It is possible that the part-time graders are motivated by purely altruistic desires. But how do we explain the gap between the higher than average MBE scores and the debilitating essay scores which fail applicants by the thousands. With only 38% passing (despite higher than average MBE scores) it is clear that it comes down to the template used for the essays. Do some graders give it to others to help them pass next time? Is there a secret template out there that only the rich and connected have access too? Likely.

The essays do not in any way mimic what a licensed lawyer would do for a client. Research and taking the time to evaluate the issue are the hallmarks of "minimum" competency not a rote template thrown down in a pleasing format to a grader rushing to get through to the next essay. Three years of law school passing written exams, perhaps even graduating with academic honors and then failing to please the part-time essay grader is not indicative of minimum competency to help an underserved population in California. We have all heard of the Dean of Stanford Law who failed the bar exam (while others who have never held a job, let alone a legal job, passed - with the winning essay template). ABA accredited law schools are graduating lawyers after three years of written assessments and education, but a part-time grader will decide if they found the secret memorized template for an issue (without doing what would be competent legal research in the "real world" of law).

Doctors earn an M.D. and then go to a residency program to practice medicine. Attorneys have no such equivalent. Just the residency of learning the bar exam after repeated attempts should they endeavor to continue the residency program. If lawyers right out of law school had to practice under a licensed attorney they would learn more than the theory of law and be ready to serve the public. There is no residency equivalent for lawyers. There is only the Bar. There is only the MBE and the Essays.

California applicants are superior in the objective MBE portion of the exam. And in the portion that requires a level of subjectivity, that requires different graders for different test takers the applicants are somehow failing big. Should the law schools simply teach, for three years, this one bar exam so that a motivated lawyer can get to an actual legal position and begin learning the "practice" of law? This will surely be the avenue law schools will take if the cut score does not conform with more rationally related scores seen in other large cities (i.e.: New York - UBE system). The law schools will adapt, to bring in revenue/tuition and the profession, as a whole, in California will be dumbed down by the altering of the teaching to a bar exam (not by the lowering the cut score to a reasonable level). Teaching Bar law, not California law will become the norm. Like the Dean of Stanford Law who "failed" the exam (an exam meant to show "minimum" competency) even though she had argued before the Supreme Court and wrote the law book being taught at Stanford Law - this exam is not indicative of a showing of minimum competency. If it were, then the ABA accredited schools should not be accredited when less than half of their graduates do not show minimum competency on the exam. It is time the California Bar realizes this lack of correlation.

I am thankful for the California Courts taking responsibility for this gap and endeavoring to make the cut score more in-line with the reality of the situation as have the other jurisdictions across the nation. The cut score should be even lower than the 1414 (not even a 10% difference). The bar examiners have admitted their flaw, with no recourse for those affected by it. 1390 is a reasonable score, still higher than most states, and would allow roughly 1/4 more attorneys to begin to learn the law, rather than be subject to the limitations of part-time essay graders and depriving California of needed attorneys. And protects against those who would stifle competition and access to the profession with an arbitrary score which has admittedly no correlation to production of ethical or competent attorneys. The fact that the California Bar can not point to studies and have to just now begun those studies shows the arbitrary nature of the cut score. We need to get back in line with the rest of the nation. The mere 8% lowering is not sufficient given the length of the flawed score, the lack of correlation between this score and minimum competency, the dangers of a part time essay graders, and the need for more attorneys for the underrepresented population in third largest state in the nation. Additionally, once the Court makes this correction in 2017, it should be retroactive for the entire 2017 year (February and July exam) in fairness to all who took the test in the year of the amended score. Thank you for the opportunity to comment.

Anonymous

The score does not stop unscrupulous attorneys. Take a look at your complaints and discipline records.
There are 25 questions on the MBE that are "experimental" and are not included in the grading process. Why not consider those questions as "extra credit".

For example, the cut score could be 1400. The experimental questions worth 50 points. Those 50 points would not be considered in 1400, but would give the test taker a potential 50 extra points to bring his or her cut score to passing.

Anonymous

135

Kelly Davidian

I believe there are two issues to address here.
1. Why cut out the most reflective portion of the test to the job of attorney? The Performance Test is the most accurate representation of writing and legal skill, yet it has been reduced down now to a minor portion of the exam.
2. I have heard that the argument is that keeping a high cut score "prevents" undesirable behavior/performance in attorneys. There are other ways to prevent that in terms of requiring more CE units and using more penalties for attorneys who are found to violate professional performance rules. Simply being able to take a test well is not an accurate reflection of a strong moral compass, nor is it a guarantee that the candidate will well and thoroughly perform in their professional role.

Thank you for your consideration of my comments.

Anonymous

Law school graduates can easily go to another state where the cut score is 133, or go to any state that has the Uniform Bar Examination where their score is portable in this terrible economy. If the State Bar's argument is that anyone who cannot get a score of 144 is "incompetent" or "certainty for malpractice", then why are there so many attorneys in other U.S. states with cut scores of 133 that have been in good standing since taking their own bar?

I did not pass the California bar. I hold an ABA-accredited law degree and an ABA-accredited paralegal certificate. I cannot work as a lawyer, and I cannot get hired as a paralegal because the unspoken tactic in the legal industry is do not hire paralegals who hold law degrees. I graduated in the Top 50% of my law school class, making Dean's honor list, and invited to law review for three years. Without passing the bar exam, I have $200,000 of debt without employment in which to ever pay it off. I have a duty to support my spouse, but I am unemployable. It is a strain on our ability to live.

Graduates are expected to memorize 15 subjects worth of material for the essay exam. Are you aware that in the United Kingdom, that the bar exam is OPEN BOOK because their rationale is, this is not a test of how well you memorized the material, it is about your analysis? Sometimes, with all the rules that I have memorized, (and I am superb at memorizing), I still blank out during the bar exam because I cannot remember a California distinction for one rule of law out of one subject of a total of 15 subjects.

I hereby throw my legal education into the trash.

Anonymous

In essence, metaphorically speaking - comment has been invited on whether to lower the highest number setting you can get wrong fr
om an 11 on the Spinal Tap guitar amp, to a 10.

Both provided option share a common elemental defect - the absence of openly disclosed comparative accountability for how a given performance level on the latest unique set of essay exam questions is assign what score number on a scoring number system purported to provide comparative continuity from year to year.

1414 objectively relative to what? Your proposal is to retail the core defect of the current method, or should we say, behind the curtain alchemy by which the bar has arrived at that Goldilocks pass rate that juuuuuust FEELS right. Oh, you just don't understand the sophisticated statistical sophistry we go through prior to swearing to all who challenge us, year after year after year, that the pass number we set is scientifically objective. Only problem, when asked to explain under oath, in front of legislators, what that objective basis for the pass number was, the Bar official in charge drew a blank.

The issue is the lack of comparative objectivity applied to the scoring scale, not what passing number chosen on it. There is a national bar exam, objective scored by means of common, multiple choice question scoring. That is is one, most obviously essential cross check which should be applied to the exam scoring scale for purposes of comparative scale adjustment prior to setting what exam performance on a particular essay exam will equal what exam score number. Another objective cross check of exam performance scoring continuity is to check the performance of pool of 1st time takers from a pool of first time takers from a basket of larger ABA law schools having a history of the consistent 1st time takers performance over the past, say 5 years, on the state specific bar exam of other states. Those cross checks should closely with the pass rate being set for the current Cal Bar Exam. If it doesn't, then the exam portion scale needs to be adjusted according, or any lack of such adjustment publicly explained in full detail.

As explained above, the provided option framing is an insult to the intelligence, and therefore only adds insult to injury, to the countless thousands victimized by the legacy of exam scoring unaccountability gaining overdue scrutiny.

Anonymous

Both scores are beyond doable. Having sat for the exam, I can say that the 2 day exam only got harder, not easier! And making the MBES worth 50% is beyond realistic!

Anonymous

The cut score should be lowered to 1400. The pass rates continue to decline in our state, and the examiners should take into consideration the economic burden that the applicants undertake when preparing for an exam of this magnitude. Aside from student loans and expenses of a bar prep course, several applicants take time off of work, or are unable to find employment. The process in itself is long, not only does the preparation of the exam take months, but awaiting the results also takes 3-4 months. In the mean time, applicants must put their lives on hold, and several have to prepare to take the exam again. The score of 1400 would be fair, in that it would allow a significant amount of applicants to pass the exam. The suggested score of 1400 is not significantly low, and would therefore still provide qualified attorneys in this profession.

Anthonie Voogd - none

I am sure you are familiar with the normal probability curve. Have you graphed the results against he curve? The passage score has to be on the slope of the curve to be meaningful. Otherwise, it is an issue of luck whether you pass for too many of the test takers. Any mathematician will so confirm.

Anthonie Voogd

Vincent Jantz

Have a fixed score of 1400. All tests are arbitrary, and while the goal of protecting the public is a lofty one, an adjustment of the pass rate on each exam will not meet that goal. There are many ways to protect the public in a better way, Such as requiring more clinical courses in the law school curriculum.

C Powell

All I hear from Law Office employers and experienced in my own practice, is that new incoming lawyers are basically worthless. If your lucky, you can train them. If your not, they waste your time for a year before going on to waste a new firms time for a higher salary. They feel entitled, will not work the hours or spend the time to do a good job. Frankly it was easier to be a sole practitioner than waste time training a new crop of attorneys. I started at a big firm, then started another firm that grew quickly.I still made more money by myself than I did with partners and five novice attorneys.Raise the cut score to 1500.Make sure new attorneys can write or do not let them in law school to begin with!

Mari Carr - Sharp USA

I think the passing score should match the majority of the other states in the range of 1330-1360.

Anonymous

Should be in line with the other major states e.g New York.

Anonymous

1) Please raise MBE score to one point higher than Delaware. We should take pride that our state has the highest bar pass rate in the Nation, and not merely the second highest.

2) Please require all people who failure the bar more than one time to include one asterisk per failure, immediately after their bar number, on every pleading filed in court. This would be a great consumer protection device.

Clay Titus

It is clear from this preliminary study, that the state bar is intent on maintaining the status quo. Page 4 maintains that the caliber of students entering law school is poor because the prospects for a career in law have diminished. There is a claim that 20% of the declining pass rate can be attributed to changes in student credentials, but because of the lack of individual, student-level data, limited the ability of the study to provide a full explanation of the various factors that might have contributed to the recent decline in the pass range. This is a grand assumption with no credible data to back it up except for an admission/enrollment ratio. No study of the LSAT was done nor evaluation of the teaching criteria, school grading policies and practices. One would assume that a student that graduates an ABA accredited school successfully would necessarily be able to pass the bar. The report suggests otherwise, that it is not the cut rate issue but that the students are to blame. Really, we are going to blame the victim...

The discussion of Standard-Setting Study represents nothing that can be considered tangible, the four points for minimum competency definition are so generalized that any interpretation would be sheer speculation as to their meaning, scope, dimension.

Clearly the heart of the draft was the discussion regarding rationalization of maintaining the cut score as it is. The study indicated that the two and one-half days of the workshop, the panelists collectively evaluated more than two thousand paper essay and performance tests form the July 2016 CBX. That is to say that the 20 practicing attorneys reviewed roughly one thousand pages of material each over the two and one-half days. Carful evaluation would not have been possible due to the shear volume of material. Further, the question that the bar was asking was, is the median cut score of 1440 correct. Well we all know that a lawyer never asks a question unless he knows what the answer will be. The suggestion that a larger sample size would lead to a greater convergence and smaller standard error would only occur if the total sample reflected the limited sample that was used to determine the sub-sample. The 1440 number suggests that a normal distribution occurred at 1440, clearly this did not occur as the overall pass % for that administration was 43%. This suggests that the normal distribution for this administration was closer to 1380 and not 1440.

The bar examiners have more studies in the works but it is clear from this preliminary information that they are protecting their interests by manufacturing a rationale for keeping the status quo. They have yet to answer the basic question as to minimum competency and why is that requirement significantly higher than the rest of the country. This would suggest that the majority of the country fails to have lawyers that are competent in the eyes of the California bar committee.

The facts show that the discipline percentages for the practice of law are no different for any particular state that they are in California. This would suggest that lawyers in states such as Wisconsin are providing the same level of competency as California. So why is California so stringent? One likely reason is the bar wishes to restrict the number of lawyers in California. This restriction will allow for limiting the resources (the lawyer) and because the demand is not decreasing for the services, higher prices can be extracted for those limited resources. From a purely economic perspective, keeping the cut rate where it is will enable grater wealth for those of whom are already in the profession that are able to pass the bar.

There is no credible proof that lowering the cut rate will harm the general public but there is proof that not lowering it will be an economic burden to the public. Limiting resources and failing to provide necessary services to those who can least afford it.

David Danning - Law student Loyola law school, LA

Don't encouraged mediocrity, poor lawyering ruins lives.

Anonymous

The cut score should be lower than 1414, so neither of the limited options offered is appropriate. It should be somewhere in the range of 135 to 139 to accurately reflect that law practice in California does not require greater competence than practice in other large states. The standard setting study, as reflected in the comments of the independent consultants engaged by the Bar itself, had many flaws, rendering its conclusions and recommendations suspect.

Anonymous

I think the cut score should be 1400.

Not related to the cut score, but the information I am about to tell you has been bothering me ever since I heard a bar grader's own admission:

Quote: Within 2 seconds of picking up an exam, I can give it a score of 55. Unquote.

This statement was spoken in front of a class of approximately 30 students.

In general, an answer to an exam question takes approximately 1 hour to write. It only deserves an attention span of "2 seconds"? And the "55" is a "fair" score? Really?

Part of the problems the Committee of Bar Examiners is facing is that all the bar graders are taking a "defensive" posture from the get go. Their "standard starting" score is "55". That way, the graders will not get into "trouble" if being audited by the Examiners.

I am grateful I have this opportunity to speak up. Thank you for the opportunity.

Beverly Nathanson - Worldview Consulting & Accounting, Inc.

It seems that the Bar, if it has this assumption, should question that having the highest cut score in the nation may have no relation to protecting the public.

Additionally, I have passed the MBE section, but continually have to re-take it because of the overall scoring. I passed the essay writing part, but have to continually re-take that, too.

If these parts & pass times for me were considered separatly, then I would have already met the standards without bringing down the dignity of the profession. You do the MPRE separately., so why not the rest or any parts of the rest?

Further, I own my own business, involving forensic accounting, which has lawyers for clients under contractual retainers. My business partner does not write those contracts alone. I can tell you that we have the highest integrity and performance commentary, and could probably even offer you data analysis. There is no fraud here. I am certainly the acting President.

My father practiced law in Chicago who was from Harvard. He died when I was nine. My life canot be like everyone elses simply because of that. I have to do all this learning on my own. I still come from extensive top-tier schools before Concord Law School.

I have another suggestion: monitor or regulate the tutors who have and do not have law degrees and are raking graduates over the coals, charging thousands of dollars for what seems to be unclear or wrong information, for which I have examples. Debt also comes from these people who seem to be unfettered, along with unchecked ego and pricing, and pushing the envelope.

What evidence does the Bar have that high cut score rate produces better lawyers than the ones left to the side due to their diverse upbringings and situations? Whose to say you are not leaving out the better lawyers?

Sincerely,
Beverly Nathanson, J.D.
President of Worldview Consulting & Accounting, Inc.

Joel Joseph

I.The Bar Exam is Unrelated to Skills Needed to Practice Law

All out-of-state lawyers taking the bar exam, including the undersigned, have passed the bar in at least one jurisdiction and practiced law for many years. I have practiced law for more than 40 years, taught law at George Washington University, and had fifteen books and many articles on the law published. The bar exam tests elementary skills that most experienced attorneys have long ceased to use. For example, take evidence. The California Bar Exam wants those taking the exam to discuss actual relevance, legal relevance, prejudice, hearsay, hearsay exceptions and so forth. In real life law, the attorney must object or not in a matter of seconds, and state one, possibly two, grounds for the objection.

II.Arbitrary Grading

The graders, usually inexperienced, unemployed attorneys, are paid $3 to grade an essay. How much time and attention do these graders expend on each exam essay? To make matters worse, even though required by statute to keep notes of each essay, the graders keep no notes. California Business and Professions Code, Section 6065. That section provides in part, "(2) The applicant also has the right to inspect the grading of the papers whether the record thereof is marked upon the examination or otherwise." The State Bar refuses to comply with this provision of California law.

III.No Due Process to Test Takers

Assume that a test grader makes a mistake. Under California law, there is no review. This court has heard one case in 167 years concerning review of the bar exam. The lower courts will not take a case, claiming that the California Supreme Court has exclusive jurisdiction. And one mistake by an examiner can cause failure because the Bar has decided that it wants to fail those taking the test. One way that it ensures a high fail rate is that no score on any written essay is given a higher grade that 80, no matter how brilliant it is. So if you fail one question, it is nearly impossible to make it up on other questions.

IV. The California Bar is Violation the Sherman Antitrust Act

In North Carolina State Board of Dental Examiners v. Federal Trade Commission, 574 U.S. ___ (2015), the U.S. Supreme Court ruled that state professional associations, like the California Bar, are not immune from the nation's antitrust laws. The Supreme Court ruled:
The Sherman Act protects competition while also re¬specting federalism. It does not authorize the States to abandon markets to the unsupervised control of active market participants, whether trade associations or hybrid agencies. If a State wants to rely on active market partic¬ipants as regulators, it must provide active supervision if state-action immunity under Parker is to be invoked.

I call upon the Supreme Court of California to actively supervise the California Bar to make certain that out-of-state attorneys taking the California Bar are not excluded from bar membership by arbitrary, unfair and unnecessary barriers to competition.

I would be willing to serve on a committee to oversee reform of the Bar of California. This committee should include deans of California law schools, out-of-state attorneys and others who can help reform the California Bar so that it truly serves the people of the State of California with justice and access to skilled attorneys from other bars.

Anonymous

I strongly disagree with both Option 1 and Option 2. Neither are based on sound empirical evaluation of what the proper cut score should be to identify competent lawyers. My basis for this comment is the very unscientific 20-person workshop process described in the report being called a "study." It is clear from the lawyer-participants' written evaluation comments in Appendix D of the ACS Ventures workshop report that many of the participant-lawyers were (1) wary of the validity of the process as a means of determining test taker competency and (2) were unaware prior to participation in the workshop what they had been enlisted to do. Finally, I find it highly problematic that the workshop that is the basis for the report makes no mention whatsoever of the role that exam takers' scores on the MBE should have (the appropriate cut score for the MBE) on determining California lawyer competency.

Anonymous

Students who take the bar examination have proved, by going through law school that they are smart and dedicated to the profession (at least for the majority of them). It seems that the State Bar of California is unwilling to admit new members and keep it closed as if it was a "cartel" (as a Professor said).
It is unfair to students who work hard and have to work small jobs to keep it together after having been through law school and incurred debts. Our future is in the hand of "few examiners" and yet most of us are falling in despair, knowing that nothing is done to help law students achieve their goal and serve the legal profession.

Alex

I my opinion and exposure for some time to the legal profession, legal education and testing for a few years and California and other country I strongly believe that the overall structure of the BAR examination should be changed from standardized testing to a qualification of attorney in one-on-one basis. Here, is my brief overview of analysis:

1. The MBE testing is only testing the skill of taking this particular type of testing and does not have any practical application by attorneys in the future. Thus, the time spent in preparation for this section of the test is used by future attorneys inefficiently. Since, in today's world, time is one of the most valuable assets and BAR examination along with legal profession should be aspired to increase efficiency of time starting from law school and examination.

2. While essay and PT section of the examination is more applicable for practice purposes of future attorneys I still believe that it should be changed to increase efficiency of time spent e.g. by decreasing of body of law being tested, but increasing the depth of analysis required in each subject and thus allowing future attorney to demonstrate the skill of actually analyzing all aspects of issues raised for future clients and courts.

3. Oral examination section all year around will increase quality of attorneys, because it will allow highly qualified attorneys to make a decision that each particular candidate should enter the profession and be entrusted with such a high degree of power. This will allow to test ethical skills, which should not be just based on rules but on full understanding of role of the attorney in the society.

This is brief introduction of the ideas, and should the BAR be interested in obtaining more information on these ideas, I will be happy to discuss them and others related, as I am deeply concerned with quality of legal services in California available to general public. Feel free to contact me via email.

Anonymous

I believe the cut scored should definitely be lowered especially give the bar passage rates, the increasing costs of attending law school and the tremendous amount of student loans for current law graduates. If law students cannot pass the bar they cannot obtain jobs and their student debt becomes a problem for not only them but for all tax payers since the federal student debt continues. We already have methods in place for protecting the public from unqualified attorneys by including sanctions, suspensions, and disbarment. Those protections for the public are also in place to protect the integrity of the profession. Thus it is necessary given even with a high cut score we have bad actors, to say that that the cut score is important in protecting the public. The cut score must be reduced to ensure that our law graduates can actually work. This will not only give opportunities to many students from various backgrounds and diversify the profession, but will also reduce the amount of federal student debt. They will also address the tremendous public need of attorneys int he public interest sector.

I also believe that the 1414 score is still too high and should be reduced further. A cut score between1330 and 1360, much like the bar exam in New York, makes much more sense.

Anonymous

The fact that students with lower qualifications and ability are being admitted to law schools is not the State Bar's problem. In fact, lowering the exam standards should be seen as an affront to the next generation of law students, who apparently cannot achieve a score of minimum competency like those already in the profession.

Anonymous

Bar exam should not be a requirement. LSAT, law school, graduation, training, ethics rules and penalties, etc., are sufficient on their own. Bar exam simply increases cost of attorney's services to public, and it is not an accurate reflection of practicing law or whether a lawyer will be a good one.

I passed the three-day CA bar on the first try, and am currently a practicing attorney who would face more competition, however I still strongly feel this way.

Michael Woglom - 1970

It's not just a question of lowering the cut score. The grading system is flawed. If an applicant merits a re-read, I find it ridiculous that his score could go down on any essay. A colleague of mine had score differentials of 10 points on two essays. And they efeectively cancelled each other out. Had his original score been kept on the essay that went down, he would be practicing. A differential of 10 points suggests the rubric used for grading is subjective to whomever is grading a particular essay. There are safeguards in place to protect the public, a high cut score doesn't separate good attorneys from bad ones. It merely excludes those who did not pass on an arbitrary basis. Practicing attorneys can be sanctioned for misdeeds or malpractice, the bar exam should not be used for that purpose. Capitalism will protect the public from poor attorneys, much like it protects us from bad restaurants or mechanics or plumbers. Give people a chance and the market will sort itself out. A poor attorney will not get business.

Jackie Gardina - Santa Barbara and Ventura Colleges of Law

Committee of Bar Examiners
State Bar of California
180 Howard St.
San Francisco, CA 94105

Dear Committee of Bar Examiners:

As dean of the Santa Barbara and Ventura Colleges of Law (COL), I am writing to urge you to recommend a 139 bar exam pass line to the Supreme Court of California. Adjusting the bar pass line is appropriate for four interrelated reasons: it is consistent with the Standard Setting Study (Study), it continues to protect the public, it helps bridge the access to justice gap, and it increases diversity within the legal profession.

First, a 139 bar exam pass line is within the range identified by the Study. According to the Study, "there is an approximately 95 percent confidence level that the 'true' cut score falls between 139 to 150." Additionally, 139 aligns with the State Bar's "second read" policy. Under the current grading procedure, bar exams that fall within a range of 139 to 143 are considered to meet the threshold of an acceptable passing score and are submitted to be read again. According to the Committee of Bar Examiner's Staff Report (Staff Report) , the long-standing use of the policy of re-reading exams that achieved a minimum score of 139 "represents an implicit policy position of having greater tolerance for false positive errors." It is also an acknowledgement that bar exam grading is not an exact science. The difference between scoring 139 and 144 can be a few additional points allocated to an essay or performance exam or as few as five additional correct answers out of the 200 questions on the MBE section of the exam.

Second, there is no evidence that choosing a 139 bar exam pass line will undermine public protection. As of 2015, 84 percent of all attorneys in the U.S. are licensed in the forty-one jurisdictions that require a minimum passing score of 139 or below. As the Staff Report stated, "[t]here is no empirical evidence available that would support a statement that as a result of its high pass line California lawyers are more competent than in other states, nor is there any data that suggests that there are fewer attorney discipline cases per attorney capita in this state." In addition, out-of-state attorneys can act as registered in-house counsel without taking the California bar exam and attorneys unlicensed in California are allowed to appear pro hac vice in California courts. There has been no suggestion made or evidence presented that these attorneys create a greater risk to the California public.

Third, increasing the number of licensed attorneys committed to practicing in underserved areas and aiding underserved populations will help bridge the access to justice gap. One of the fundamental challenges to public protection is the growing "justice gap" in California. As stated by State Bar President James Fox and Executive Director Elizabeth Parker, "The State Bar of California strongly supports access to legal services as a core part of our public protection mission. We support the promise of justice for all, including for low-income people who too often have no choice but to navigate the legal system alone."

COL graduates are uniquely qualified to address this aspect of public protection. COL is located in counties that lack adequate access to legal services. The graduates have chosen to attend the school, in part, because they are rooted in their communities. Moreover, unlike ABA law school graduates for whom student debt often serves as a substantial financial barrier to rural or local legal practice, a COL total J.D. tuition is just $67,620, one-third to one-half of a traditional JD. Because COL students are working adults, many leave with little or no debt, especially as compared to their ABA counterparts.

Fourth, there is significant evidence that adjusting the pass line will positively affect the diversity of the profession. The State Bar has long recognized diversity within the legal profession as one of its key strategies.

"From the State Bar's perspective, it is important that the demographics of the legal profession reflect the general population figures. This will enable the profession to be more responsive to the needs of our diverse communities and provide more effective legal representation locally and in the context of the growing global marketplace. It will also serve to enhance the public image of the legal profession and the judicial system.

"
Many of our California counties now reflect “minority majority” populations. In Santa Barbara and Ventura counties, where COL is located, the population is now over 50 percent non-white, with 45 percent and 42 percent respectively, identifying as Latino or Hispanic. COL student population closely aligns with the county demographic. Yet, according to the California State Bar Association, Hispanics or Latinos comprise only 4.2 percent of California attorneys.

According to the Staff Report, the adjustment of the minimum passing score on the July 2016 bar exam from 144 to 141 would have resulted in a 31 percent higher pass rate for CALS generally. It is estimated that at 139, the bar exam pass rate for CALS will improve by 36 percent. The report also confirmed that Hispanic examinees would have experienced an 8.8 percent and 10.6 percent increase in pass rates in 2008 and 2016 respectively, while Black examinees would have experienced even a greater increase in pass rates with a 141 minimum passing score, 10.4 percent in 2008 and 12.5 percent in 2016.

In the final analysis, a 139 pass line serves the interests of the citizens of California by providing a high standard of public protection while meeting the obligation of the legal profession to provide fair access to licensing that regulates a competent and diverse legal profession.

Sincerely,

Jackie Gardina
Dean and Chief Academic Officer

David Owen - UC Hastings

I support a lower score closer in line with the cut scores of other states. This is for several reasons. First, the consequences of Type I errors here are much worse than the consequences of Type II errors. Inclusion in the practice of law of people who struggle with an exam that does hardly anything to approximate the practice of law is not a big problem. On the other hand, keeping people from practicing because they aren't sufficiently successful on an exam that does hardly anything to approximate the practice of law is financially and emotionally devastating, even if the test-taker passes on subsequent attempts, as many do. That suggests letting the bar exam set relatively limited barriers to entry into the legal field and relying on other protective measures--including the willingness of employers to hire lawyers and a robust disciplinary program--to protect clients from poor lawyering.

Anonymous

As a graduate of an ABA-accredited law school in California, I disagree with both Options 1 and 2 above. The 'cut' score should be lowered below 1414.

I believe that the State Bar of California needs to take the totality of circumstances into consideration in determination of the appropriate bar 'cut' rate.

First, I believe that the State Bar is indirectly causing the financial exploitation and financial suffering of many bar applicants who do not pass the bar examination on the first try. Many of these applicants did not go to law school on a scholarship and had to take out hundreds of thousands of dollars in loans in order to fulfill their dreams. I know that many of these bar applicants do very well at law schools across the country and across California. However, having the strictest 'cut' rate among all but one state in the country is inhibiting those from practicing law who undoubtedly would succeed in the profession.

Many proponents of the current 'cut' rate of 1440 argue that it is a great privilege to practice law in California and it further ensures that only but the very fittest candidates are allowed the practice law. Yet, there are many other mechanisms that adequately weed-out those who in fact are not qualified to practice. These measures include the MPRE exam (which also requires a high pass score), a moral character application and determination, and a verification of good standing from the applicant's law school.

To be sure, a new practitioner of law in California will need at least a minimal amount of on-the-job training under the supervision of senior attorneys or their law firm partners. Even those who would pass the bar examination at the current 'cut' rate of 1440 are not guaranteed to succeed in the profession. Further, the practice of law should be open to applicants from all races, religions, and sexes. However, the current 'cut' rate is preventing many otherwise fit applicants from being able to enter the profession in order to serve the most underprivileged and indigent members of our communities in California. These underprivileged folks in our communities do not have access to attorneys who share their race, upbringing, religion, etc., and therefore lack a connection with any attorney who they may be fortunate enough to retain. Thus, in order to further the adequate representation of these communities, this in another important factor the State Bar of California should take into consideration. Our attorneys should reflect the makeup of the communities in which they serve.

Based on the foregoing, I believe that lowering the 'cut' score below 1414 can continue to serve the best interests of the State Bar of California and the citizens of California, while also allowing greater numbers of well qualified applicants to enter the practice of law in California.

Ed

I believe there should be an Option 3 -- raise the cut score to 1460. At a time of fading public confidence in the nation's institutions, particularly its legal aspects, we should be making every effort to increase our standards and the public's expectations and provide the state's residents with the high quality lawyering they deserve. Our cut rate is second in the nation? Why not make it the first, just as the great state of California is the first in so many other endeavors. At the very least, we ought to keep the cut rate the same, rather than recalibrating every few years (as the SAT controversially does) to mask the declining performance and aptitude of the test-takers. Every new generation should be striving to be better and stronger than the previous one, not expecting to be coddled with readjustment,. particularly in an unforgiving, globalized world. Do you really think this debate over whether and how much to lower expectations is ever occurring in Shanghai or Mumbai?

Patrick Earnest

I don't think the State Bar has adequately studied the problem, and the 2017 Standard Setting Study Report is deeply flawed because it fails to adequately assess the effect the Multistate Bar Exam (MBE) has on the pass rate. At best, the study allows the Bar to determine the appropriate score for those taking the Attorneys' Exam, not the General Bar Exam. Because the study did not consider the MBE, using it to set the cut score for the General Bar Exam is unwarranted at this time. At worst, it justifies an unjustified line preventing new attorneys created by an already protectionist Bar.

The 2017 Standard Setting Study Report lets us know that the 95% confidence interval for the appropriate pass line range is between 1388 and 1504. The Bar should lower the pass line to 1388. That would place it at the bottom edge of the confidence interval, and would be a good interim measure. Such a cut score would still place California above all but 6 other states.

Further study should be done, especially with regards to uniformity with other states. A cut score of 1350 would put California more in line with other states, and should seriously be considered and studied.

The grading of the Bar Exam should also be studied, to see if it isn't being graded more harshly than in the past. One of the more distressing parts of the 2017 Standard Setting Study Report was seeing the graph in "Figure 1: Distribution of observed scores and selected exemplars for the written section of the California Bar Examination from July 2016." If you run the math, it indicates that 68.3% were scored 60 or lower, which is a non-passing score. With the current cut score of 1440, an examinee must average at least a 65 on each essay to pass the bar exam. If close to 70% of takers are already failing that part of the exam, something is deeply wrong. What is wrong, I don't know. It could be unprepared examinees, a too high cut rate, or too harsh grading of essays.

As a member of the Bar, it is not clear to me that the currently high cut score actually serves to protect consumers from attorneys who should not be practicing law. The Bar Exam is supposed to ensure that every attorney licensed to practice law is minimally qualified to do so. From the results of the bar exam for the past decade, it appears it has been acting as a bar to entry into the legal profession instead.

Anonymous

I think it's time for the State Bar to consider abandoning the bar exam altogether. The State Bar is increasingly looking like a cartel, whereby it makes the bar exam longer and longer each year, all purportedly in the name of consumer protection. Not only does this have the effect of discriminating against students from poor backgrounds, but it also hurts the public by increasing the scarcity of licensed attorneys, thereby driving up attorney's fees. It's akin to groups who campaign for tighter housing development rules but then wonder why homelessness has worsened.

If the State Bar were actually serious about consumer protection and access to justice, then it would abandon the bar exam altogether. If it insisted on having some sort of examination process, it could consider implementing a practical-based assessment, such as a mock trial. If a long, expensive bar exam were really the answer to improving outcomes (broadly defined), then I should expect that California have lower rates of malpractice and better access to justice than other states which have shorter bar exams or exempt students from them altogether. I highly doubt that is the case.

Brian Eller

Introduction

The comments below are purely an opinion, they are meant to spark debate and thought. They are not necessarily what I personally believe (I like to play devil's advocate sometimes), hopefully they highlight ideas that may not have been addressed publicly and may deserve consideration.

Advocates of lowering the CBE passing score (see memo by law school deans) point to a variety of arguments in support of this position. These arguments do not seem entirely persuasive and ultimately could appear to be slightly self-serving. That being said, it is certainly quite possible, that these law schools deans support lowering the current score based on their arguments made below, rather than to improve their own job security. Let's examine these arguments below:

1) The bar exam in New York, Texas, Ohio are all so much easier to pass than the one in California.

This is true, but should we be "racing to the bottom", heck we could make our state an automatic 100% pass, where's the line here? Why not try to improve our standards and make California the state where the lawyers in California are the most qualified by a significant margin. Being a California attorney is a privilege, not a right, and people are free to move to other states to practice. Is our goal to be like the other states?

2) California test takers perform on average better on the MBE than test takers nationally

See point above.

3) Failing students will lose job opportunities and incur further debt

In the practice of law, sometimes we have to sit back and ask "who is the client?" i.e. is the client my boss? his/her boss? or the actual client? For a law school dean is it the students, the tax payers, fellow faculty, the chancellor of the school, or is it the public at large? The market ultimately decides which graduates are worth hiring, and a fair and balanced test (the MBE portion is entirely objective) allows market players to sort potential candidates and make more informed hiring decisions, along with the school the graduate attended, the grades the student achieved, and the classes the student chose, among many other factors. Job opportunities are privileges, and no employer is required to hire any one individual.

As to incurring further debt, there are many many ways that law school costs can be reduced, so that students incur less debt. Let me provide an example from a different discipline: for the average marathon runner, a lighter shoe will slightly improve marathon performance and a lighter body will also slightly improve marathon performance, which do you think the vast majority of people should be focusing on and where do you think most people will see most improvement? The point: law school deans need only look at themselves, if they want students to have lesser debt and greater job opportunities.

4) Failing students will incur "psychological harm"

Psychological harm certainly is something we should try to avoid inflicting upon others, but should it come at a cost of lowering standards. Here are some potential solutions that do not involve lowering the bar exam scores: (1) prepare students for the possibility of failure, it builds character or (2) prepare students for the test and they won't have to incur psychological harm. I know several students that failed the exam, and then picked themselves up and passed on another try. Sure these students were stressed at the time, and I felt terrible for them, but ultimately, they were successful. These students showed determination and drive and they had the "stuff" to be lawyers. Overcoming obstacles and incurring "psychological harm" is something that the vast majority of us are required to face at one point or another in our life.

5) There are *not* too many lawyers in the state

The job market seems somewhat efficient at allocating labor properly, therefore, I would presume we will either seeing rising wages/demand and/or an increased number of test takers and lawyers attempting to join the California legal market in the event of shortages. Let's ask another question: is the test meant to be an objective measure of knowledge of the law or is it a tax or interest rate that should be set by the federal reserve according to employment statistics? If it is indeed the latter, than this is a perfect policy lever to move the needle.

6) Law schools will focus on admitting "strong test takers" and less on "non-traditional students"

Perhaps, law schools could focus on admitting strong non-traditional test takers, or perhaps even more radically, law schools could focus on making non-traditional students into better test takers with more objective knowledge and reasoning skills which might be useful for the practice of law. These law school deans are the ultimate deciders of who gets admitted into law schools, and it seems that entrance into public schools in California is supposed to be at least partially based on merit and the ability to succeed in the profession of law. Likewise, these law school deans also seem to have some authority when it comes to teaching the students enrolled in their schools.

7) Law school curriculum will be more focused on passing the bar than rather than on the practice of law.

My understanding was that the bar exam was already focused somewhat on questions regarding the practice of law (if not perhaps, California could add some questions to the test and make the exam go for an extra day ;); thus, I do not how these objectives are quite so opposed. Certainly, classes are offered on specific areas of law say immigration law or patent law that are not covered on the exam. This is a good thing and ultimately makes these students more appealing to a potential employer or are to the personal benefit of the student (perhaps itching an intellectual curiosity or taking a classes with an easy A to boost the GPA). If the students are the paying customers of the law school, it would seem prudent that law schools should be the students the services they want. Ultimately, it is the students who are deciding to take the bar exam and enroll in law school.

Conclusion

I applaud UC Davis Law School Dean Kevin Johnson (my alma matter), for taking a principled stand on this issue by NOT joining the other law school deans in writing to the Supreme Court asking for a change to the make the bar easier to pass. Being a law school dean in California is no easy task, and lowering the test score would certainly make their lives easier (more applicants, means more application fees, more paying students, means ultimately nicer salary and job security). Perhaps, these deans genuinely do care about the legal profession and ultimately the eventual clients that their students will serve. However, if these deans want to increase the number of passing students at their law school, they need they only increase the quality of teaching, bar preparation, and student admissions, rather than focusing so much of their effort to complain that the test is too hard.

Naira Simmons - UC Hastings College of the Law

California's current practice of setting an arbitrarily high cut score has resulted in the nations lowest bar pass rate. Nothing justifies the arbitrarily high cut rate, except a desire to keep recent graduates and out-of-state attorneys out of the California job market. California has no credible explanation as to why it cannot use a cut score between 133 and 136, which is the cut score used by other economically comparable states.

A myth has been created that it is a necessary "rite-of-passage" to overcome the 144 California cut score and that only competent attorneys will overcome this barrier. This is simply not true. First, the questions of the California exam have increasingly become so narrow and specific that they no longer measure a general knowledge of the law. Instead, the narrow current questions reflect the challenges of testing different practices of law in the same exam. Most lawyers do not practice 12 areas of law concurrently, but the narrow bar exam questions propagates this myth.

Second, neither the content nor form of the current exam is equivalent to the content and form of the exam administered in previous decades. I've reviewing dozens of questions as I prepared for the July 2017 exam and I was often surprised by how general the questions from the 1990's are as compared to the more recent questions. They are just not equivalent. The volume of material and the number of rules that need to be mastered has also increased significantly. In sum, the exams that were administered in the 1990's and prior to that are not equivalent to the current exams.

California should adopt a cut score between 133 and 136.

Naira

Joseph Ngo

Dear The State Bar of California and The California Bar Examiners,

As An Unsuccessful Bar Exam Test Taker, A Ninth Time Repeater and An Extra-Time Accommodated Applicant, I would like to make the following comments:

1) The cut score of 1440 is high in my subjective opinion.

2) The integrity and competency of a practicing attorney are not always and totally dependent on the Extremely High Bar Exam Passing Score. Under the ABA Rules, an attorney needs to have knowledge, skills, thoroughness and preparations necessary to the representation and he or she always can study to be experienced in an unfamiliar or inexperienced-subject related to the representation. Therefore, the need to pass the Bar Exam with the cut score of 1440 is not arisen.

3) The need for more diversified or ESL (English as Second Language) attorneys is arisen to meet the high demand of translators in The State of California.

As a result of my reasons mentioned above, please lower the passing cut score to lower than 1414.

Anonymous

I support a cut score between 133-136 because it keeps California competitive with other similar states and promotes diversity of the bar.

Byoung Hee Song

It should be 1350 range as most of other states.

Ricardo Elorza

I have not passed the bar exam. July 2017 represents my third attempt, but I do not regret taking it these many times. The reason is that the California Bar Exam does not test how good I will be as a practicing attorney. What the California Bar exam is testing is how well I memorize law, and how well I regurgitate law under a time crunch. Therefore, cutting down the passing score to the average passing score of 1350 is a no brainer. If the California Bar Exam were to test more accurately how I will perform as an attorney, I will be more adamant at suggesting lowering the score. I will never practice securities law, yet I am tested on it. I have no interest in ever practicing Wills and Trusts, yet I am tested on it. I will never have to really memorize law, except in particular circumstances, yet I am tested on it. If you want to maintain the professional reputation of the legal profession, the California Bar Exam must have to fundamentally change. But I bet that fundamental change is not in your plans. What is worse is that people of color, who find it so difficult to even attend law school find it the hardest to pass the bar exam. Law schools weed out people of color, the bar is just another steeper hurdle. Change the score and you will see a more diverse attorney population.

Anonymous

If Ca. is really worried about a high standard for practicing in Ca., why are there unaccredited law schools allowed here? Why has the Ca. Bar been negligent in curbing lawyer misconduct for so long? Why has the Bar not worked better with the law school Deans to collaborate on a bar exam that is appropriate, determining how well the subjects have been truly mastered? Is the Bar out of touch with the type of questions that should be on the exam? For law students who do well in school and can't pass the Bar -- they aren't low quality students, yet they struggle like others. It doesn't make sense. How much money would the Bar lose (in fees, bar prep, etc.) if it passed more people and wasn't paid repeatedly by failing exam takers? As to the multistate exam, it should be the same score nationally like the CPA exam. Where is the ABA? It should have standardized this. Until it does, Ca. needs to be more mainstream in its cut score for that test especially.

Anonymous

I believe that the current score is too high. Students spend a significant amount of money in going to law school. I'm a low income, minority student that after putting myself through law school, I'm in debt up to $300,000. Without being able to pass the bar, I'm unable to make a little more money that would help alleviate the burden of the my loans. I believe that the current cut score has to be lowered to a reasonable score. I do not know if 1414 would be reasonable, but I do believe that something needs to be done about the continued decrease in the number of students who pass the exam.

Anonymous

I believe the cut score should be lowered below 1414 to allow more competent applicants to practice law in CA. It is absurd that applicants who would be able to practice in other jurisdictions are unable to practice in CA solely because of the high cut score.

Anonymous

I recommend a cut score of 133-136 (1330-1360) for the CA Bar Exam as many law school deans have suggested. Keeping the higher cut score just results in people with law degrees learning how to become better test takes to pass a test, not better attorneys.

Anonymous

Change Cutoff Score to 1330 - 1360

Anonymous

The cut score should be lowered to the bar passage score required in the state of New York or the whole california bar needs to be overhauled and changed to the UBE as most other states including the state of New York has done.

Joseph Roth - Georgetown Univesrity LLM Tax

Lower the Score to the National average.of 135

If New York and Missouri can validate lawyers with a cut score of 135 or less to practice law without any evidence of increase in lawyer misconduct why can't California?

Wisconsin does not even require a bar exam for two of its' schools. There is no evidence that there lawyers are more likely to commit misconduct.

California has a shortage of lawyers especially minority lawyers. The 141 standard caused Whittier to close which focused on serving the needs of the poor.

When you consider that California adjusts the MBE based on the California MBE average which is higher than the national average California cut score of 144 is the hardest standard in the US exceeding Delaware even though it has a cut score of 145 because all other states adjust their MBE based on the national average which is lower than the California average giving them more adjustment points than California. California really has the hardest standard exceeding that of Delaware .

How many more law school will have to close for a ridiculous arbitrary standard to stand by further hurting the poor and closing doors to legal education and affordable legal services.

Many law student have student debt in excess of $200K. Many ABA graduates even honor ABA graduates fail the bar. When more than 50% of UC Hastings class fails the bar, a tier one law school, we have a clear standards problem with the bar cut score. It is cruel to nearly financially bankrupt half of a law school with debt and no legal way to practice.

As for the many NON ABA California accredited law schools with 90%+ failures these schools who cater to minorities are essentially committing fraud because the gradates have not much better than lottery ticket's chance of passing with a 141 cut score. At this rate only Stanford and Berkley graduates will have a chance at passing the bar.

Do what the 20 ABA California Deans requested use the national average of a cut score of 135.

Darlene Griffin - Dept. of Water Resources

Cut the scoring within the recommendations of law school deans.

Anonymous

The current cut score should be raised, not lowered. Instead of making the test easier, how about we make the test taker better prepared? There are nearly 250,000 lawyers in California. Many of them have no business practicing law. We do not need to increase the number of lawyers in this state, we need to increase the quality of lawyers in this state.

Michael Mcnabb - Special Services

If the California Committee of Bar Examiners (Committee) had any credibility, the California Supreme Court would not have stripped the Committee of its authority to set the cut score for the California Bar Exam. That much is clear. Accordingly, this survey is a PR stunt designed to create the illusion that the Committee is competent to serve the interests of California, generally, and the Law Students it is bound to support in the practice of the law, specifically.

Recent opinions and media coverage have stated that the high cut score is "arbitrary," or is arbitrarily high. The Committee has given no reason as to why the pass score is still set at 1440. Assuming that a pass rate of 34.5% is a credible pass rate for California law students in February, 2017, 65% of students taking that Bar in February lack the "training, thoroughness, preparation, knowledge and skill" necessary to practice law in California, and are therefore "incompetent" to practice the law in our state.

The Committee of Bar Examiners stands by those percentages.

Do you really expect us to swallow that?

The cut score is not arbitrary, it is deliberately high. It is set at 1440 to serve a nefarious purpose.

Friends and family of mine in states other than California have taken and passed their State Bar Exams. They are practicing attorneys now, as I write this, having passed the test during the period between my graduation from law school and the date of this writing.

Friends of mine here in California have made multiple attempts at the California Bar and have since given up the attempt because they have failed, multiple times. They could not handle the emotional and financial strain of continuing on.

For whatever purpose the Committee has stated for 1440, I do not have to speculate about the "reason" why. The reason is this: The California Committee of Bar Examiners does not want law students in California to pass the Bar Exam.

The Committee wants law students, (as many as possible without drawing undue attention to itself) to fail the California Bar Exam.

That much is clear.

The California Supreme Court said as much when it stripped the California Committee of Bar Examiners of its authority to set the cut score in California.

It is offensive that soliciting Public Comments on this page in order bolster its failed credibility is the course the Committee has chosen. The Committee has proven that the Committee acts in the best interest of the Committee and its nefarious purposes, not in the best interest of California, nor in the best interests of the law students it was created to serve and protect. Regardless of the Committee's stated high minded principles, apparently invented as a smoke screen for the real intent, the consequence has been that 65% of law students who graduated law school in California and who took the Bar in 2017, so far, are "lacking," according to the Committee. I have seen brilliant law students, talented in their ability, contrite in their motivation and sincere in their purpose, fail. Those students should be practicing right now, serving the public and helping society.

They are not.

Yes, I took the July, 2017 California Bar Exam.

I graduated law school in 2013.

I have taken the California Bar Exam as time, income and stress levels would allow.

I have said for years that this system in California for licensing attorneys is tantamount to racketeering.

The California Supreme Court has proven me right.

The fact that this "Comments" page exists is yet further proof that the Committee has no intention of correcting the harm it has inflicted. It instead wants to create the appearance of changing its course, while inflicting the same harm to California, in general, and to law students in particular.

Anonymous

Dear State Bar of California:

I received my J.D. from the University of California, Berkeley, School of Law in May 2017 and took the July 2017 California Bar Exam. I am writing to recommend that you (1) eliminate the bar exam requirement for graduates from American Bar Association-accredited law schools in California and (2) lower the bar exam cut score further below 1414. Each recommendation is discussed in more detail below. Additionally, I comment on how the experience of studying for and taking the CA Bar Exam diminished my confidence in the legal profession.

I. Eliminate the Bar Exam Requirement for Graduates from American Bar Association-accredited Law Schools in California

Graduates from American Bar Association-accredited (ABA-accredited) law schools in California need not take the California (CA) Bar Exam for three reasons: (1) the purpose of ABA-accreditation and the CA Bar Exam coincide (to ensure that future lawyers are minimally competent to practice law) and, thus, the CA Bar Exam serves a needlessly redundant and costly purpose for graduates from ABA-accredited schools; (2) the ABA-accreditation standards are rigorous enough to ensure that graduates from ABA-accredited schools are minimally competent to practice law in CA; and (3) successfully completing all the requirements of an ABA-accredited law school is a better indicator of minimum competence to practice law than passing the CA Bar Exam.

Elaborating on the third point above, the requirements of ABA-accredited law schools are more reflective of actual legal practice than the CA Bar Exam. ABA-accredited law schools require, for example, the successful completion of legal writing courses and written exams on major legal topics. As discussed below, the Bar Exam does not appropriately test applicants' legal competence.

The CA Bar Exam is far-removed from actual legal practice. For example, half of the test consists of multiple-choice questions. Lawyers do not fill in bubble sheets for a living. Both the essay and multiple-choice portions are also bizarre in that they are closed book. In practice, a lawyer should not rely on his or her memory of the law lest he or she commit malpractice or otherwise violate ethical rules of competency and due diligence. Thus, the Bar Exam is not only ill equipped to test for competency, but it also teaches bad lawyering. As practicing lawyers have told me, good lawyering is generally measured by one's research, writing, and analysis skills, not one's rote memory of hundreds of rules. Adding insult to injury—and as my Bar Exam prep course instructors mentioned—many of the rules I had to commit to memory and use on the bar exam are not even used in legal practice.

While one might argue that the essays do, in fact, test writing and analysis skills, rule- recall and regurgitation comprises many points in each essay's grading rubric and is necessary so that one can provide the correct analysis. The emphasis on rule memorization underscores my point: the Bar Exam is a ridiculous test in that it hardly gets to the heart of what competent lawyering is. Successfully completing ABA-accreditation requirements is a more sensible measure of one's ability to competently practice law, at least until the Bar Exam is significantly remodeled to test for skills that more accurately reflect legal competency.

There is precedence for eliminating the bar exam requirement for graduates from ABA-accredited schools. The State Bar of Wisconsin established a "Diploma Privilege" for graduates of two Wisconsin law schools such that

graduates of those schools need not take the Wisconsin Bar Exam to receive their Bar licenses. I am not aware of any greater incidence of incompetent lawyering from those who received their Bar license through the Diploma Privilege than from those who have taken and passed the Wisconsin Bar Exam.

Ultimately, I recommend that graduates of ABA-accredited law schools in California be deemed to qualify for a Diploma Privilege similar to the Diploma Privilege under the State Bar of Wisconsin.

II. Lower the Bar Exam Cut Score Further Below 1414

As explained above, the CA Bar Exam is a poor test of minimum competence to practice law. For the same reasons outlined above, the Bar Exam cut score should be lowered further below 1414 until the test is adequately revamped to more accurately reflect the demands of the legal profession.

Further, the Bar Exam is unjustly structured and effectively disenfranchises poor applicants. Even a cut score of 1414 does not remedy the injustice of the Bar Exam. After all, I do not know a single person who passed the Bar Exam without enrolling in a costly prep course. The Bar Exam covers a vast number of topics and the Bar Examiners only generally state what topics an applicant might be tested on. The small sample essays and essay answers that the Bar Examiners provide on their website is too small a sample to reflect the large variety of topics and questions a student may be asked on the Bar Exam. I am also not aware of any publically available resource that publishes past MBE questions, questions that are copyrighted. Thus, students who want a fighting chance at passing the Bar Exam have no choice but to rely on expensive prep programs that have complied a large number of frequently tested essay questions and their answers and have generated hundreds of multiple-choice questions that mimic the MBE questions.

Given the large number of topics tested and the closed-book nature of the Bar Exam, there should be a finite universe of rules that can be tested on that the Bar Examiners make available to all applicants. This would eliminate the need for expensive prep programs and make the Bar Exam accessible to everyone. Until the measure described in this paragraph or a similar measure is implemented, the Bar Exam cut score should be lowered much further to adjust for the injustice of the Exam.

I also believe that much-needed lawyers who aim to assist underrepresented populations will continue to be kept out of the profession by a cut score of 1414.

In conclusion, I recommend that the State Bar of California lower the cut score further below 1414.

III. The Experience of Studying for and Taking the CA Bar Exam Diminished My Confidence in the Legal Profession

The experience of studying for and taking the CA Bar Exam was demoralizing and seriously shook my resolve to be a lawyer.

First, I could not fathom why I was being made to take a test that appeared to have no rational relation to my ability to competently practice law. For three years, I had been asked to jump through hoop after hoop to graduate from law school. By the time I started studying for the Bar Exam, I had successfully jumped through each hoop. I had graduated from law school and would start a federal clerkship at the end of the summer. I did not understand the relevance of the Bar Exam to my competency.

Second, I was overwhelmed with the amount of material I had to memorize. Quickly, I realized I could not memorize every rule. I had to focus on only the most frequently tested rules. Even then, the challenge of memorizing these rules and practicing utilizing these rules in essays and multiple-choice questions was daunting. I was a mouse in a strange maze. I had to learn the tricks of the game. This procedure was further removed from legal practice than any other experience I had related to my legal career and yet it is the most important experience: the one that determines whether I can even legally practice law.

Given the impossibility of the task at hand (memorizing, implementing, relearning, and learning hundreds of rules in a short period of time) and the arbitrariness of the task, I could only think that this test is sadistic and cruel. In

fact, several of my friends confided in me that they were unraveling. Some of them considered self-harm, and all of them expressed that they would never have gone to law school if they knew they would feel such despair.

I started law school with such hope. After having studied for and taken the CA Bar Exam, I feel only contempt for the legal profession and the leaders of the State Bar Association of California. How could you force generations of aspiring lawyers to endure this painful, unjust, unnecessary exam that has such little relation to legal competency? Quite frankly, if I fail the Exam, I am not sure I will retake it.

Anonymous

I believe the cut score should be consistent with New York, 133, the other powerhouse state in the US. Why should an attorney be considered qualified to practice in 48 other states (excluding California and Delaware), yet not considered qualified in California? That's a disservice to so many students and the public to withhold licensure from those who would be a practicing lawyer had they lived in the other 48 states. This can be devastating to those that have incurred tremendous debt, studied hard, ready to provide legal counsel, and then told they've failed the exam, yet would have passed and been able to start practicing most anywhere else. Very unfortunate.

Michael Mikawa

Greetings,I believe the cut score for the California Bar Exam should be lowered below 1414 to be on par with other comparable states like New York. The cut score should be 1350 to be on par with the national mean.

California's high cut score does little to protect the public from competent lawyers and merely limits the number of potential lawyers in the market place. Incompetent lawyers will be weeded out about by the free-market, not by a test that people can study for. Keeping potential lawyers out of the marketplace merely reduces the supply of lawyers in the marketplace, which leads to increased fees and would make it more difficult for the economically disadvantaged to afford representation in their times of dire need. California needs more legal aid attorneys and allowing a greater supply of lawyers into the market place will help fill this gap.

Please lower the California Bar Exam below the proposed 1414.

Joseph Buckley - Sills Cummis & Gross P.C.

The cut score should be temporarily lowered to the national average of 135, and then a comprehensive bar exam study should be conducted.

Anonymous

The cut score could and should be lowered commensurate with the mean cut rate for all states.

Anonymous

In response to the public comments on the 2017 Standard-Setting Study Report and Related Options for the California Bar Exam Cut Score. I submit the following.
The California's cut score of 1440/144 that was set 30 plus a year ago is unreasonable for today's applicants. There is no evidence that California cut score produces more competent attorneys than other states. For instance, comparing California applicants against New York's applicants who has a similar number of applicants to California, in 2016 California had 13,357 applicants sat for the exam of which 5376 were successful (40.2%) and New York had 14,490 applicants sat for the exam of which 8,275 were successful (57%). A 16.8% margin between California and New York applicants, it's unlikely that the applicant population in NY is 16.8 % superior to the applicant in CA. What could account to this difference?

Further, California lowering the cut score to 1414/141.4, also would not be beneficial to the profession since the Committee has not provided any evidence to justify not setting the cut score with the average cut score of 1330-1360/133-136. Understandably, the Committee of Bar Examiners is concerned about the competency levels of the attorneys in the profession. Again comparing California to New York or any other state, by having the highest cut score in California there is no evidence California attorneys are more competent than New York attorneys.

The Committee has requested for current lawyers feedback in the survey is irrelevant to the study. What motivation does lawyers have to lower the cut score because they lawyers have already passed the exam, the lower the score results in more competition, and may lowers the amount the lawyer can charge for their services. Seeking input from attorneys that past the exam is not an indicator of the state of the profession. Asking their opinion is ineffective because lawyers who completed the process 20-30 years ago is completely different from the complexity of the essays and the MBE's with today's standards.

The Committee's survey questions need a written clarification and not just a number 1-10 answer.

1. Select the option below that best represents your view about the cut score for the California bar exam:
The cut score should be set with the average with other states. If 133-136 is the average then California should considered changing with the average. As I indicated above, California's high cut score does not make attorneys more competent than other attorneys in other states with lower cut scores. Some people are average test takers but would make great attorneys since attorneys are not required to know everything while practicing. The Committee of Bar Examiners should take into consideration whether cut score competency level such as 133-136 similar to other states hold the minimum competency level.

2. The following questions are what the Committee of Bar Examiners is considering as relevant factors in determining an appropriate bar exam cut score.

a. Increasing diversity of attorneys from different backgrounds.
The increasing diversity of attorneys from different backgrounds is highly important since diversity in background of attorneys will affect the representation of the underserved population.

b. Increasing access to legal services for underserved populations.
Increasing access to legal services for underserved populations is very important because here in the Central Valley (where I am from) is among the poorest in the state which has limited access to attorneys. The Central Valley does not have an ABA law school within 200 plus miles which would require students to leave home or the family to relocate. In the low income communities the community relies on the students to become lawyers and remain in the area to serve the needs of low income residents, without them it is likely the access to legal service will significantly suffer.

c. The fact that the cut score in California is the second highest in the nation.
The real question should be, does California's highest cut score result in more competent lawyers in other states? As I indicated earlier, the competency level would be the same since California lawyers are not superior in competency level than New York or any other states.
The other question that may be raised, is California producing lower quality of applicants than the other states?

The Committee has not shown any evidence that California applicants are lower quality or that California law schools are less competent. The only justification the Committee has provided is the high cut score has always been that way.

d. Maintaining the integrity of the profession.
Maintaining the integrity of the profession is highly important. However, by lowering the cut score to a reasonable number such as 133-136 would not necessarily protect the integrity of the profession. This is especially true when considering:

An applicant must qualify to attend law school with completion of lower education. The applicant must have an acceptable LSAT score or pass the First Year Law School Exam. The applicant must complete the three or four year program and expend huge sums of money. To qualify to take the bar exam the applicant must successfully pass the MPRE exam with the highest score of 86 or better (which is also the highest cut score). Then the applicant must complete a comprehensive background. Applicants must complete bar prep courses, again expending thousands of dollars. Further, the applicants travel long distances to take the bar exam which also cost thousands of dollars. Lastly, the applicant must wait up to 4 months without seeking employment waiting bar exam results or if workings take significant amount of time off to prepare for the examination.

Therefore, any notion that lowering the cut score would make a California lawyers less dedicated, less ethical, less qualified and less competent than other states is ludicrous. Talk to any applicants.

e. Protecting the interest of the profession.
Protecting the interest of the profession is highly important because without the interest in the profession the Law schools will close (like Whittier Law School), and the underserved population will increase significantly.

f. Declining bar exam pass rates in California.
The declining bar exam pass rate in California is highly important because the pass rate will affect the legal profession. The continuing decline in the pass rate will cause law schools to close. Further, the underserved population will be increase significantly because there will be a limited number of attorneys available to provide services in the underserved population. Further, the diversity of attorney's from different backgrounds will decrease because the poor and middle class will not be able to afford to attend law school and if they do they would most likely stay in the highly populated areas to make the big money.

The declining the pass rate has a lot to do with the complexity of the essay exam and the MBEs. The National Conference of Bar Exam has had the same 400 MBE's for the last 5-7 years. Onl once NCBE in 5-7 years have they change the MBEs and even then only a few question (10 at most) were changed. Further, the civil procedure MBEs has been tested since 2015. NCBE has provided only 10 sample questions for applicants to study. The applicants have to depend on aftermarket questions that are not the same format as NCBE.

The Essays are more complex than in the past. Lastly, the applicants that successfully reach the reappraisal range 1390-1443.9, it appears the chances of passing actually decrease because the scores were actually lowered instead of rose to a passing score.

g. The burden of student loan debt for law-school.
The burden of student loan debts and the emotional effect on an applicant's life is very important. The burden of student loan doesn't only affect the student's credit but his/her emotional stability. The burden of the student loans affects the student's capability of finding a job, since employers do not want employees with delinquent payments. The applicant's credibility of honesty and integrity will be in issue since the applicant can't pay his bills. Lastly, the burden of being an unsuccessful applicant affects the emotional well being because California's high cut score there are more failures than successful applicants.

Thank you

Anonymous

The cut score should be lower than 1414. It should be in line with the national average, at a minimum. There's nothing to suggest that the cut score that New York has has been detrimental to their population. It would make more sense if CA was in line with other big states throughout the US than having a higher score that seems unjustified in its rationale at this point.

Kimberly West-Faulcon - Loyola Law School Los Angeles

Based on my expertise in the legal implications of psychometrics and industrial organizational psychology, I offer three comments to support my view that the State Bar of California has not employed best practices in identifying a cut score appropriate for determining its stated goal of identifying "entry level attorneys who are minimally competent" (2017 ACS Ventures Report at 2).

First, the State Bar fell short of best practices by hiring a company lacking expertise in occupational and employment testing. Instead, the State Bar of California has presented a report by a firm with expertise in educational testing without any effort to demonstrate why it failed to hire experts with credentials and professional experience in advising institutions as to how to properly set cut scores for professional credentialing and licensing. Expertise in validating a test cut score to identify "minimally competent" entry level attorneys differs substantially from expertise in validating a test cut score for identifying applicants for admission to educational institutions or progression to higher levels of education. Accordingly, it is my view that the cut score for the California State Bar Examination should be evaluated by experts with nationally-recognized credentials and professional experience in Industrial Organizational Psychology, such as current and recent past leaders of the Society of Industrial Organizational Psychologists (SIOP) http://www.siop.org/Presidents/PastPres.aspx.

Second, the two evaluations of the 2017 ACS Ventures Standard Setting Report (ACS Ventures Report) authored by Mary J. Pitoniak (Senior Strategic Advisor at Educational Testing Service (ETS)) and Tracey A. Montez (Chief, Division of Programs & Policy Review, California Department of Consumer Affairs) should be read to call the best practices of the ACS Ventures, LLC workshop described in the ACS Ventures Report into question because both evaluations point to serious flaws that warrant evaluation by a nationally-recognized expert in Industrial Organization Psychology (IO Psychology).

While Pitoniak and Montez conclude that the ACS Ventures methods "appear to adhere to professional guidelines and technical standards" (Montez at Executive Summary) and lack "fatal flaws" (Pitoniak at p. 13), both experts point to significant
problems in ACS Ventures' methodology that fall short of best practices throughout both the Pitoniak and Montez evaluations. Pitoniak states explicitly that "in some ways the design and execution fell short of what I would view as best practice" (Pitoniak at 13). Montez points out that the State Bar of California has fallen short of Standard 11.13 of the Standards for Educational and Psychological Testing (Standards) when she observes:

"Although a national job analysis and a CBE Content Validation have been conducted, it is highly recommended that the State Bar conduct a comprehensive occupational analysis of California practice. Given that a state-specific occupational analysis does not appear to have been conducted, it is critical to have this baseline for making high-stakes decisions." (Montez at p. 10 (emphasis added))

Montez also concluded that "[a]dditional time should have been allocated to defining a MCC [minimally competent candidate]" in order to comply with Standard 11.2 of the Standards (Montez at p. 8).

My third and summary comment is that (1) the absence of industrial organization psychology expertise in the design and implementation of the ACS Ventures-run cut score assignment workshop, (2) the conclusion by Dr. Pitoniak that the ACS Ventures approach fell short of best practice, and (3) the conclusion of Dr. Montez that best practice for setting the cut score for the California State Bar Examination would require additional time to "define" a "minimally competent candidate" to the State Bar of California and a "comprehensive analysis of California practice"(a state-specific occupational analysis of the job of attorney in the State of California) warrant rejection of the cut score recommendations currently proposed by the State Bar of California. It is my view that a cut score comparable to that of another state with similar practice settings to California should be adopted until a carefully

identified, nationally-recognized industrial organization psychologist can conduct analysis of the California Bar Examination cut score in a manner consistent with Standard 11.2 and Standard 11.13 relating to occupational analyses as applied to credentialing or licensing examinations as well as all other appropriate provisions of the Standards and, if appropriate, the fourth edition of the Principles for the Validation and Use of Personnel Selection.

Anonymous

The cut score should be further reduced, below 1414. I have taken the California Bar Exam, including July 2017, three times. I received a 1386 and a 1409 on the first and second attempt, respectively. With the second score of 1409, I would be eligible to practice law in 47 of the 50 U.S. states, but not California.

The cut score for California is way too high, and it should be reduced in order to comport with several other states in America so that a law school graduate, like myself, has a better chance at practicing law and living in the state of California.

Furthermore, the new cut score should be applied retroactively in order to encompass anyone who has taken the exam in the last three or four years so that particular individuals whose scores meet the new criteria will be grandfathered in and eligible to practice law or move closer toward practicing law in California.

Thank you!

Anonymous

If you are going to reduce the length of the test from 3 days to 2 days and then lowe the passing score seems to be absolutely outrageous and unnecessary.

Anonymous

I think the State Bar should evaluate the testing such that there is a 50% pass rate, instead of 35-40%. I don't think it should be a bar to practicing law when people have gone to school for 3 years and had volunteer and work experiences that give them a practical understanding of the practice that they choose specifically. Also, the curriculum in law schools, not the bar exam, need to be adjusted to reflect the complaints of judges or others who say new grads need to be more qualified. We should not be learning the law for 2 months after we have already completed practice. Lastly, I think there are many people from an anecdotal perspective, that took the bar exam 3 times or more when they were good students or passionate about the law. That should not be the case if the bar exam measures the ability to practice law.

Ross Meador - TechLaw LLP

I endorse raising the cut score. As a California attorney practicing for 30 years, I am frequently disappointed at the level of ability that I see in young attorneys. By raising the standards, we will improve the profession. Lowering the standards will have the opposite effect.

I have practiced law in Japan and Korea where Bar pass rates are extremely low. As a result, those who do pass are extremely capable and the levels of malpractice and incompetence are much lower than in the US. Lawyers are also held in very high esteem by the general population. This is the direction I think we should go.

Anonymous

New York has, I believe, a cut score of 1380 and the
attorneys practicing in their state seem no less capable of serving the public competently and zealously. The higher cut score in CA seems more to be about keeping down the competition for legal business for current CA lawyers rather than adequately reflecting just who is able to join the profession here.

Additionally, the MBE has an unfortunate quality of measuring not one's capability of practicing law, but rather one's ability to take those kinds
of tests like the LSAT, SAT, etc. this is for licensing, NOT for rewarding good test-takers. When Ivy League undergrads who diligently study don't pass the first time, something is wrong with the current picture. And in Wisconsin, one used to only have to graduate law school with sufficient GPA to be admitted there! So, we are way outside the bell curve here in CA and can find ways to keep high standards WITHOUT such an onerous proposal .

Anonymous

There are so many issues with this exam.

First, it is subjective. Not only because the graders are far from uniform, but also because the scaling is wonky. Read 1 and Read 2 should NEVER be more than 5 points apart. I have seen two 10 point spreads and one 15 point spread in ONE exam. I don't know what it will take to actually see uniformity, but clearly there are training issues with the graders. Secondly, the scaling; no one knows how the exam will be scaled, does this mean that the bar can just throw the pass/no-pass line anywhere willy-nilly? I'm uncertain, but this scaling thing should be eliminated. The pass score should be a hard cut score that eliminates any subjectivity.

Second, the exam is stacked up against disabled exam takers as well as re-takers. The exam is returned so late that there is not even enough time to spend studying one subject per week from results day to exam day. This is a disadvantage not only for repeaters, but more importantly repeaters who have disabilities. I understand that courts do not extend deadlines for disabled attorneys, but typically courts do not press unreasonable deadlines. Is the bar giving an unreasonable deadline (aka study time) for repeaters to simply guarantee a minimum amount of income knowing that a certain percentage of the repeaters will always fail?

Third, why does CA have to have such a high cut score? Attorneys consistently have a poor reputation in the community, this means that the bar exam is a far cry from determining competency. That being said, why make it such an exclusive club, when plenty of people are suffering because they cannot receive adequate representation? There are plenty of exam takers who simply are poor exam takers, but would make incredible practitioners. Why isn't the PT weighted even more? This would be a clear measure of one's ability to actually "practice" law. Men are typically better at multiple choice exams then women, why should the MBE be weighted 50%, what if the PT was actually weighted 50%, MBEs weighted 25%, and essays be weighted 25%? Isn't the most important part of being a lawyer being able to write and argue your side?

I do not see this exam as a fair gate keeper of decent attorneys, but rather a HUGE money maker for test prep companies and the Bar. One should not have to take out an additional loan to pass the bar, it should be an exam that if you pass an ABA accredited law school, you will pass the bar. It shouldn't matter what race, gender, or school you attended. CA has probably the largest bar test prep business than any other state, isn't this a sign that something is wrong with the exam?

I do not think 1414 is low enough, why not have it in the 1300s or even the 1200s? Whatever the variant the graders can be apart (and considering I've seen 15 points in one essay) is how much the score should be lowered by PER ESSAY. This would compensate for the subjectivity. The 15 point spread per essay could allow someone who received a score in the 1200s to easily hit the 1500s. This is crazy to think simply because graders only grade on a 30 point scale from 50 to 80; to think that they can be off by half of this score just blows my mind.

Finally, do not tell me that making the exam a two day rather than three day exam and changing the score proportion was done just because it will lead to the same results as before, are you sure this decision had nothing to do with money? I urge the bar/supreme court to set money aside when making this important decision. Please think of all of the people who need decent representation when making this decision, access to more attorneys, not less will provide these people with more options.

Sincerely,
A Disabled Multiple Repeat Exam Taker (who will not give up until they pass)

Anonymous

The cut score should be lowered below 1414

Anonymous

If courts want to protect the integrity of the legal profession, the cut score should be lowered because if it is lowered, law schools can spare more time on clinical and practical skills instead of teaching how to pass the extremely difficult bar exam.
Cut score should be around the mean cut score among top 10 most populated states, which is 1360.

Anonymous

Arbitrarily lowering the court score based on bad science will improve nothing. I urge you to listen to the Deans of the CA Law Schools and conduct scientifically sound experiments to determine how our state should determine a new cut score

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Jamie Leach

The cut score should be lowered to reflect that of other states. The cut score should be lowered below 1414 to around 1350. In my opinion, the Bar's suggestion to lower the cut score to 1414 still does not go far enough. To have a cut score that is absurdly high in this state in comparison to other states across the nation represents an exclusionary exam rather than one of "minimal competency" and is patently unfair to bar takers in this state.

Michael Szkaradek - Self-Employed

Did it ever occur to anybody that the people taking the more recent Bar Exams are ... for lack of a better word ... stupider? Has anyone ever conducted a study to determine if the people who barely pass the Bar Exam now (i.e. a score of 1440) have a higher incidence of disciplinary problems? Would lowering the passing score maybe lead to longer term disciplinary and/or professional competence problems?

I failed my first Bar Exam with a score of 1424 (February 1990 Aka the "Earthquake Bar"). Thanks to me any many other who criticized how the State Bar graded the "Earthquake Bar", it was decided by the State Bar to regrade it and pass an additional 69 candidates who otherwise would not have passed. Has anybody ever looked at those 69 people to see if they had a higher incidence of disciplinary and/or professional competence problems?

Finally, some smart people (as demonstrated by their three-year law school GPA) may fail a given Bar Exam due to their inability to prepare because of a heavy work schedule and/or family commitments. It seems to me that a subjective evaluation of the people with scores below 1440 would be preferable to just passing people with lower scores.

Anonymous

Set pass score at the average of the states.

Anonymous

What is the precise issue here? Proper framing of issues can trip-up the minds of everyone from the least experienced 1L on his first day of law school, to that of the Chief Justice of the California Supreme Court (whose opinions are occasionally reversed from time-to-time). I worry that this Committee is framing the issue as one of whether a lower cut score will lead to impermissible levels of attorney misconduct. That is not the issue here.

Instead, the decision whether to cut the score should be primarily framed as a question whether lowering the cut score will—on balance—advance the interests of the California consumer of legal services. It should be informed by factors such as the average costs of legal services in California versus other markets. Or by whether additional attorneys in the state will lead to increased tax revenues, that in turn, lead to a more robust economy in California.

The committee ought to consider the needs of a family who risked all to immigrate to the United States, but cannot afford an immigration attorney once they reach our ports or borders. It should reflect on the needs of a struggling single parent whose former spouse refuses to pay child support—but does not seek to enforce that action because family law attorneys bill more per hour than the parent would receive from months of child support. This Committee should ask what can be done for the wrongly convicted who may have failed to secure access to effective legal counsel because they were priced out of the market.

Those in need—those whose interests should be this committee's top concern—likely won't be heavily commenting on a proposal to lower a score for a standardized test that they have never heard of. Instead, the committee will be inundated by comments from self-interested parties. Such as practicing attorneys purporting to be worried about the floodgates of legal mal practice that will undoubtedly follow from admitting an applicant who botched two extra MBE questions testing the Rule Against Perpetuities. Or by academic institutions—who are likewise self-interested—embarrassed that 50% of their graduating class (from a top 50 law school) failed the California bar. Both sides are motivated by their own self-interests. Both sides miss the point.

California residents need more affordable legal services. Period. California's cut score should be lowered to match the average cut score of other large states such as New York, Illinois, and Florida. I do not advocate including Texas as a relevant data point—because it's Texas.

Blair Mehigan - Lincoln Law School of Sacramento

There is a larger problem with the scoring system of the California Bar Exam than the solutions above provide. The lofty cut score on the MBE and the overall total scaled cut score make the exam very challenging but it is the way that the written portion of the exam is curved that is the underlying issue with the California Bar Exam.

My understanding of the California Bar Examiner's (CBE) scoring method is as follows:

1. CBE receive the scaled score from the NCBE for all of the applicants who sat for the CA bar;

2. CBE create a forced curve based on the amount of applicants who scored above the cut score on the MBE to determine the amount of applicants who will be eligible to pass the subjective written portion of the California bar exam.

If my understanding is correct, when 10,000 applicants sit for the bar, if only 5,000 score above a 1440 on the MBE, then only 5,000 applicants will be able to score above a 1439 on the written portion. So, irrespective of how the entire class of applicants perform on a subjective written portion of the test, only a predetermined amount of applicants will be able to pass the exam based on the amount of applicants that reached the cut score on the MBE.

Across the country there is always a lower pass rate for applicants sitting for the February exam. However, in California, the variance in pass rate from February to July is substantially higher than any other state. The reason that this is the case is because there are fewer applicants that are reaching the 144 MBE cut score to thus fewer slots for a passing score on the written portion. Prior to July 2017, the MBE accounted for 35% percent of the final scaled score. However, that 35% dictated what percentage of the applicants will be eligible to pass the other 65% of the test. While I agree that the MBE is the best way to test an applicant's knowledge of the law, I do not believe that this portion of the exam should have any bearing on the written portion of the exam.

Delaware has the nation's highest cut score on the MBE, at 145. However, 66% of all exam takers still passed the Delaware bar in July 2016. I am not well informed on all of the intricacies of Delaware's scoring system but the higher pass rate says one of two things: better applicants or a more reasonable scoring system on the subjective portion of the exam.

The firm conducting the study tried to address the issue of "false positives" and "false negatives" in the bar exam. Their logic was that if there is a disproportionate amount either then you have to adjust the standards for a passing score. It was concluded that it is difficult to determine either phenomenon with this exam. This is because there is no clear way of determining what a passing score is on the subjective portion any given exam.

There are always "false negatives" and "false positives" in licensing tests. Any "false negatives" will likely be found in the cross section of people just below 1440 on the written portion and who were competitive on the MBE.

Until an applicant's written portion is scored independently of the objective portion, based on their actual performance, the California Bar Exam will be flawed in its application.

Anonymous

I believe that the pass score should be comparable to other large states. For example, if the CA bar pass score is lowered to 1414, that would require a score of 70.7%. Comparatively, the NY bar requires a passing score of 66.5%. I wholeheartedly agree that the bar should serve to protect the population. However, the bar is supposed to be a minimum competency tests. Additionally, given the rising cost of legal education and the detrimental effects of failing the examination, the bar should not be the sole gate to practice law. More and more legal employers trend towards waiting until the results to hire. This creates a huge gap even for the people who pass the exam from late July to late November - at the very least.

Anonymous

There is little difference of a cut score placed at 1440 vs.1414. By moving the cut score to 1414, it will have little to no impact at placing qualified attorneys into underrepresented communities, which I imagine is your objective. It will also do very little to pacify the ever growing criticisms of the state bar. If you truly are interested in servicing the public and allowing greater access to legal counsel, the cut score should be around 1360. This would be high enough to uphold the integrity of the profession but still allow enough competent lawyers to fill the gaps in the underrepresented communities.

Anonymous

the Bar Exam should be scored on a standard Minimum Competency Grade per essay, MPT and the MBE with the same pass scores as all the other states. There should also be a published rubic - the same one Bar Graders use to grade the exam.

Now that the Committee knows this should be the standard this method should be used to grade the current July 2017 exam. Just lowering the overall cut score to 1414 is not enough. However, if lowering the score is all that is going to be done 1340 should be new cut score.

Anonymous

The cut score should be lowered to be comparable to other states, such as New York. I do not believe the bar exam is an indicator of how good of an attorney you will be.

Martin Berbach

Please set a cut score of 1330-1360 as many law school deans suggest. Thank you!

Mary

The score should be lowered to expand the ability of people to locate reasonable diverse legal services.

Reciprocity would also be welcome.

Anonymous

Lower the score to match NY bar exam

Anonymous

1380 cut score

Brenton Inouye

The State Bar of California should not lower its standards to allow more unqualified individuals to practice law. There are too many incompetent attorneys currently and lowering the score for the bar will allow even more unqualified people to practice law. Although some claim that lowering the score will allow for more equal access for those who cannot afford legal services, I don't believe that this is true. As a public interest attorney, there are simply not enough funding for those that desire to pursue a public interest career. Rather than lowering the score to allow more allow more incompetent people to become attorneys, more funding should be provided to legal services organizations to ensure that all people have equal access to our legal system.

Anonymous

Lower it, have the same cut score as NY

Anonymous

The cut score should be at least 100 points, not 26 (from 1440 to 1414). This is a token gesture to show there has been something done about the low pass rate. There are many qualified people who cant make the current cut score and a drop to 1414 won't help them in the least. The State Bar is setting a dangerous precedent of keeping themselves the 2nd most difficult state in which to pass the Bar exam. I understand wanting to "raise the bar" to ensure there are only qualified persons admitted to practice law, but the bar has been raised too high. There are many, who do well in a courtroom setting and are professional and would never tarnish the State Bar's reputation. However, the score will still be too high to admit these persons. If the State Bar is only going to decrease the cut score to 1414, why bother decrease it at all? It might increase the pass rate by 1%, but that's merely a token gesture. Don't play games. Either lower it to a number that's achievable or don't lower it at all and get used to otherwise qualified persons leaving the state to practice elsewhere.

Anonymous

The score should be lowered to 136. There is no basis to say the proposed interim score serves any purpose or is tied to anything. There is a great economic burden to taking the exam, and potentially not passing. And, the test itself does not actually test a lawyer's competency, which makes this bizarre.

Carolin Shining - Shining Law Firm

I disagree with any changes to the Stage Bar testing and exam scoring. The proposals are completely illegible and nonsensical. I read both the expert's report and the Bar Committee's report. I also read the comments in the back of the Bar Committee's report. Buried deep in the committee report were a number of complaints that the process was railroaded, hurried and unsatisfactory. Indeed, there seems to be no room for a minority opinion or dissent. Based on this and other things, I believe that this entire process was rushed, undemocratic and lacked transparency.

At a time when new attorneys are essentially working for free or cannot get jobs in the law, it is the height of irresponsibility to make it easier for lawyers to become lawyers. Indeed, this is the same problem with recent proposals to allow law schools to provide juris doctor degrees with only two years of schooling.

Instead, I support changing law school curriculum to better match the test. Or even better, make both law schools and the test mirror real world experiences through clinics, oral examinations, and more writing (not less).

Is the reason to have such a rushed discussion of this issue because law schools are ashamed of the high cost of law school compared to the abysmal preparation for either the bar exam or the real world? Or perhaps the State Bar officials don't like the bad press. In my humble opinion, the changes need to start much lower on the vine, and lawyers should be the ones adjusting the test -- not highly paid and biased pseudoscientists who reach the result that they are told to reach.

In sum, lowering standards for passage is precisely the wrong thing to do.

Carolin Shining
Solo Attorney
Member of the California and Illinois State Bars
Registered Patent Attorney

Anonymous

1390 new score

Anonymous

Same cut score as NY bar exam

Anonymous

1380 new cut score

Anonymous

Enough is enough lower the score!
By having high cut score dose not mean Ca Has better lawyers, and other states with low cut score
Produce BAD LAWYRS!

People who are oppose of lowering score
Lack sympathy because they passed the bar or
Never took it!

Lower the score- so many families
And lives has ruined and destroyed

Do the right thing
Lower the score

Anonymous

Same cut score as NY bar exam.

Anonymous

make the cut score same as New York bar exam!

Jonee Grassi

I think that the cut score for the California Bar should be reduced to the range of 1330 to 1360 as proposed by the California law school Deans. I have been a member of the California Bar since 1977 even though I am now inactive. At Santa Clara Law School I graduated Magna Cum Laude and passed the Bar the first time I took it. However, what I remember to this day is that there are three things that basically have nothing to do with each other: (1) how well someone performs in law school; (2) how well they do on the Bar; and (3) how good of a lawyer they become. Those words were said to my law class on the first day of orientation and I believe them to be true. I do not think we should set the cut score so high that we prevent many people who will be good and even great lawyers from practicing. Certainly, we want to be sure everyone has a basic knowledge and proficiency in the law. Beyond that I think we are doing a disservice to our citizens. At a time in our country when so many people need attorneys and our civil rights are constantly under attack, we should be promoting the licensing of more attorneys.

Shawn Parker

Professional studies and research are a key to discovery and understanding, however, many times it is possible to not get the real facts if the scope is too narrowly drawn or participants in a study only include a specific classification of its members. In this case, the "Standard Setting Study for the California Bar Exam" set out to interview a set of panelists to establish the minimum knowledge to "distinguish competent candidates from those that could do harm to the public" (Page 6, paragraph 1). All panelists were licensed attorneys with an average of 14 years in the field. I have no disagreements with the result of the study as far as the validity framework and methods, however, there is a complete second half of the study that is missing. Let me explain. All the panelists are licensed attorneys which means two critical things, first is that they are safe from needing to pass the bar again and second, all future attorneys are technically competition so there is a natural instinct or bias to protect ones self-interest. It is really easy to justify the high cut score as "the minimum to prevent harm to the public" when the only skin you have in the game is limiting additional competition.

In order to get a true feel for what is minimum to prevent harm to the public, a second set of panelists should have followed the exact same framework and methods of the study, but with one addition; panelists would be instructed that as part of the results of the study and updated cut score, all licensed attorneys would need to re-pass the bar within a year to continue practicing law in the State of California. With their own professional futures on the line, it is most certain that the panelists would see minimums for what is considered "competent" in a much different light. At the same time, you can ask if the lower cut scores of other states like New York are causing harm to the public. If the cut score of New York is not causing harm then it is safe to presume that California can match New York's cut score unless there is empirical evidence that demonstrates one cut score is more harmful than another.

The last point I wish to make is that there does not appear to be any mechanism in place to keep the California Bar Examiners consistent in how they are grading subjective exams against a fixed cut score over time. Usually a bell curve is used to account for shifts in subjective grading against static passing scores, but a curve is not applied here. The California Bar should create a control group of a few dozen existing licensed attorneys (that change each time) that take the bar each time the bar is administered and those tests are scored in a blind fashion with all other tests and then are pulled out and used as a control group to establish a baseline cut score adjustment. You could even have the attorneys that are part of the control group benefit by having it fulfill their MCLE for the year.

In summary, it is clear the current cut score is not the minimum competent level to prevent harm to the public and the California Bar should take steps to establish an honest minimum competency level without regard to any "tradition" or by an incomplete study.

Anonymous

After reading through the entire study report, including methodology and comments from those participating in the study, I find myself quite concerned about both the methodology and the conclusions.

First, methodology: When concerns are raised about standards such as the pass rate on a professional exam, it stands to reason that the reviewing body should be a disinterested party. Performing a self-review and declaring that the results indicate there is no problem is in and of itself highly questionable. To then release these results as a recommendation seems at best self-serving, but most likely disingenuous and inappropriate.

Let me highlight a few concerns about the conclusions:

1) You cite as a reason for a higher cut score the inclusive nature of California's bar exam, noting that nontraditional students are permitted to sit for the exam and ultimately practice law. I point out that a) all nontraditional students are required to take the First Year Law Student Exam, an exam that clearly and effectively weeds out those students who are unlikely to succeed and b) your study indicates that lowering the cut score will not significantly affect nontraditional students. Therefore, this argument does not support your conclusion.

2) You cite nationwide downward trends in scores as a defense to the charge that the decline in California's pass rate is unacceptable. This is nothing more than a distraction, a red herring if you will, from the actual issue at hand, namely that California's pass rate is unacceptably low. Trends come and go due to a variety of factors, but the comparably low pass rate remains the same concern.

3) You emphasize the importance of protecting the public from attorneys who do not meet the standard of minimum competency, so you set a high standard both for grading the exam and for passing the exam. On the surface, this may appear to be a wise decision - until you discover that over half of already-practicing attorneys from other states are unable to pass the California exam. This is simply absurd and is a clear indicator that the standard of "minimum competency" is set too high.

I urge the California Supreme Court to stand by its earlier decision in removing the decision-making authority from the California Bar Examiners. Not only this, but I also urge that the entire study be considered invalid and its recommendations set aside. A legitimate study should be performed by an outside party who examines not only the California bar exam and its approach, but also other states' exams and their approaches to support lowering the minimum pass rate to a range comparable to that of other states, either closer to the mean or the median, both of which are in the 130s range.

Anonymous

I recommend lowering the score for new attorneys to 1330 to be consistent with New York. For practicing attorneys, I recommend allowing the attorneys to waive into California. If waiver is not an option, I recommend the practicing attorney exam cut score be 1000.

Anonymous

The cut score should be reduced to at least 1390 as this would maintain the quality of lawyers licensed but would also ensure fairness in test taking.

The high score has produced an unreasonably high level of repeaters. Many young talented people are hindered in their career as a result and retaking has a detrimental impact on their lives. Some have chosen to focus on the exam and not seek employment. Whereas others have ended up working as a paralegal for a significant number of years while retaking. I am sure that this is not what they envisioned when they decided to sign up for law school. I have come across a US educated candidate who has taken the exam 11 consecutive times. Unfortunately, there are many who have been retaking for years. Hard work, determination and persistence should be rewarded. Instead more and more money is invested into their legal education and many families suffer financially. Furthermore, the California bar exam has become notorious for its high failure rate to the extent that many suffer significant test taking anxiety. The exam should allow some leeway for this while still maintaining a high professional standard.

Aaron Miki - PwC

The first thing is to start by restating that the purpose of the bar exam is to distinguish competent candidates from those that could do harm to the public. The California Committee of Bar Examiners have stated that there is no empirical evidence available that would support a statement that as a result of its high pass line California lawyers are more competent than those in other states, nor is there any data that suggests that there are fewer attorney discipline cases per attorney capita in this state. This statement alone goes against any justification by the California Bar in having a higher cut score in the State of California when there is no empirical evidence to show additional prevention of harm to the public. For example, New York State which has one of the largest BAR examinee pool in the country has a cut score that is below 135 on a 200 point scale which translates below 1350 on a scaled score and has a higher pass rate than California. However, the California Committee of Bar Examiners has no empirical evidence to demonstrate that attorneys in New York State are subject to more disciplinary actions than attorneys in the State of California. In other words, there is no empirical evidence that a lower cut score below the current 1440 will cause greater harm to the public by unqualified candidates.

In fact, referring to the "Standard Setting Study for the California Bar Exam" (the "Study"), the Study indicates that there is a 95% confidence that a pass line range of between 1388 and 1504 would be sufficient to protect the public from harm. Accordingly, if there is a 95% confidence that a cut score of 1388 would be sufficient to protect the public from harm, the cut score should be set as such as a 1388 cut score would be inline with the purpose of a licensing exam, to prevent harm to the public.

Additionally, the Study appears to be incomplete and presenting it to the California Supreme Court as conclusive that the current cut score prevents harm to the public would be misleading. The Study set out to interview a set of panelists to establish the minimum knowledge to "distinguish competent candidates from those that could do harm to the public" (Page 6, paragraph 1). All panelists were licensed attorneys with an average of 14 years in the field. While the scope of the question or hypothesis proposed appears to be reasonable and within line with the purpose of a licensing exam. The Study's framework is incomplete. The Study did not factor in the natural instinct or bias of the panelist to protect ones self-interest. All the panelists are licensed attorneys which means (1) they are safe from needing to pass the bar again and (2) all future bar examinees are technically competition. It is really easy to justify a high cut score as "the minimum to prevent harm to the public" when there is no direct impact to an individual.

In order to get a true understanding of what is the minimum to prevent harm to the public, a second set of panelists should have followed the exact same scope, framework and methods of the study, but with an additional fact; panelists would be instructed that as part of the results of the study and updated cut score, all licensed attorneys would need to re-pass the bar within a year to continue practicing law in the State of California in order to demonstrate that they have the requisite minimum and to show that the cut rate is an acceptable standard.

With their own professional futures on the line, it is likely that the panelists would consider the term "minimum competency" in greater depth and with additional objectivity.

My last point refers to the overall task of the California Committee of BAR Examiners and that presentation of only the Study to the California Supreme Court would be misleading as to the overall task of the California Committee of BAR Examiners. Documentation provided indicates that the California Supreme Court tasked the California Committee of BAR Examiners to present evidence as to why the pass rate in California is declining. According to documentation provided, the California Committee of BAR Examiners's psychometrician, Dr. Bolus, indicates that approximately 20% of the decline in the pass rate can be attributed to the weaker academic credentials of recently graduated law students. Implicitly, the California Committee of BAR Examiners has correlated that weaker academic credentials in recently graduated law students means a weaker apptitude to practice law and not cause harm to the public (i.e., they are not capable of passing the BAR exam and therefore, the declining pass rate). It appears the Study's focus was to prove this correlation (i.e., the current cut score is fine but due to the weaker academic credentials of recently graduated law students the pass rate is declining). Two points need to be identified as to why presentation of only the Study to the California Supreme Court would be misleading as to the overall task of the California Committee of BAR Examiners. The first point is that the Study is incomplete as discussed above. The second point is provided there is a correlation between the weaker academic credentials of recently graduated law students and the declining pass rate, this only accounts for approximately 20% per the California Committee of BAR Examiners' psychometrician. The California Committee of BAR Examiners has not identified the majority of factors, approximately 80%, for the declining pass rate and have not analyze them. Therefore, presentation of only the Study to the California Supreme Court as to why the pass rate is declining is both intellectually dishonest and misleading.

In conclusion and as discussed above, in the interim the cut score should be reduced to a minimum of 1388 until a complete study, as discussed above, has been completed. Further, the California Committee of BAR Examiners needs to present all the facts and circumstances, not just the sufficiency of the cut score and that law schools have admitted weaker credentialed students, as to why the pass rate in California is declining when the California Committee of BAR Examiners presents its findings to the California Supreme Court later this year.

Anonymous

the score should be cut to be competitive with other states, I believe 135

Denise Roy - Society of American Law Teachers

SALT - Society of American Law Teachers

Comments on 2017 Standard Setting Study Report and Related Options
Submitted to the State Bar of California
August 24, 2017

The Society of American Law Teachers is a national organization of law faculty, administrators, librarians, academic support experts and others dedicated to teaching excellence, social justice, and diversity. We write to comment on the immediate and urgent question of the "cut score" for the July 2017 bar examination.

California historically has played a prominent role in shaping national policy on the bar exam, as is evident from its leadership in pioneering the bar exam's performance test and in increasing experiential learning requirements for its bar applicants. The recent study of cut scores responds to the heated debate about California's second-highest cut score in the nation and the concern about the declining first time pass rate. SALT and others have criticized the high cut score because there is no evidence that it protects the public better than lower cut scores adopted in other states. Instead, California's high cut score harms the public by denying licenses to applicants who would be considered competent to serve clients in every jurisdiction other than Delaware. Delaware, a state that has successfully limited its attorney population to 2,978 people, is no model for any state that values an inclusive profession.

In light of these concerns, it was understandably important to California to assess the cut score quickly in order to apply the results to the July 2017 exam. However, the study undertaken has numerous methodological flaws that affect its value and the decision about how to proceed.

Among the methodological problems are that the study's essay graders did not have a detailed grade scoring sheet or model answer by which to judge the quality of exam answers; there was no or too little discussion about what constituted a competent answer for most of the questions; comments from essay graders suggest they felt unqualified to grade the essay questions that covered subject matter outside their expertise; and many felt rushed through the evaluation process. Equally important, the wide range of judgments from the participating lawyers about what constitutes minimally competent performance on the individual questions undermines the credibility of the results. Reviewers hired by the State Bar of California identified these and other methodological deficiencies.

While the methodological issues call the cut score study's conclusions into question, the most critical problem is that the process is backwards. Before determining an appropriate cut score, one should first determine whether the licensing exam assesses the appropriate job-related skills. As noted by Dr. Tracy Montez, a reviewer hired by the State Bar of California to provide advice and review of the standard setting and validity studies, how much value to place on the exam is connected to the value the exam has in evaluating the knowledge and skills new lawyers need.

SALT has long argued that the existing bar exam is inadequate to assess an applicant's readiness to practice law. It fails to measure a wide range of important lawyering skills new practitioners need, such as identifying and gathering necessary information, advising clients, negotiating and drafting both transactional and litigation documents, strategic and effective use of the litigation process, and the ability to recognize barriers to effective cross-cultural communication. But even the skills the exam does purport to measure—legal knowledge and analysis—are tested in ways unrelated to how lawyers use those skills in practice, undermining the validity of the exam. Requiring memorization of thousands of legal rules as a predicate to answering questions, testing via multiple choice questions that allow only 1.8 minutes to read and analyze a problem, and using a closed book format, all have no relationship to how lawyers use the law in practice. Thus, even with respect to the skills tested, the exam raises validity issues.

The cut-score study of the exam conducted by California did not and could not respond to these concerns. Determining the appropriate cut score to separate the competent from the incompetent on an exam that has not

been validated as a licensing test cannot be done with any confidence. Although California should decide to reduce the cut score for the reasons noted below, it should also proceed with a wider-ranging inquiry into the validity of the exam. Beyond looking at whether the doctrinal subjects tested are the ones lawyers practice, the validity study should include an examination of whether the limited skills tested, and the manner of testing those skills, produces a valid test and hence a reasonable public protection licensing mechanism.

Looking carefully at the validity of the exam is particularly important because the exam has a discriminatory impact that increases as cut scores increase. By analogy, in an employment context, if an employer knows a test has a discriminatory impact, Title VII requires the employer to scrutinize that test and determine if it is a valid measure of the skills needed for the job and to examine alternatives that may better measure job qualifications and have a less discriminatory impact. States should acknowledge that they have a similar responsibility with respect to bar admission.

A national conversation about possible alternatives has already begun. We therefore urge California to proceed with a further study of the bar exam to examine its validity as a measure of competence for new lawyers and to consider alternatives that would better assess the range of skills that new lawyers need

In the meantime, however, given the flaws in the cut-score study, the question remains: what should California do right now about the exam cut score? Is there a viable cut score to adopt in the short term that is defensible as an entry exam and that also decreases the discriminatory impact?

We believe there is. First, the significantly lower bar exam cut scores in other states have not been shown to produce any greater rates of attorney malfeasance, misconduct, or incompetence in those states than in California. The score used by the combination of states with the largest number of attorneys (including New York) is 133. The score used by the largest number of states is 135. Neither of those scores is associated with increased problems of attorney incompetence. Indeed, the staff memo written by Gayle Murphy (Senior Director of Admissions) and Ron Pi (Principal Analyst) for California's Committee of Bar Examiners, acknowledges that: There is no empirical evidence available that would support a statement that as a result of its high pass line California lawyers are more competent than those in other states, nor is there any data that suggests that there are fewer attorney discipline cases per attorney capita in this state." Given that finding, it would be sensible and justified to adopt a score of 133 as adequately protecting the public while further study of the validity of the exam and exploration of alternatives are done. Reducing the cut score in this way would improve access to justice by providing more attorneys for the people of California, including for underserved communities. It also would ameliorate the discriminatory impact of the exam.

We appreciate that California is devoting substantial time, energy and financial resources to studying lawyer licensing, underscoring California's commitment to a fair and valid licensing process. We trust California will continue to lead as it studies the bar exam's content validity and examines California's own pass rate cut score. For now, given the lack of evidence of content validity of the exam itself, the knowledge that the existing cut scores create a disparate impact, and the flaws in the California cut score study's methodology, SALT urges California to adopt an interim cut score of 133, the score used by states that license the largest number of attorneys across the country.

SUBMITTED ON BEHALF OF THE SOCIETY OF AMERICAN LAW TEACHERS BY:

/s/ Sara Rankin /s/ Denise Roy

Sara RankinDenise Roy
Co-PresidentCo-President

Anonymous

While I do agree that the cut score should be lowered, neither option 1 or 2 is acceptable as they are both punitively high. The national average for the MBE cut score is 135, placing the cut score in option #1 at 9 scaled points above the national average, and option #2 at 6 scaled points above national average. This result both stated options has unreasonably harsh consequences for our students who have spent tens of thousands of hours and dollars in law school and in preparation for the bar exam only to be told they are incompetent to practice in CA while likely competent in the majority of states in the rest of the country. I have taken and passed 3 state bar exams including Michigan (135), Florida (136), and California (144). While CA's exam substantively was no more difficult than the other 2 states, the state scaled scores are radically different. If I had scored a 143 in CA, how would that possibly mean that I was incompetent to practice when even that failing score is far higher than FL and MI's passing score?

In the global economy in which we live and compete, having such a high cut score limits our students' opportunities to engage in the global legal market place on par with students from other states unless they leave CA to take an out of state bar exam. Students who choose to or can afford to leave home to take the bar in a foreign state will be deemed competent, while those who can't are stigmatized by failure to achieve an unreasonably high bar. Additionally, CA is effectively and unduly burdening the ability of out of state attorneys to engage in the practice of law. It is illogical to say that an attorney from another state, who is in good standing and has an excellent reputation for being competent in one state, could be deemed incompetent in CA due to an unreasonably high cut score. Harder is not always better.

The cut score should be 136.

Spencer Rhodes

I have been an Attorney for 38 years and during that time I have come to the conclusion that passing the bar has little to do with the actual practice of law. In my opinion the cut off score should be lowered to 1330, which would be in line with most other states. The current cutoff score and the proposed score of 1414 is arbitrary and does nothing to improve the quality of candidates admitted to the bar. In fact your own study shows that lowering the score to 1414 only improved the passing rate by 4%. You should be ashamed of making such a proposal. The bottom line you are simply artificially controlling the number of qualified applicants admitted without a corresponding benefit to the public at large.

Sincerely,

Spencer M. Rhodes
08550

Mariama Myers - N/A

I think the score should be lowered so that it is in keeping with the score of other states such as New York. Attorneys research cases in order to arrive at a sufficient answer. They do not need to have an encyclopedic knowledge of the law off the top of their heads. Furthermore, passing the Bar does not mean one will make a great attorney. It simply means one is a great test taker. The fact that Bar applicants have graduated from law school should count for something. In fact, California could be like, I think it's Wisconsin, where law school graduates don't have to take the Bar. Taking the Bar takes a financial toll on applicants, especially those who have families and careers. I think you should retroactively apply the cut off so that applicants who scored at least a 1340 - from 5 years ago - should be given a passing score.

Anonymous

The cut off score should be either 1400, i.e., 70% or 1300, i.e., 65%. Some students with great legal skills cannot pass the bar exam because they lack the test taking skills. On the other hand, some students with below average legal skills pass the bar because they are "good test takers". The passing score of the exam does not test the "legal skills but the test taking skills".

Anonymous

Lower to 1390 or to where the Dean's suggest.

Anonymous

Lower to 1390

Sherri Crookshanks - Business owner

I believe the cut score should be lowered to 1370 to be more fair & comparable with other jurisdictions. People are spending a fortune to go to good law schools & are unable to pass the CA Bar exam. They have a huge amount of debt that they are not able to pay off because they are unable to pass the bar. If a person does well above average on the LSAT, goes to a good law school and has a high gpa they should be able to pass the CA state bar exam. I have met so many people that have taken it multiple times and have not passed but have come very. If they were taking it anywhere else in the USA, they would have passed the first time. It's very unfair. If the score is not lowered to 1370, I do support and believe it should believe lowered to 1414. This is still an unfair cut score but better than 1440.

Chanda Ulrich

If lowering the cut score to 1414 is the lowest the committee will lower the score then I agree with that option. However, I feel that the score should be lowered to 1390 as suggested by I believe the UCLA Dean. There are many students who attended top tier law schools, and who prepared well for the Bar Exam, who scored below 1440 and even below 1414. It is unjust to have a cut score so high that intelligent students who attended good law schools fail. Many students, including me, have incurred a tremendous amount of debt to attend law school. Many of us reasonably relied on being able to pass the bar because we had high lsat scores, high undergraduate GPAs, and attended reputable law schools. We relied on being able to pass the Bar Exam and start working as lawyers, which would allow us to start paying off our loans. In addition to burdening the students, this debt burdens the government, and society indirectly, because students have to defer payment on their loans. A score of 1390 is still plenty high enough to insure competency and it would help reduce the current problems caused by the high cut score.

Additionally, I suggest that the time pressure on the written portion be evaluated. Many students scored very well on the MBEs but failed the Bar Exam because they did not have time to finish the written portion. It is likely that many of these students understand and can analyze the law better than many of the students who passed. Although meeting deadlines is an essential part of the practice of law, it is rare to experience time pressure comparable to that on the Bar Exam in the actual practice of law. The time pressure is also unfair because often younger students type faster than older students or students from disadvantaged backgrounds.

Sahil Dosaj - Dreams Collections

I believe the cut score should be lowered to 1390.

Doug Blacker - Hunton & Williams

The cut score should be on par with New York's cut score.

Beatriz Guiloff - Intern at Chirla

Lower to 1390

Anonymous

Lower to 1390

James Harbottle - Attorney at Law

State Bar of California

In response for your requests for public comments on the 2017 Standard Setting Study Report and Related Options for the California Bar Exam Cut Score, I submit the following.

First, I decline to submit answers to the survey questions. They are obviously intended to achieve an outcome that doesn't address the problem. Also, seeking honest input from current lawyers will almost certainly yield an invalid result because the legal industry is market driven. Few incumbent attorneys will welcome more competition.

I live and practice law in a rural area of California that is not served by an ABA law school. I graduated by San Joaquin College of Law, Fresno more than 20 years ago. For most of my legal career I have represented indigent criminal defendants in Tulare and Kings Counties.

I also represent non-profit corporations serving the needs of farmworkers and provide indigent families pro bono services in the agricultural community. I believe my experience qualifies me to speak to the industry about meeting the legal needs of the poor.

Young people from our area, which is among the poorest in the state, who are interested in become lawyers and practicing law that serves low income communities are forced to rely on law schools that are non-ABA accredited or distant learning. That is just an undeniable fact of life.

Low income communities must depend on local students to become lawyers and remain in the area to serve the needs of low income residents. It is rare for lawyers to graduate from ABA schools and seek employment in this region in positions that serve the needs of the poor. Let's face it. Stanford graduates have little desire to head to rural counties to seek their fortunes. This is also an undeniable fact.

Since one of the questions posed in your survey dealt with the importance of "Increasing access to legal services for underserved populations," this topic appears to be of some importance to the Bar, but I am not convinced. The apparent resistance by the California Committee of Bar Examiners to easing the unrealistic (and virtually meaningless high standards) smacks of pure elitism and ignores the needs of the low income communities.

The current state of affairs in distant learning and unaccredited law schools is abysmal. According to statistics, students graduating from those schools have approximately a 20% success of passing the current Bar Exam. This figure is drastically reduced from pass rates at San Joaquin College of Law, Fresno a decade ago.

I successfully tutored successful law students for many years and I believe the reason for the decline has nothing to do with the declining quality of the law students. The decline is due to the ever increasing testing expectations of the Committee. This includes the recent "crossover" complexities of the essay questions, but primarily it is due to the difficulty of the MBE questions. Combined, these conditions have changed the Bar exam from passable by bright, dedicated students from any school, to unpassable in larger numbers annually.

This has created difficulties for ABA students seeking success as lawyers working in urban areas. But, it has been totally devastating for students from rural areas, without access to ABA Schools who are willing to remain here and assist underserved communities.

I am unmoved by the hollow arguments that the 1440 cut line results in better lawyers….better for whom? The white collar community in the urban areas will have no trouble in recruiting lawyers seeking to become financially successful. But, unless changed, the unrealistic cut line will continue to deprive underserved communities of competent, dedicated lawyers….and the State Bar will then continue to wax on about its desire to serve the poor.

Such rubbish.

If changes aren't made soon, law schools producing lawyers serving the poor will soon disappear from the scene entirely. Unless the basic issue is addressed, the chances for dedicated students to pass the Bar will continue to plummet.

I hope the California Supreme Court weighs in on this topic and injects some common sense and humanity into the situation. It's their problem to fix.

Thank you,

Anonymous

lower the cut score to match NY cut score

Joseph Buckley, Jr.

The cut score should be in line with New York and the country, something in the 133-135 range.

I will tell you I am personally affected by this. I have failed the CA Bar exam three (3) times to date, and am currently awaiting results for July 2017. I scored in the 90th percentile for the MBE in February, and worked diligently for months with a tutor trying to improve my writing scores. Oddly, my writing scores went down. I do believe this was in error on the Bar Examiners part. Additionally, I worked very hard during law school at Loyola in Los Angeles and since I graduated in 2015 my life has been in a suspended state of nothingness. Prior to school, I had zero debt. No credit card or student loan debt. Currently, I'm up to my ears in debt, both credit card and student loans. It is very difficult maintaining a stable status in society while being un-licensed. I beg of you to please lower the cut score and make admission into California on par with admission to the New York bar.

Sincerely,

Joseph Lloyd Buckley, Jr.
Loyola Law School, J.D., 2015

Anonymous

Lower to below 1414

Anonymous

The cut score should be 1390. I understand that the Committee is worried about competence, but competence cannot be determined by an exam. It is determined by will, experience and determination. Licensees always weed themselves out eventually and today there are plenty of ways for prospective clients to research attorneys on their service and work ethic. By cutting the score lower you will also be increasing the amount of pro bono services ten fold or more allowing the helpless to ne helped. It will only benefit the state and its people.

Anonymous

Lower the cut score to match NY bar exam.

Anonymous

Lower the score! High cut score dose not make better lawyer, if you think it dose then you are looking down on out of state attorneys!

Roberto Lomeli

Lower to 1390

Helene Lam - Law Offices of Michael J. Zhang

Lower to 1390

Anonymous

The score should be lowered to 136 as an interim score so that a proper change to be made to the exam.

Dan Scelfo - Thomas Jefferson School of Law

Lower to 1390

Stacy Augustine - Stacy Augustine, Inc.

I disagree with option 2 because I believe that the cut score should be lowered to at least 135. I am a 30 year old African American bar candidate. Over the years, I have worked as a certified law student, legal document assistant, paralegal, and licensed private investigator. I love the law and I love helping people through difficult situations. I have helped hundreds of clients over the years and been an asset to the legal community. I have failed the California Bar Exam 5 times and I believe that I will receive a passing score for the July 2017 administration which I sat for. Had the cut score been lowered to the national average, I would have already been licensed as an attorney.

California's high cut score of 144 serious affects the racial diversity and access to lawyers for low income people in California. I have worked with low income clients for over 8 years and there is a shortage of attorney's in their communities and they cannot afford legal representation. Although African Americans make up 5% of the California population, they only make up about 1.7% of California attorney's. This is due to the California Bar's high cut score as it is statistically proven that African Americans perform worse than other races, especially compared to Caucasians.

My research in the other state bars demographics across the nation show that high cut scores diminish the African American lawyer membership in each respective state. For example in Delaware (145 cut score), although African American's make up about 21% of the population, they only make up about 1.8% of the attorney's according to the Delaware State Bar Association's attorney survey. In Oregon which previously had a 142 cut score only has an African American attorney population of 1%. In contrast, other state bars which have a reasonable cut score see much more racial diversity in their attorney population. For example, in Texas which has a cut score of 135, their state bar comprises of over 5% African American attorneys. The New York State Bar (133 cut score) has a 3.9% African American membership as of 2000. The Alabama State Bar (130 cut score) has a 6.9% African American membership. This is just a small sample of what I have seen across the board. A high bar exam cut score diminishes African American membership. Lowering the cut score would immediately increase the racial diversity in the California State Bar.

There is a recent trend that Supreme Courts have lowered the bar exam cut scores. In 2017, the Oregon Supreme Court lowered the bar exam cut score from 142 to 138. In 2017, the Idaho Supreme Court lowered the bar exam cut score from 140 to 136. In 2017, the Nevada Supreme Court lowered the bar exam cut score from 140 to 138. This was done to combat the low bar passage rates nationwide. It must also be considered that a new subject and other material has been added to the MBE, making the exam more difficult.

Lowering the cut score will not affect the public. For example, it is widely known that public defenders are overwhelmed with work and handle hundreds of cases at a time. Public defenders rarely get to speak with their clients and can hardly prepare for each case in a competent manner. Would a criminal defendant be better served by a public defender with hundreds of cases that passed the bar with a 144 score or a bar candidate who scored a 135 with only a handful of cases? Furthermore, attorneys are very smart people. The attorneys that are disbarred

or disciplined overwhelming make deliberate acts such as stealing client funds of taking advanced payments for loan modifications which have nothing to do a lack of competence. The MPRE is a test that is supposed to weed out attorney's who are not professionally responsible anyway. The access to justice and racial diversity are much more important to the unjustified conclusion that lowering the cut score will be a harm to the public.

California is the nations most populated state with about 39 million people. New York is second with about 19 million people. New York's cut score is only 133 and has about 2,000 more attorneys than California. California (144 cut score) and Delaware (145 cut score) are the only states with cut score over 138.5. Additionally, Delaware only had a couple hundred people sit for the bar exam as opposed to the nearly 10,000 people who sat for the July 2017 California Bar Exam. More heavily populated states have a cut score between 133 and 136.

Please lower the cut score to 135. I am the father of Stacy Augustine III (6 years old), Alixe Augustine (3 years old), and Charlie Augustine (10 months old), and the husband of 8 years to Marnesha Augustine who is a homemaker. My family is depending on me to become a lawyer and the public needs people like me to fill the gap so that they have access to justice.

Gail Silverstein - UC Hastings COL

The bar exam should assess applicants on foundational lawyering skills and competencies, rather than only substantive legal knowledge and analysis. A licensing process that assesses the full range of competencies required for the profession would allow California to better guarantee that those admitted to practice will offer competent legal assistance to those they serve. By investing in measures to weed out those who would practice incompetently at the front end (at gatekeeping), we would be able to expend less resources in disciplining and otherwise dealing with incompetent professionals. I strongly urge the California State Bar to consider the holistic limitations of the current bar exam and to consider alternatives, beyond adjusting the cut score.

While the Bar should assess alternatives, it should also soundly research the cut score. While this research is being completed, using a comparable state's score or the median of all state scores seems to be a reasonable solution.

Anonymous

The reasonable alternative to Options 1 and 2 is to set the passing score at between 1200 and 1340. If the objective of licensure exams such as the California Bar Exam is to test for minimal competence and to protect the public interest, this is the option that makes the most sense. This alternative option also allows the California Bar Exam to be more aligned with the majority of states across the rest of the country, which all test for minimal competence and have comparable cut off scores that represent the percentages of between 60% - 67%. Not only does this alternative still satisfy the objective of the licensure exam, but it also furthers the policy considerations. Namely, the aim of protecting the public interest is still satisfied and is not negatively impaired by this alternative (i.e., a cut score of between 1200 and 1340). This is so because this alternative score range still results in a determination of minimal competence, and the legal profession as a whole has many built-in safeguards that protect the public from the improper practice of law (e.g., professional responsibility standards and sanctions/penalties resulting from violations, as well as other mechanisms, such as supervision, that prevent the occurrence of such improper practice).

The cut score for the California Bar Exam should not be used to achieve policy aims that are already being accomplished, and that are better accomplished, by other already-existent mechanisms in the practice of law. If the California Bar Exam, like all other bar exams across the country, is a test of minimal competence, the best measure of such a determination is to lower the cut score to between 1200 and 1340, as is already represented percentage-wise in most other states across the country. As such, using the cut score to satisfy aims (i.e. public protection) that are already being met by other more effective mechanisms would be inappropriate. The bar exam being used as a tool to test for minimal competence, this third alternative is the best option.

Courtney Gamez

I believe the score should be lowered to 1390. I've now taken the bar exam unsuccessfully twice. I've been working for the same attorney for nearly three years now and have far more experience than so many of my colleagues that passed the bar the first time. There is no reason for California to have a pass score so much higher than every other state in the country, especially when the score is not an accurate representation of an attorney's abilities. If the pass score is going to be so high, there should be another option allowing individual to prove their worthiness beyond his they handle a 6 hour exam day and the amount of law they can memorize. Attorneys don't work like that in the real life so it doesn't make sense as a roadblock to admission.

Anonymous

Lower to 1390

Anonymous

The dean's suggest a score of 1350, why not go with what they suggest.

Anonymous

Lower the cut score to 1390

Anonymous

1. What analysis was done, and quality controls used, if any, to determine the consistency of the grading process as it relates to the recent study?

- Specifically:

a) was a large enough sample of essays physically audited to look for inconsistencies in the grading process?; b) are graders monitored when grading?; c) where is the grading done?; d) is it done in a supervised and monitored environment like the SAT?

Note: I have talked with a former grader and have been advised that the process is lax...on many occasions less than 30 seconds are taken to read essays for minimum competency...often done at home...late at night...in transit...and with distractions.

My point, why is the score (and not the grading process) the only facet being addressed? ...it is not the only problem.

2) Why was 1440 used at the anchor for the study?

- This makes no sense since the bar has admitted that there is no real reason the score is at 144 as it has been for 30+ years.

- Additionally, how does the bar justify a score of 144 over a three (3) day period (to Feb 2017) as being more protective of the public than a two (2) day exam in other states...while California requires a passing score of 10-11 points higher than other jurisdictions?

This makes no sense...especially when CA requires one of the highest MPRE scores (which is reasonable) and has one of the most stringent moral character processes?

How is the overkill justified when the bar admits there is no basis for its score of 144 and has other protections in place?

To serve the public, the score should be in-line with other major jurisdictions with CA maintaining a high MPRE score and a stringent moral character process.

Warda Kabir

I believe lowering the cut score for the MBE portion from 1440 to 1414 is a fair proposal because it will increase the bar pass rate since many students do not pass the bar exam by the MBE portion alone. Especially since as of now, July 2017, the MBE is worth 50%, I believe it will have a great impact on the pass rate. I am a first time bar exam taker and took the July 2017 bar exam, and I studied for the MBE more than the essays because I know the MBE score is very important, and I must score at least a 144 scaled score on the MBE to pass.

If however, the pass rate is exceedingly high after the new July 2017 exam format with the 1414 cut score, then it would be best to keep the cut score at 1440 to have a balanced pass rate.

I personally appreciate the MBE to be worth 50% because I have always been stronger at multiple choice than essays in law school. So a 50% MBE and 50% essays with PT is the most fair format for the bar exam.

I hope my opinion will be helpful.

Thank you,

Warda Kabir

Michael Mckone - in house counsel for insurer

Why does the cut score need to be changed? Is California suffering from a lack of attorneys? If so, I have a better solution: Accept out of state attorneys into the California Bar (regardless of whether or not there is reciprocity.) If an attorney has been in good standing for 5 years (7? 10?), he should be able to become a member of the California Bar without having to take another bar exam. There is no valid argument for preventing capable attorneys who have practiced in other jurisdictions from coming to California. If California had an open admissions policy, other states would likely soon allow California attorneys to come to their states. Given that the bar exam in virtually every jurisdiction is the same (welcome to the land of common law), open the door to already qualified attorneys residing out of state.

(PS. practically speaking, very few attorneys could afford to move from out of state into California. For example, an attorney in Oklahoma can't sell his $250,000 dollar mansion in Tulsa and then buy anything other than a dump in the Bay Area. Most of California is too expensive for families to move here. More likely, CA would see an exodus of attorneys. This, in turn, would increase demand for lawyers in CA. This would drive up the salaries of attorneys in CA and result in a surge of better qualified applicants going to law school.)

Anonymous

Average the national score

Anonymous

With the change of the format of the bar exam in July 2017, the MBE and written portion are now graded equally. With students have less of an ability to respond in writing and provide a legal analysis to a bar question, I feel it it fair to adjust the cut score accordingly. Decreasing the cut score to 1414 would still require students to have an understanding of the materials and score decently on each area, but give a little more breathing room in the scoring and examination process.

Students study hundreds of hours, take thousands of practice questions, and work for 2 months preparing for the bar exam. A decrease in the cute score by 26 points would not damage or open the flood gates. Students would still be expected to learn the matieral and would still perform to the same level of quality. Changing the cut score would allow students that are within 5 or 10 points the opportunity to practice law and begin a career, versus having to study and retake the bar examination.

If the bar examiners committee is concerned that Option 2, a cut score of 1414, is too low, perhaps a lesser adjustment would be more appropriate. However, given the changes in the bar exam format, it is time for changes in the way the test is scored.

Anonymous

I think the written score should be wieghted how it was before compared to multiple choice, i.e. Written score should be 65% of total screen ore and not 50/50. Additionally, the conversion from the raw written score to the scaled score should be the same each bar exam. An improvement by 25 raw written points should be more than a 5 point increase in the scaled score. On both exams, one essay with 5 more points would be passing... that just seems weird.

Alexander Donner

Institute a second PT.

Anonymous

I agree with lowering the cut score to 1414 for a time and analyzing the results because there is little empirical evidence to support the contention that significantly higher cut scores produce better California lawyers. The state can better insure the competence of California lawyers by testing more heavily in California subjects. If need be, the score can be restored to 1440 in future.

Anonymous

I would agree with Option 2 if the cut score were to be raised above 1440, but not lowered below 1440.

Alexandra Stathopoulos - Orrick, Herringon & Sutcliffe

I think it is impossible to comment on whether or not to lower the cut score when the correlation between the cut score and exam performance is completely unknown to the average member of the public. We do not get to know our own scores, so how can we assess the quality that is tied to a 1440 versus a 1414? Could you at least provide a concrete example of how scoring works to get to these two cut scores? For example, is the difference between these two scores the number of points you'd lose by not spotting one issue on an essay? Failing to write an entire essay? Getting 5 extra MBE questions wrong?

Julie Pulliam - law offic eof julie pulliam

i had to pass the exam and it took 4 times but i did it because i was that interested in public service. what you need is a more holistic approach. the world does not need more money-grabbing scumbags with bar cards. the amount of rude low-level insurance defense attorneys i have met in this lifetime is enough forever. the 'debt-collector' bunch should never have had bar cards to lose, but there you have it, enough money and a 'charity' golf match will win back your ticket for any number of ethical violations. the system is set up incorrectly and until the playing field is leveled by looking at more than a pass rate for those exam takers who can afford to spend their daddy's fortunes on review courses and can then avoid the wrath of bar investigators by paying for some bs golf charity then what's the point?

good luck.

Anonymous

I think it's important to understand why the cut score of 1440 was chosen. Without that context, then it makes a decision today difficult. I encourage the Bar to publish--along with its other material on this issue--some level of detail as to how, when, and why 1440 was chosen.

Granted, what may have been important to the Bar at that time may not be important now, but we (members) can't really determine that without understanding that first decision. To lower the score for no other reason but that there has been a decline seems rather rash and lacking rigorous analytical process we're used to applying as attorneys.

On that note, assuming we do want to increase passage rates, there are other ways of doing this than lowering the threshold for becoming an attorney; e.g., outreach, changes in the school accreditation process, and reviews of test-takers' experiences.

Similar to my primary point, to the extent we can, I also endeavor the Bar to understand the reason for declining test scores as well as determine whether a decline in the pass rate is a good or a bad thing.

In conclusion, there are a lot of variables I believe the Bar Members should consider prior to making this decision, and I encourage the Bar to pursue and publish to its members additional analysis in these areas.

Daniel Gobaud - Gobaud Law Firm

The bar exam provides an essential gatekeeping function in the public interest by ensuring a minimal level of competence to practice law. I believe it should err on the higher end of competence rather than lower because the worst case scenario and the amount of harm to the public resulting from a plethora of unqualified attorneys practicing is worse than that from a lack of qualified attorneys admitted. My observation is that there is a sufficient number of attorneys to meet the needs of the public as it is, therefore there is no need to incentivize admitting more. Protecting the public is paramount and infinitely more important than making it easier for a given attorney to be admitted to practice their profession for their own livelihood. Therefore, the score should remain as it is. If the score is going to be lowered, it should incorporate another safeguard – for example, a special multi-hour video education class on California law that must be taken by each applicant and then an online exam passed. This is how New York, for example, tests applicants on New York law. So only those that make 1414 should be required to take and pass this separate exam. Those that achieve 1440 would not have to take the special 1414 subsequent exam.

John Futoran - Law Office of John A. Futoran

Our goal should be to ensure the competence of new attorneys (avoiding Type I errors as described in the Final Report) without disqualifying applicants who would also perform competently (avoiding Type II errors). The recommended Options are a choice between the two types of errors.

While I am most concerned with Type II errors, I do not agree with Option 2 without the same modifications that would make Option 1 palatable.

MODIFICATIONS:

1. Reduce the number of subjects tested on the essay portion to the core subjects (plus the MBE) and limit new admittees to these subjects unless they separately pass exams on the other subjects. For example, a new admittee practicing criminal defense does not have to prove competence in Wills and Successions to perform competently. If he/she wishes to also practice Family Law, he/she would have to pass the exams testing competence in those additional areas (Community Property, Civil Procedure).

2. Test California Law on the non-MBE subjects rather than "general principles of law" on most subjects. Since the federal bar accepts new California lawyers, some subjects (e.g., Evidence) should continue to test both codes. As one example of how this would improve the competency of new admittees, law schools and bar reviews teach that Palsgraf v. Long Island Railroad is the summum bonum of duty in a negligence question in spite of California's expansion of duty in Dillon v. Legg and Rowland v. Christian.

3. Work with bar reviews and law schools to dispel the many myths regarding the bar examination.

CONCLUSION: While the study may have achieved its goal of identifying Options to reduce either Type I or Type II errors it does nothing to address reducing both types of errors.

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ADDITIONAL CONCERN: As I read the Final Report I grew concerned over many of the same issues raised by the participants in their comments--particularly their qualifications to "grade" exams and predict competency on the subjects. Thankfully, the bar graders are competent to grade exams so, regardless of the test score, future exams will be graded competently even though Type I and Type II errors will remain. There is an additional, larger and more critical issue as to whether the bar exam is testing applicants' competency to practice law or grading their competency to pass a written examination. Judge Fahey's published comments indicate that passing the bar exam is not a valid measure that new attorneys will practice competently but the data is not available to support any conclusion that a higher score indicates greater competence. The attorney(s) he criticizes for their incompetence in admitting evidence may have scored very high on that subject on the MBE and, if tested that exam, their bar exam essay. If there is a correlation, it requires significant study beyond the scope of the Final Report.

Anonymous

I'm no scientist, but I know that in any experiment the goal is to control as many of your variables as possible. An ideal experiment only has one variable.

We've recently transitioned from a 3-day bar to a 2-day bar, and we've only just barely seen the impact that this change has had in one round of testing (the February bar, where the pass rate has always been historically lower). Test-taker performance in the July bar may rise as a result of the change to the 2-day bar, and we may learn that lowering the cut score is unnecessary. On the other hand, if we change the scoring policy and there is a dramatic change in the pass rate, we may never know how much of the change was attributable to the change in scoring vs. the change to the 2-day bar.

I think we should wait and see how the shift to the 2-day bar affects test-taker performance before any decision is made regarding changes to the scoring system. I don't think making any changes to the scoring system should be made until we at least see two iterations of the 2-day February bar and two iterations of the 2-day July bar (that is, not until we see the results of the July 2018 bar).

Jon Jonsson - Mahamedi IP Law

I took the exam in the summer of 2012 fully confident that I would pass. However, the studying process (basically paying $4,000 to Barbri), and the test itself were deeply concerning. There is without question a huge advantage given to those willing to shell out the money for study content and materials, which largely have to do with rote memorization and advantageous test taking tactics. This is evidence to me that the test itself is flawed and needs a rethink. The test has very little to do with good lawyering practices and acts mite as a 'weeding out' tool as opposed to identifying the very best candidates for bar admission. I would go directly to the law schools themselves and mandate something along the lines of the Daniel Webster Scholarship program offered at UNH School of Law in New Hampshire.

Anonymous

There are too many lawyers in this State as it is. Don't reduce the cut score.

Anonymous

Having taken the bar twice before I passed the bar, I find it unfair accommodations are constantly being made lowering standards to allow more students to pass. This is not the solution. Schools are not equipping applicants with tools or knowledge necessary to pass. More attention should be given to their failure and the ridiculous debt students enter to obtain this "education."

Lee Fink

"The State Bar of California's mission is to protect the public and includes the primary functions of licensing, regulation and discipline of attorneys; the advancement of the ethical and competent practice of law; and support of efforts for greater access to, and inclusion in, the legal system."

This is an admirable and important mission for the Bar. But for too long, the state has relied on the Bar examination as the main source of carrying out its mission. The exam would be the licensing function, serve to ensure that the public has access to quality and competent lawyers, and rely on the MPRE to ensure that the lawyers admitted are ethical. California therefore set up the hardest examination in the country--three days, practical exams, and the second-highest pass line in the country. Fear of taking the California Bar is legion among out-of-staters. The result, predictably, is that California has the lowest pass rate, and that in turn has caused the Bar to consider how to improve the pass rate. This has led to cutting off the third day of the exam and now serious consideration of lowering the pass rate.

But all of this is grossly misplaced. The reality is that the most incompetent lawyers I know all passed the Bar Exam.

The problem is predictable. California is allowing too many people to take the exam. There are 21 ABA accredited law schools in the state, more than 10% of all ABA Law Schools. Obviously, California has some of the premiere law schools in the country. It also has some of the weakest ABA law schools. And in the 21st Century, post-Global Financial Crisis economy, the practice of law is changing dramatically. A generation ago, graduates of even second-and-third-tier law schools could expect to end up with a very financially successful practice, and top graduates could expect to become rich. That has changed. As clients have created rate pressure on their clients, large law firms have pulled up the partnership ladder while increasing the billable hours requirements. 25 years ago, and attorney billing 1800 hours a year could expect to make partner at O'Melveny & Myers within 7 years--today, the billable requirements will exceed 2000 and the partnership track is often more than 10 years. Law firms no longer rely on first year associates making the going first year rate ($160,000-$180,000) to do document review of a few boxes of discovery in a case, but on hordes of contract lawyers making $25 per hour reviewing tens of terra bytes of data in windowless rooms with dual monitor set-ups. This has affected the hole practice. Fewer associates at big law firms push graduates at good schools like UCLA into the mid-tier firms and solo practices, where they are fighting to pay student loans and in competition with graduates of ABA law schools that never even have firms conduct on campus interviews. This is combined with a pullback on public funding for legal services and fewer government lawyer positions, and a stable future for graduates of even the ABA law schools is in question.

And then, California adds to this mix another 20 CBA accredited law schools, and another 22 unaccredited law schools whose students can sit for the Exam after passing the First Year Law Students Exam. Many of these schools still charge incredibly high tuition to students whose job prospects after graduation are poor. And it is graduates of these schools who consistently have the lowest Bar pass rates. This creates a glut of indebted lawyers in this state with no good prospects.

It is time for the state to recognize this and cut down on the number of law schools offering degrees. More selective admission to law school in general will create the filter for competent lawyering for which we have over-relied on the exam. Many students fail the exam who would be competent lawyers (just compare to whether they would pass with a cut line roughly the same as the bulk of other states), while some truly bad lawyers are still able to pass because of being able to "learn the Bar"--and yet coming from lower-tier, CBA, or unaccredited law schools, their job prospects are poor and their debt is high.

While this may be seen as reducing the amount of legal services available to the under-served, the reality is that creating a glut of unemployed--and even unemployable--lawyers does not improve legal services in the state. First, the lack of jobs means that they will not be able to practice law professionally in California. So lawyers will be out in the world as teachers, real estate agents, and hardware salespeople, carrying law school debt, and discouraging others from joining the profession because of how poorly it has treated them.

Second, we are not serving underserved communities. Rural areas of America are desperate for more lawyers.

Seven state bars have set up programs to encourage and assist lawyer to practice in the rural parts of their states. Graduates of California's CBA and unaccredited law schools will largely be unable to take advantage of these programs in other states because their degrees will not allow them to sit for the bar outside of California. Meanwhile, California, which is the largest agricultural producer of any state in the nation, is doing little to nothing to serve the rural areas of our own state which almost surely face the same shortage of lawyers as the rural parts of states like Iowa, South Dakota, and Texas. The 41 ABA and CBA law schools in California are located in only 14 of California's 58 counties. Only 1 of the 21 ABA law schools and only 8 of the CBA law schools, are located outside of the 4 major metropolitan regions of San Diego, LA/Orange County, San Francisco Bay Area, and Sacramento (and this includes law schools in nearby Ventura and San Bernardino County). There are only 3 CBA law schools (and no ABA law schools) in the heart of California's rural and agricultural center—two in the Central Valley and one in the North state. Regardless of the Bar pass line, we are not servicing the under-served rural parts of the state.

Even while our lawyers are centered in the major metropolitan areas, we are still not serving the underserved urban communities. Cutbacks in legal services funding and government funding in urban areas—including but by no means limited to court funding—has caused a reduction in legal services for the poor and indigent. Meanwhile, billable pressures for lawyers in private practice makes it harder for lawyers to participate in pro bono work. This is especially true for young lawyers facing the pressure of establishing themselves in the practice, which deflates their life-long pro bono work since habits are most successfully built at the outset of an endeavor—such as a legal career. Young lawyers who participate in pro bono work early on are more likely to participate in pro bono work later in their career.

Nor does the plethora of law schools in the state promote diversity in the Bar. California's high quality private law schools do well to attract under-represented minorities and provide more tuition assistance. (California's public schools unfortunately remain unable to match this because of Proposition 209.) But the lower tier law schools have very few resources available to provide tuition assistance to poor and under-represented minority students. All of this of course means that we are not serving the consumers. The Bar Exam is a blunt instrument for discerning good quality lawyering and ensuring competence and ethical standards. Rather than relying on law schools to ensure that their graduates are meeting the high standards we should expect, we let the examination make this determination. The artificial nature of the exam means many good lawyers are kept out and many bad lawyers are allowed in.

Nor are we serving consumers of legal education. Many of these schools charge high tuition and live off the idea that lawyers have historically done well—both in society and social status. People register with these schools unaware that their job prospects are bleak and their debt burden will be high. There are legions of cases where for-profit colleges around the country have been bilking students for tens of thousands of dollars. We cannot pretend that is not occurring in some places at the law school level. If we want to create more opportunities for people to become lawyers, the Bar must do more on affirmative outreach, create more programs to help potential lawyers prepare for and get admitted to accredited and quality law schools.

Unfortunately, until the state really takes on these problems, tinkering with the cut line will not solve these problems—it will exacerbate them. More people will be admitted to the Bar, so there will be more unemployed (and unemployable) lawyers. Law schools are profit centers (unlike Medical school there is little overhead for a law school—just a professor and a rom). With higher bar pass rates, poor schools will have better marketing and will feel free to enroll more students, and even more law schools could spring up, creating a vicious circle. Meanwhile, we will be doing little to increase the diversity of the profession, lower the debt burden on students, or serve under-served communities.

Instead, the Bar should focus on:

1) Stricter standards of education and training for law students to ensure high competence and ethics of lawyers graduating, and ultimately fewer law schools;
2) Outreach programs to under-represented communities to prepare and apply for law school;
3) Programs to encourage lawyers to practice in rural parts of California, including fee remissions and loan forgiveness, and encouraging the opening of high quality law schools in rural California;

4) Concerted efforts to increase legal services, including:

a) Lobbying for increased funding for the judiciary;

b) Lobbying for increased funding for legal services;

c) Increased support for legal services organizations (Public Counsel in LA and the Public Law Center in Orange County).

d) Mandatory Pro Bono requirements for Members of the Bar. Members of the California Bar already have to complete 25 hours of Mandatory Continuing Legal Education every three years. The ABA has a model rule that states that lawyers should participate in 50 hours of pro bono services each year. If California were to adopt a hard rule requiring pro bono service of even as little as the 25 hours every three years, it would create an equivalent of nearly 800 full-time legal aid attorneys in the state, as well as foster a culture of pro bono work as a regular part of an attorney's practice.

5) While this is unlikely given the trends in legal education, the State Bar should advocate for adding a fourth year to the law school curriculum that would be purely a practicum year. This would increase the competence of lawyers who today enter practice with little to no practical experience and yet are expected to be able to practice; would improve the job prospects for lawyers who would then have practical experience to show to their employers and clients; and increase the provision of legal services to the underserved, as legal service agencies would be the mostly likely to take in as interns/clinical practitioners these fourth year law students (who, heretofore, have been deemed ready to practice law).

Once the State Bar actually addresses the issues of competence, provision of legal services, debt load and employment, and diversity, then it should reduce the cut line of the Bar exam to be in line with the majority of other states.

Terence Cuff - Loeb & Loeb LLP

I write as an attorney who was admitted to the bar in 1977. I graduated from an ABA accredited law school (USC). I have a master's degree in taxation from an ABA accredited law school. I specialize in federal income taxation of partnerships. I have taught partnership tax at USC and UCLA. I have lectured nationally in the area of federal income taxation since I was a third year associate. I have written in excess of 300 published articles in the tax field. I am the sole author of a major treatise in the area of partnership tax, published by Thomson Reuters. I have been active in the ABA, the California State Bar, and the Los Angeles County Bar Association. I have always worked in large, national practice law firms.

I understand that the Bar has a legitimate concern of maintaining high standards of practice. The Bar does not have a legitimate concern about controlling the number of practicing attorneys.

I share the concern of many about the many unethical, under-educated, and under-performing practitioners. I believe that the California bar exam does little, if anything, to identify applicants who are not well-qualified to practice law.

When I consider the California bar, I am reminded of the civil service examination system beginning under the Sui dynasty and reaching full development under the Qing dynasty. The civil service examination system was based upon the Confucian classics and upon commentaries on those classics. The examination included competition of poetry and calligraphy. All applicants for government positions took the civil service examinations. Passing the examination at lower levels was a prerequisite to taking the examination at higher levels. Passage of the appropriate level examination was a prerequisite for all positions at that particular level. All posts were subject to the same set of examinations. Success on the examinations reflected accomplishment in general education, general intellectual attainment, and good hand-eye coordination that was necessary for high quality calligraphy.

I found my law school education of some utility in my practice, but much of it is irrelevant. I have found the bar examination totally irrelevant to my practice as a tax lawyer. It stressed speed reading, speed writing, and good coordination. The environment of the bar examination is totally different from the environment in which most lawyers practice. The bar examination does serve as a barrier to many law school graduates to the practice of law, but it is not a reasonable barrier. Over the years, I have known too many young applicants who failed the bar one or more times. They did not seem to benefit at all from retaking the bar examination. The bar examination served as a permanent bar to some otherwise well-qualified applicants.

One of the great problems with the bar is that is tests only general skills rather than the specific skills an attorney may require in his particular practice. Some important skills include an ability to speak clearly, organizational skills, personality skills in dealing with clients and other attorneys. Other important qualities include work ethic, compassion, responsibility, and general ethics.

The current crisis would be an appropriate time for California to drop its bar requirement and automatically to admit all graduates of ABA-approved law schools. The bar examination should be limited to those who have not graduated from ABA-approved law schools. The bar examination should be limited to seeking to establish merely minimal competency in major areas of the law, ability to read, and ability to write. The bar examination should not be a high hurdle and should not be difficult to pass.

Anonymous

Why do you have San Francisco out of alphabetical order on the 'what county' question?

Steven Friedman - SAME

To my way of thinking, the issue is not the number for the cut score. When I took the bar it was a three day exam with 8 essay questions on the first day, the multistate exam on the second day (this was the first time it was every given) and then followed by 8 additional questions on the third day. When I took the exam in the summer of 1971 I failed with a score of 1375. Presumably on re-reads my one score on the 20th essay was 45 so maybe, just maybe had I received a slightly higher score, I would have commenced my career 6 months sooner.

The point of this walk through history is that I am not sure what the bar exam seeks to elicit to determine one's ability to practice law. I have now been a member of the State Bar for over 45 years and have seen the number of new attorneys admitted so that we now have bar numbers well into the 300,000 range.

So the issue is not the cut score but does the state want to curtail new admissions or restrict them. If to increase, then the cut score should be reduced. If you want to keep the number of attorneys practicing at a diminishing increase, then keep the cut score where it is.

My feeling is to cut the score, allow more attorneys to enter the field which will assist the public, hopefully keep legal fees down and allow competition to impact the profession.

Anonymous

How does accepting less qualified students become lawyers enhance the clients best interest?

Anonymous

Only basic agency and partnership needs to be on the exam. Stop testing ABA rules on PR, that's covered on the MPRE.

The test has gone down to 2 days, see if that helps before you start adjusting pass scores.

The reason pass rates are declining is because the quality of law school applicants has declined. Smart kids don't go to law school and take out six-figures in student loan debt when the job market will not provide them with work to pay off those loans in a reasonable time. (I'm on a 20+ year repayment plan, and have avoided income based repayment to avoid a gigantic tax liability for early discharge of loans.) Most of the students who are part of the declining trend in bar pass rates are not as well qualified to pass and practice.

Also, crack down on CA-certified law schools and un-certified law schools. The majority of these places are not providing disadvantaged segments of the populations with the opportunity to go to law school, they are taking people's money who have little chance of passing the bar.

Put pressure on law schools to lower tuition - universities are using law schools to subsidize other departments with high overheads.

Stephen Hoffman

Understanding the reasons for the current cut score of 1440 is paramount to this decision. Why is California's cut score the second-highest in the nation? What ends would lowering it serve if the California Bar doesn't take any other steps to ensure that the standards for admission other than scores are still robust? If the goal is merely to increase bar passage rates or increase the number of attorneys, I do not feel that these are sufficient reasons to lower the cut score.

As most attorneys are aware, the bar exam does not really represent the actual practice of law, and some students are not good test-takers. I can appreciate these issues. I can also appreciate that, while California has many law schools both ABA-accredited and not, there is an acute shortage of attorneys, especially those willing to work in underserved communities or in less popular or profitable practice areas. This needs to be addressed, and if there are opportunities for more attorneys to be licensed and fill those voids, I support that. However, it serves no one if those additional attorneys are not qualified to take on those roles and responsibilities. Obviously bar exam performance does not necessarily indicate an examinee's ability to survive and thrive in the legal profession, but it is (practically speaking) the primary method we currently have. (I would love to see the California Bar--or any bar association or the ABA--perform a thorough statistical analysis of whether the bar exam is a useful metric or whether another, more accurate test or method is available.)

Because of this, I support maintaining the current cut score until the second study (and potentially others) has been completed. If studies show that attorneys who fall within the range of 1414 to 1439 are otherwise qualified and would not present an statistically-significant risk to clients as compared to attorneys scoring 1440 or above, then I have no issues with the cut score being lowered accordingly. Until the science has shown this, however, I am hesitant to support the lowered cut score.

Robert Berman - N/A

1)why have a bar exam at all if standards lose their significance?

2)who benefits from lowering requirements? certainly not the public. If not the public, then who?

3)you shame the legal profession by "dumbing down" the mental rigor required to be a competent attorney.

4)if you,yourself, owned a law office with a staff of a number of lawyers, would you hire low or high-scoring candidates?

Guy Ormes - Law Offices of Guy N. Ormes

I concur with Judge William Fahey in his article in the Daily Journal. There seem to be plenty of California attorneys without lowering the passing score. There seems no reason to believe lowering the passing score would lead to better or differently qualified attorneys, only more. As a litigator and sometimes judicial officer, I have seen attorneys who seem very unprepared and appeared not to know what they were doing. More attorneys like that are surely not needed.

If there is some compelling reason to lower the score (not indicated in anything I have seen), I would recommend lowering it perhaps a few points, but not 26 points to 1414.

Jim Parrinello - nielsen merksamer parrinello

Dear State Bar--
I prefer keeping the current cut score at 1440 but believe lowering the score to 1414 (but not below) would also be acceptable. My greatest concern is that bar standards should be kept at a demanding level, as the public suffers at the introduction of ill prepared lawyers. I've had reason to educate myself somewhat on such matters, and believe the forces driving down the bar passage rates are two-fold: less qualified applicants and less rigorous law school curriculum. These factors have coincided in the past 10 years or so to create the bar passage decline that we are experiencing. Any law school dean will tell you law school applications have declined precipitously in the past decade, meaning less qualified applicants are being accepted into all but the highest ranked law schools; and of course lesser qualified law students will mean lower bar passage rates. The other factor contributing to the pass rate decline is that most law schools have changed required curriculum in the past 10-15 years to reduce the number of units of substantive bar-related courses students are required to take to graduate. This is something that began in academically elite law schools, primarily in the east, and has been copy-catted by many less-academically-elite schools including a great many in California. Most upper-echelon (academically) students are able not to take a full regimen of bar courses in law school and still pass the bar exam because they are able to quickly grasp the bar-required subject matter in bar prep courses; unfortunately, the same is not true for many lesser academically qualified students. I understand many law schools have recognized this and are in the process of altering their curriculum requirements to restore bar-related and bar-support courses to the curriculum, which should help improve bar passage rates over the next several years.
Thank you for considering this letter.
Jim Parrinello

Paul Collins - The Law Office of Paul Collins

I disagree with the Bar's practice of re-reading exams which received initial scores over 1440 but less than 1459. This practice is patently unfair unless examinations initially scored 19 points below 1440 (1421) are also re-read and as many exams below 1440 pass the agreed upon score as those whose initial score was greater than 1440. I had the distinct pleasure of taking the exam 5 times and never received a score under 1400 but am a caucasian who attended an unaccredited law school, probably a couple of strikes against me. Also, there should not a minimum multistate score in California to allow a test taker eligibility to pass the exam (as PMBR alleges) There needs to be much more fairness and transparency by The Committee of Bar Examiners in California to avoid an adversarial attitude with your future new attorneys.

Jane Heath - Law Offices of Jane Heath

Every day I encounter attorneys in California who have inadequate training. The problem is not whether the bar exam is too difficult or not difficult enough. It is that the skills that modern attorneys need are not being taught in most law schools, much less being demonstrated in standardized testing. The ability to find the law or even to know it is increasingly less important (in an age where jurisprudence is in people's pockets) than the judgment to apply it and the experience to efficiently navigate the justice system. I do not know how you test judgment and skill or whether the test should be taken after an opportunity for real world experience. Law school clinics are great but they are largely optional and at best provide only a fraction of the weight a lawyer lifts on the first day of law practice. I do not favor dropping the passing score until a new rubric is developed to see that California lawyers are being educated to carry the burdens of contemporary problems. At least if the pass rate is low, we are sending fewer attorneys loose without the tools they need to shoulder the burdens of a trusting public.

Judith Cherney - State Compensation Insurance Fund

At first I agreed with Option 1. When I read that CA had the highest passing score, I changed my opinion. I believe the test and score should reflect the knowledge needed to be a competent attorney. Everyone should have to meet that level and the public, regardless of income, should have competent representation. The score should not be lower just to allow more people to pass. BTW: the first time I took the Bar, and failed, was February 1983 with the lowest Bar passage rate ever--27.7%.

Anonymous

In my unscientific opinion, the lower bar passage rates are less a reflection of the difficulty of the exam and more a reflection of the overall declining enrollments in law schools across the country. As a result of declining enrollment, schools are accepting less qualified applicants and therefore less qualified applicants are sitting for the bar exam. With the huge number of attorneys licensed in California, reducing the exam passage rate in the name of admitting more attorneys, even if less qualified, does not seem like an appropriate move.

In terms of modification, and in the interest of making legal services available to underrepresented populations, perhaps the exam passage rate could be lowered, but with the caveat that those who meet this lower score (or all passers) must have certain restrictions, or work directly under an experienced and licensed attorney as a type of apprentice until they gain sufficient experience to represent clients on their own. Somewhat like a graduate California drivers license.

Dana Rosenberg - Rosenberg legal

Insure that the exam is heavy on ethics and that writing ability factors more clearly into scoring.

As the short survey distributed by the State Bar to its members, it is is extremely poorly worded and you will not be getting consistent answers on it.

Ethan Weisinger - The Law Offices of Ethan M Weisinger

I believe that the cut rate should be 1427. Lower the cut rate slightly but not all the way to 1414. This shall alleviate some of the problem without allowing unqualified attorneys into the practice of law.

Kenneth Browning - Browning & Browning LLP

I believe the score should be reduced to under 1414 to make it competitive with other states. The present standard causes California to lose qualified attorneys, devastates the economic lives of those financing law school, only to find they cannot pass the Bar, and defeats otherwise credentialed individuals who would be superb lawyers.

Raphael Cung - Callahan & Blaine, APLC

The ability to pass the bar exam is an absolute minimum for competence, but even then it does not guarantee competence. Lowing that floor makes no sense. California already has 250,000-300,000 members of the Bar, so it is at least unclear why it's necessary to allow the additional admission of attorneys by lowering the already modest standard for the same. Lowering the cut score may also have the inadvertent effect of encouraging more people to attend unaccredited or barely accredited law schools, thus promoting more law school debt. It also benefits neither diversity nor the needs of legally undeserved people to have attorneys who cannot meet the current minimal level of competence needed now for bar admission.

Anonymous

Opt 1. Assuming that the Bar has concluded that the current pass rate is relevant to the practice of law in California, there is no need to change the cut line. Some mention diversity issues, but those minority lawyers who pass do not take a back seat to any other group since their pass rate is of the same value as any other person who passed. We must not ignore the trend that in order to make up for declining interest in attending law school, many law schools are reaching to fill out their incoming classes. That "reach" when not accompanied by remedial efforts during law school to make up May account in part for the pass rate trends.

Opt. 2. As noted above, I would not lower the pass line. If, however, it is lowered, I would lower it more than 1414 and then still keep the 1440 pass line. Those who pass the lowered line, but not the higher one would be considered "Provisional Attorneys." This provisional status would last for 2-4 years, limit certain activities that the PA could do, and have certain criteria that the PA meets which would have the PA "graduate" to full attorney status. I think it is New Jersey that requires all new attorneys in the first year to sit through a 3 day "How to Be An Attorney" boot camp. Maybe PAs do this for their first two-four years and then graduate to full attorney status.

In summary, don't lower the cut line. If the imperative is to nonetheless do so, create a Provisional Attorney program. In this fashion, the Bar can work to benefit attorneys, clients and the practice of law in California.

Anonymous

I disagree with an approach that reduces the cut score without a finding that people who attain such a lower score are qualified to practice law.

If the bar exam does not adequately reflect the ability of a person to be a lawyer, then fix the exam. There should be a direct correlation between the score and a person's abilities or there is no reason to have an exam in the first place.

Lee Blistetin - Altman, Lunche & Blitstein

Dear Bar Examiners:

First and foremost, full disclosure, I took the bar 3 times. The first time I tried to skate by and the second time I missed by a few points, which forced me to take some time and reflect upon my desire to become a licensed California attorney. Third time was the charm and I am pleased to have both served as an attorney and Judge.

While I am sensitive to the plight of young graduates, I believe that the profession should maintain the highest, if not the highest, albeit higher, standards involving ethics and professionalism. In my 28 years in practice I have seen younger lawyers with very little understanding of ethical conduct and a modicum of professionalism. Representing ones' client does not equate to unfettered advocacy with an attitude and action plan demonstrating courtesy and ethical conduct "be damned."

I think it important to recognize that simply keeping the status quo or reducing the cut score is not the answer. The real answer is determining which skill set is MOST important to serve the public, further the growth of the profession and practice competently. I think raising the score for legal ethics and demanding more accountability for conduct becoming of an attorney, is paramount.

While I agree that the impending weight of the student loan debt is staggering, it should not be the reason to lower the cut rate or standards. if lowering the required competency in the black letter law is replaced with an emphasis upon ethics and professionalism, I would concur. If simply lowering the cut rate is unaccompanied with stricter adherence to ethics and conduct, I would dissent.

The mere memorization of legal principles and doctrines and applying IRAC, does not a good lawyer make. Our profession is not furthered by tactics and gamesmanship on a level that it is neither ethical nor courteous. If we are to maintain respect among the communities in which we serve and the brethren which we oppose, we must be ethical, courteous and professional.

In closing, better people make better lawyers and bad people make bad lawyers.

Anonymous

Any and all concerns over the bar passage rate in California are better addressed by adopting the UBE than by lowering the cut score. As you are aware, many prominent legal figures have already come out in support of California adopting the UBE. There is not a good reason to maintain such an antiquated system where California's lawyers' freedom to travel and freedom to work is unjustly restricted because they will have to take another bar wherever they go. Attorney qualifications and experience will speak for itself and will protect the profession as well as the law in California itself. There will not be a massive influx or outflux of California attorneys, but it will decrease the needless stress of being unable to pursue careers in different states.

Tracy Green - Wende Rosen

It concerns me that the State Bar is asking people to vote on changing the score, but you are not looking at the exam, and whether it is related to the quality of being a lawyer. Is the test to blame for inherent bias? How does the change in the test score impact the other issues that you raised, such as diversity and access to attorneys for the poor? Are there other protections if lawyers pass the test, but they are not fit to practice law? Do we have a glut of attorneys or do we need more? Do we need attorneys in certain areas of the state? I think that you should have given us more information so that we could make informed decisions, otherwise you are setting up a survey that is no more relevant than asking what flavor ice cream people like.

Richard Zuromski - Zuromski Law Office

I do not believe that the cut score should be changed or, if changed, the change should not be so drastic. If law schools are still teaching the same subjects and the same subjects are still on the exam, it sounds like we need to hold the students more accountable for studying and preparing for the exam. If law schools are not preparing the students for the exam, law schools should be required to attain the proper standards to help their students achieve success on the exam. Merely lowering the pass score does nothing to address what seems to be the root of the problem - unprepared law students. The profession does not need more lawyers who are unprepared for practice, the profession should see that its standards are held just as high or higher than in the past, especially with the decline in civility in the profession. Higher standards would hopefully translate into more, rather than less, civility in the profession.

Paul Kovelman - Medtronic MiniMed, Inc.

An assessment needs to be made on whether the test is too difficult or whether the students are inadequately prepared. If the test, then the cut score should lowerred. If the students are not prepared, I would say there should be no change in cut score. I think it also important to see how the rates have changed based on the type of school. What is the pass rate for ABA schools (the highest standards? If stable over many years, then no change is warranted. If ABA is declining and it is not the schools that are at issue, the exam and the cut score should be changed.

Michelle Tamkin

Has anyone examined what may have caused the bar exam passing rates to decrease? If the format has remained the same with no increase in overall difficulty, then perhaps the problem is due to some change in law schools' teaching methods, or a change in students' study methods. Perhaps the past few years' crop of law school graduates do things in a fundamentally different way than previous generations did, do to having the ability to Google anything they want on their smartphones. This may have caused a shift in students' thinking, such that they don't understand that the bar exam requires a lot of pure memorization (for example, the list of factors necessary for adverse possession of real property) and they need to develop the skills necessary to complete essay questions, i.e. issue spotting and using the "IRAC" pattern to organize their responses. I don't have a definite thought on whether the cut score should be lowered, but lean on the side of this: before changing the test to suit the students, investigate why students can't meet the challenge of the test.

Johnson

Cut score should depend on how hard the questions were. I also took it in Florida and found it to be soooo easy compared to California.
Questions should reflect all the states as to difficulty.

Anonymous

I believe that the declining passage rate may be attributable to the number of unaccredited law schools and online law schools that are allowed to be established in California. To protect the public and safeguard the integrity of our professions, the State Bar of California must maintain a high standard of passage.

Anonymous

I have no idea how the bar exam is scored or what the different cut scores mean in terms of performance or capability. In making any decision on scoring the bar exam, the State Bar has an absolute obligation to protect the public from underqualified or incompetent law school graduates. Law schools, whether independent or part of a university, have dropped admission standards over the past several years in an effort to keep their revenue streams flowing. We see the decline in capability to think and write as we screen candidates for summer associate positions. We see students with grade points above 3.0 who can't write a succinct, coherent sentence or proof their own cover letters. There are many people who graduate from law school and sit for the bar exam who never should have been admitted to law school in the first place. The bar exam is the last line of defense to protect the public. Of all the factors mentioned in your survey, that's the only one that matters. It's not the State Bar's role to make sure unqualified people are admitted to the profession so they can pay back student loans.

If the State Bar fails in this fundamental role, be prepared for the profession to lose its standing a self-regulating.

Pamela Kleinkauf - Law Offices of Pamela Kleinkauf

I think the California bar exam should put more emphasis on the performance examination and writing essay portion of the bar over a minimum score for the multistate. I do not believe the national multistate examination is a strong indicator of being a good lawyer. Filling in bubbles on an exam versus actual analysis and writing does not produce better future lawyers. I have taught college classes for 28 years and have taught law school civil procedure to second year students for the last two years. Students can sometimes pass multiple choice questions but those same students sometimes cannot write and do not have necessary analytical skills needed in the law. None of my clients during the last 25 years of practice would be impressed that I can give them an answer in 1.8 minutes rather than taking the time to analyze their problems. The performance examination on the bar is the closest testing procedure that shows attorney skills. With this portion of the exam changing to only one day I am concerned that the writing skills of future attorneys will be diminished. I think going to a two day bar in February will reward test takers who do well on multiple choice questions but who may have weaker writing skills. I would like the bar to return to a three day bar and put less emphasis on a minimum score for the national multistate exam and greater weight to rewarding strong writing.

Anonymous

Raise the cut line study more. Good lawyers will kick their. Butts

Jonathan Shapiro

The main point of the bar exam is to make sure that licensed attorneys in California know what they are doing, at least as far as basic knowledge of the law and rudimentary legal analytical skills are concerned. This is important both to protect their future clients, and to protect the reputation of all attorneys, as a group. Lowering the cut score would by definition lead to licensing attorneys who do not have as solid of a command of the law or have weaker analytical skills. The most likely outcomes would be for these attorneys to provide lower quality service and for the public to assume that the overall quality of the profession has declined.

California is one of the only states that allow graduates of non-ABA schools to take the bar, and the lower pass rate can likely be tied directly to that situation. The bar exam stands as the only screen for these students to ensure that they are competent before they are set loose to practice law. If we water down the pass standard, we lose a valuable quality control measure and set up the bar and the public for future malpractice issues.

The main upsides offered are (1) underserved communities would see more lawyers, (2) there would be more professional diversity, and (3) law grads who are unemployable as attorneys could pay off their loans. There is no guaranty that new lawyers from lower cut scores would practice in underserved communities or would be more diverse. What is the connection between a lower cut score and these outcomes? They could certainly pay off their loans sooner, but at what cost?

Perhaps a better alternative would be to create a new status that is higher than a paralegal but lower than a fully licensed attorney, akin to the difference between a British solicitor and a barrister. Persons with the new status could pass with a lower cut score but would have limited ability to practice, or could practice only under the supervision of a fully licensed attorney. That would lead to greater access to legal assistance, and it could lead to greater diversity within the profession. I would support lowering the cut score, if the status of the newly admitted attorneys (or whatever we would call them) could be distinguished by the public and by other attorneys from the status of those who passed with the current cut score.

Another alternative that would solve the debt issue (but not the diversity or the underserved community issues) would be to more tightly regulate non-ABA schools so that you have fewer law graduates unable to pass the bar (and therefore fewer with debt they cannot repay).

James Church - James B. Church & Associates

We strive so hard to get diversity into law schools but do not give any credit for that diversity in the testing procedure. I have had numerous young enthusiastic Attorneys work for me over the past few years. Recently they have had problems passing the California Bar Exam. They attended good schools and are bright and hard workers, but have not passed the exam. I have kept one young Law School Graduate on payroll for three years after he graduated from an ABA approved school. He would have passed in every state except for California. I want to keep him, but may not be able to afford to keep him until he passes.
While I understand that the integrity of the profession needs to be protected, it will suffer real losses if young bright dedicated individuals go to other states because of the fact that California appears to only care about the ability for an individual to provide memorized answers and have rote memory. The exam does not test for integrity or creativity. It tests the ability of an individual to memorize law. Why try so hard to get diversity into law school if when it comes time to admit graduates, we discriminate against the very same students that we worked to get into law school.

Sara Trent

I think if the State Bar chooses to lower the test score for the upcoming exam, that passing grade should be retroactive for prior exam takers up to the last two exams. The passing rate is lower and lower after each exam, and choosing the lower the score for this exam only is not wholly fair for those who have taken and failed many times, but would have passed with the lower score. There are people who have given up on taking the CBX entirely, or have moved to a different state.

Gregory Kasten - self

Ideally, the bar examination should evaluate competency to practice law, not serve to protect existing bar members from professional competition. With that in mind, the pass rate is of secondary, even incidental importance. The important factor is whether the bar examination is accurately measuring competency to practice law.

Evaluating the competency of a particular individual based on a written test is a challenge. A written test may measure rote legal knowledge and less accurately (that is, more subjectively), asses reasoning skills and persuasiveness. But a written test does not evaluate people skills, business acumen, altruism, leadership skills, listening ability, verbal abilities, or even dedication to the profession. Moreover, a written test can actually serve as a barrier to persons with any of those admirable qualities, in more extreme cases giving preference to those with robotic minds and heartless souls.

Let California be a leader in revising the bar admission process to employ more cumbersome but better measures of qualifications to practice law that include not only a lengthy written test, but evaluations of the many other characteristics that make an excellent lawyer. Those evaluations may include:

--The ability to relate well to other people, including clients, supervisors and employees;
--The ability to participate in efficiently running a law firm;
--Genuine concern for the less fortunate members of society;
--An ability to inspire others
--An understanding of the need to value and balance ideals and realities;
--Evidence of commitment to improving the quality of our culture through the practice of law.

Glenn Alex - Retired

The sole criterion for the content and cut score of the CA bar exam should be accurate measurement of knowledge and skill adequate to practice law properly. If some of the content of the bar exam is not relevant or is biased, then it needs to be altered. If the required score is higher than necessary to assure competence, then it should be lowered. If the required score is too low, then it needs to be raised. As long as the content of the exam is a good measure and unbiased, the exam passage rates, including passage rates by ethnicity and gender, are irrelevant. Also not relevant in that case are the needs of the "underserved community." Those needs should be met in various ways, including through greater public funding, not through any unwarranted reduction in lawyer qualifications. There is no shortage of lawyers in California, and no reason to think that unwarranted lowering of cut scores and qualifications to increase the number of lawyers will help the underserved.

Thorough study of the bar exam for relevance and bias should continue; no interim changes should be implemented.

Carlo Brooks

Either the cut score needs to be lowered or the grading needs to be revisited. The declining passage rates make no sense. The the MBE is the only objective measure of competency we have. How can California's mean scaled MBE scores continue to be higher than the national average and the candidates taking the California exam somehow be less qualified? Doesn't add up. Obviously some kind of "herd thinning" is going on, probably at the grading level.

Anonymous

I am on the fence on whether the cut score should be changed. It could very well be that a person passes the bar (no matter what the cut score is) but still lacks the legal skills necessary to effectively represent clients. I think the core issue is practical training. No matter how well an attorney knows the black letter law, if they cannot effectively communicate it in court or in pleadings, such knowledge is not helpful.

Law school training should require trial advocacy courses (I must note that I am a practicing attorney admitted in another jurisdiction and it has been 17 years since I was in law school, but I imagine the level of practical training in law school has not changed much).

Perhaps the answer is in more training during and after law school. If the Bar required new attorneys to take trial advocacy courses to put their evidence knowledge, etc. to the test, we may end up with more well-rounded attorneys that can more effectively engage in the practice of law.

Ashley Roybal

We should focus less on the cut score and more on ensuring that people are prepared for the bar and the practice of law well before they begin taking it.

We need more qualified attorneys serving the underserved, but that does not come from lowering the minimum standard to practice. There are already lots of people who have graduated from law school and passed the bar who cannot find jobs as attorneys. Until there are actually adequate jobs (including funding for those jobs), the concern about having enough attorneys to serve the underserved is moot. This is particularly true now, when the debt-to-income ratio for people doing those jobs is extremely high, and the majority of schools do not offer loan forgiveness for students doing public interest work. By doing nothing other than lowering the barrier to entry, we will simply re-classify a lot of out-of-work and extremely indebted law school graduates as out-of-work and extremely indebted attorneys. Even now, among credentialed, licensed lawyers, the competition for low-paying public interest jobs can be quite intense: public defenders are turning away far more applicants than they can accept, as are many nonprofit organizations that provide direct legal services. Increasing the number of lawyers on the market will do nothing to resolve this, and will not make it so we can suddenly provide attorneys to the underserved people who need them. The need for legal services in underserved communities is a problem, but it is not one that will be solved by lowering the cut score.

I took and passed the most recent California bar exam and while it was very difficult, the questions did not seem that much more difficult than the ones I used to study, which came from prior exams. Beyond my own experience, I have not seen any information indicating that the test itself has changed, or that recent iterations of the exam have been more difficult than the earlier ones. Rather, it seems that the pool of test takers, and the preparation and training they receive, has gotten worse. It has been widely acknowledged that, in recent years, law schools have been forced to lower their standards in order to admit students that are unprepared for law school or practice. While we could arbitrarily make it easier for these people to enter the bar, by lowering our standards, this solution seems shortsighted. The fact that other states have lower standards than we do (which may make sense if they have a shortage of law school graduates coming to their state), does not mean that we should lower our standards as well. Rather, the best solution is to address this problem much earlier in the process, by incentivizing law schools to better select and prepare their students, and by increasing public education and information to ensure that prospective students, and their families, have a realistic understanding of the rigorousness required to become a lawyer, and the job prospects that bar membership provides. When people stop seeing law as a "fallback option" for those who don't know what to do after college, or as a guaranteed paycheck, we will start getting more students who are genuinely interested in, and well-suited for the law. When law schools are held accountable for their high failure rates, they will stop admitting as many people as they can accommodate, and will focus on admitting and training those who are likely to succeed.

Phil Grevin

I don't know if I'm in favor of either of the options. Here is what I'd like to know in order to make an informed decision.

Is there a shortage of lawyers in California? If so, in what areas of the law or communities? How can we be confident that lowering the cut score will have a favorable impact on meeting the needs of underserved communities? What impact would the lower cut rate score have on the ability of those who passed with the traditional rate to get jobs? Would that impact be fair? How was the traditional cut rate set? What information or criteria was used to set the traditional cut rate? Is that information or criteria no longer reliable?

Nazee H - PCU

I just took the bar for the first time in California , July 2017.
I found the time constrains and the time pressure environment unnecessary.
to be evaluated for your legal knowledge, does not have to be under so sever pressure.
You can be tested for your knowledge in more moderate time pressure.

thank you for considering to pay attention to these elements.
I personally appreciate it.
I worked really hard for 4 years , going to law school while working full time as an engineer.
I got migraine the second day of the exam due to the pressure that I had to tolerate the first day.
even I knew my law and I was well prepared, the time pressure of the first day handicapped me for the second day.
With a sever migraine I performed my second day of exam.

I hope the changes for reducing this time pressure, help the bar examiner to perform better and their legal knowledge could be properly measured.

sincerely
bar taker July 2017.

I emphasize , how much I appreciate this surveys and this initiation for change in bar exam score pass.

thank you again.

Marisela Labastida

The cut score of 1440 places residents of California, seeking to practice law, at a disadvantage when compared to the residents of other states seeking the same professional goal and licensing. The California BAR Exam should not be ambiguous. When law professors cannot distinguish what the Committee of BAR Examiners may be testing on certain essays, this is a serious issue. The exam should not be written with the goal of how many applicants can be cleverly misguided into writing on issues the Committee is not testing. The goal is to test the applicant's knowledge of the Black Letter Law (rules) and then make application of these rules to the hypothetical issues presented by analyzing each issue.

The 1390 minimum score, which merits a reread under this exam, demonstrates the applicant has substantial knowledge. Passing the exam is not where the attorney acquires all their legal knowledge to be effective, diligent, honest advocates for the client. This transpires and evolves when they are licensed, insured and practicing attorneys in the State of California. Even the applicants that have obtained high scores on this exam must learn how to become practicing attorneys. The fact that many of these applicants may have superior memorization skills should not be the decisive factor for passing the BAR Exam in California. This is substantially impacting the diversity required in the practice of law for residents of California.

Your review of this matter is most warranted. Appreciate the public comment provision.

Jon K. Janecek

As someone that took the most recent Bar Exam for the first time, I believe that the issues facing this exam are rather unique. I do believe that for this exam, as it is the first time this version of the California Bar Exam has been given, should have a reduced score, to be more in-line with the rest of the country, with adjustments made to raise standards if necessary.

The Bar Exam itself is an exercise in malpractice, and does not adequately represent the skills of students, outside of the PTs. It focuses on memorization, whereas actual attorneys have access to books, the internet, and research.

In essence, if an attorney were to go about practice the way students take the Bar Exam, they would be failing their clients.

In addition, many of the bar applicants will go on to positions at law firms, hitting a low-ranking position under the direct supervision of a more practiced attorney. This should mitigate the Bar's concern that these new lawyers would be "dangerous." In truth, these new attorneys would not be dangerous unless they decided to practice without any actual supervision.

As a potential compromise to the lowered bar score, it may be feasible that anyone that hits below the 1440 threshold, but above the national average cut, be issued a provisional license, allowing them to practice in a firm, but prohibiting solo practice till they have worked for a set period of time, say 5 years.

Patricia Tichenor - Law Office of Patricia E. Tichenor, PLLC

While it is difficult to understand why students are doing so much worse on the CA Bar Examination since I took that exam myself and passed it on the first attempt in 1996, I would suggest that if there is a lower "cut score" that the students who are passed only because of meeting that "lower cut score of 1414" are also required to complete 50 hours a pro bono legal services in CA or the State where they then reside and to provide proof of those hours along with an essay about the pro bono experience they had, as a way of encouraging them to receive mentorship form experienced attorneys as a new attorney before venturing into any legal practice and to allow them to give back to their communities. CA has always prided itself on having extremely high standards before granting a license to practice law, and I hate to see those standards diminished unless there is a value to it for the public in allowing a perhaps lesser qualified examinee to obtain a law license.

Thank you.

Anonymous

The real question here is whether those receiving 1414 and 1440 are meaningfully less competent than those who receive a score of over 1440. Though I do not have statistics to back this up, I suspect both sets of candidates are roughly similar, and that any difference comes down to test taking abilities and how hard one has studied for the exam. Few applicants will actually remember the substantive material required to pass the exam. Having said that, the current cutoff score is not an impossible hurdle. Someone who is minimally competent and serious about becoming a lawyer, and who takes the time to study, should be able to pass with a comfortable margin. Rather than setting off an arbitrary lower cutoff score, the State Bar should seek to increase the passing rate through more nuanced avenues - such as by better identifying and accommodating competent applicants who have test taking issues, or by better regulating law school admission standards.

Anonymous

The legal job market is very competitive right now. I graduated in May 2017, and many of my colleagues were fiercely competing for fellowships and other lower-paying, entry-level positions. Lowering the cut score will inevitably admit thousands of new bar applicants to the state of CA. This will only worsen the already troubled job market. Law schools are interested in keeping their ratings and revenues up -- these are selfish interests, and they simply ignore the lack of opportunities available for those who have passed the bar at a 1440 cut score. California is the "golden" state for a reason. The state's licensing and certification requirements are among the most competitive in the country -- not just in the legal field, but in nursing, cosmetology, real estate, etc. Why should we lower this threshold now? Because some law schools' bottom lines are being threatened? Lowering the cut score will not increase a diverse body of CA attorneys; rather, it will increase the number of under-qualified ones. The bar is exam is a competency exam, and to be competent to practice in the state of CA -- the sixth largest economy of the world -- one should be able to pass with a 1440 cut score. Otherwise, an applicant can feel free to relocate to another jurisdiction, one in which doesn't pride itself on being a pioneer in legal and policy issues for the rest of the nation. California should not lower its standards.

Anonymous

The bar exam should not be used as an economic barrier. The law schools should be preparing students to become qualified lawyers. Passage of the bar does not mean one is a better lawyer as is evidence from the number of California lawyers who are on probation or have had their licenses taken away. Diversity and services to the poor should not be part of the conversation. Everyone should be an excellent lawyer no matter what their ethniicity (since that is usually what diversity refers to) and everyone should receive excellent services no matter whether its from Big Law or Legal Aid.

I don't think anyone would complain that New York lawyers are incompetent, so why not set the cut score at New York's rate. And I think you need to make it retroactive for at least a year. It is very unfair to be punishing so many students who would have qualified in other states and do competent work.

If 1440 is a 75% cut score, then 1414 is still too high at 73.6%.

Anonymous

If the exam is changed from three to two days, I'd suggest keeping the passing score on the high side at the outset. I do not like how difficult it is to pass, and how random the subjects tested in essays are. But having been through it, I'm sort of biased--I feel that people who had to deal with it as a 3 day exam with.a harsh passing score cutoff should get some acknowledgment. Also, would a percentile based system make more sense? Maybe. My main issue is the lack of reciprocity. To move.my family to California I had to wait over a year and study for the bar while working full time, even though I was already admitted in NY and two other jurisdictions. It's a severe hurdle, almost regardless of the high passing score requirements.

Anonymous

I strongly believe the cut score should be further reduced. As a law school graduate in the top 10% of my class, I feel that the test is extremely difficult and am worried about my prospects of passing the July 2017 exam with such a cut score. I do not believe lowering the cut score would jeopardize the integrity of the profession, nor do I believe incompetent lawyers will be permitted to practice. The test is not a proper sole indication of an individual's competence, and I believe the stress/anxiety associated with CA's abysmal cut score is truly burdensome upon applicants, especially those who must re-take the exam until they pass.

Joe Siler - Retired

Dear Sir or Ms. (Actual Comments Follow)

Pre-selected opinion questions don't answer the questions. They disclose your thinking not the recipients.

As an off-the-cuff question: Should a law license be required to represent a client, if that client know you are not certified by the CA Bar? Why do we have licensing requirements for well over 100+ occupations ?

I think it is OK for the courts to require legal standard procedure proficienc. But why limit a guy in an office giving limited advice ? I assume the guy in the office has
told his client that he is not -- CAL Bar certified ? That info should be required.

I was a member of the CAL Bar for over 50 years. I am honest & still competent. I have not charged anyone for my advise in over 10 years. Yet the MCLE requiremen
compelled me to become: In-Active. Over the years, I have received MCLE requirements from lectures that had nothing to do whatever with any legal advice of mine i
My MCLE was being used for politically correct purposes for: Diversity, Substance Abuse, Gender & Ethnic questions.

Am I the only one who thinks MCLE is a Joke ? It answer politically correct questions. But it is really worthless.

By becoming In-Active, I save Bar Dues of about $400 per year and MCLE costs (net) of about $600 per year for a total of $1,000 per year.

I think we could do better !

Joseph V. Siler # 038240
UCLA Law 1965

Anonymous

Because I don't have enough information to evaluate the causes of the recent decline in the bar exam pass rate, it is difficult for me to choose between the possible responses for Options 1 and 2. In addition, I'm not aware of the criteria supporting the current cut score, so I can't opine about the validity of those criteria. Accordingly, I chose the second option for each question. Ideally, in my opinion, the current cut score should be presumed to be valid, but subject to revision based on a review of the criteria supporting the current cut score to assess their validity and relevance today. Thus the result could be keeping the score at 1440, reducing it to 1414, or placing it somewhere in between.

In addition to evaluating the cut score, I believe a review of the current exam and grading process should be conducted (in the unlikely event this hasn't already taken place) to ensure they are free of substantive flaws and cultural bias.

Finally, let me say that if my recollection is correct, the pass rate for the Summer 1967 exam I took was 38% - significantly lower than now.

Judith Francis - N/A

Unfortunately, the educational level of graduating college students seems to be in decline, especially in English, composition, ability to analyze logically - all requisite skills for an attorney. Nevertheless, many practitioners can be quite effective even when some of these skills are less than optimal. While theoretically against "dumbing down" the cut level, I still think it important to increase diversity and have adequate representation for those unable to pay for legal services. As an African American who was fortunate enough to have highly educated parents who offered me good educational opportunities, I was successful passing the bar on the first effort. This, I feel, was a product of fortune as much as inherent skills. Far more needs to be done to bring our public education up to acceptable levels. In the meantime, changing the cut to 1414 represents a moderate, not a radical change. Thus, I support it.

Montserrat MagañA

Dear State Bar of California,
I first tried your longer questionnaire, but found it to be hopelessly biased.
The California Bar needs to ask itself two questions:
1. Is there a problem here that needs to be solved? We do not have a shortages of lawyers. In fact, we have a glut. Many of those who passed the bar exam in the last 10+ years have struggled to find work as lawyers.
2. Is the CA Bar prepared for the onslaught of past unsuccessful exam takers who will surely argue that they would have passed at the lower score? It is my understanding that the majority of our dues go toward vetting the existing applicants.
I took the exam in 2/09, 30 years out of an east coast law school. Those taking the exam near me included a woman who went to law school mostly online (she passed), one who had just passed the NY exam straight from law school (she did not pass) and one who was the first in his family to go to college (common last name, so not sure). All, like me, were minorities. Admission ceremony in Pasadena was a jubilant occasion, with all candidates and their families recognizing that this was an honor born from years of hard work and sacrifice. If any change needs to be made, it should be to raise the standards, never lower them.
Thank you for your consideration and for your efforts for California.

Anonymous

Several years ago, there was an article in the Recorder that analyzed the pass rate. The gist of the article was that there is a direct relation between the number of applicants sitting for the exam and how many new applicants are allowed by the State Bar. They saw that approximately the same number of new applicants had been admitted for each of the two exams (more in July than November). So, is it really that the pass rate is too high for the current applicants or is it that the Bar only wants so many new applicants for each exam?

Anonymous

THE SYSTEM IS TOTALLY BROKEN AND NEEDS TO BE COMPLETELY RESTRUCTURED. I BELIEVE THAT THE BAR EXAM IS HOPELESSLY OUT OF DATE AND BEARS NO RELEVANCE TO THE LEGAL ABILITY OF ANY GRADUATE OF AN ACCREDITED LAW SCHOOL. THE BAR EXAM IS A TEST OF MEMORIZATION AND REGURGITATION COVERING MANY SUBJECTS THAT GRADUATES WILL NEVER USE DURING THEIR CAREERS.IT IS MORE OF AN ENDURANCE TEST AND TO LIMIT THIS SURVEY TO TWO QUESTIONS IS JUST GOING TO PERPETUATE THE POOR RESULTS AS WELL AS CONTINUE THE SATISFACTION OF THOSE PARTIES WHO HAVE A VESTED INTEREST IN CONTINUING THE PRESENT SYSTEM. LOWERING THE CUT SCORE WILL NOT FIX THE PROBLEM.

I HAVE PRACTICED LAW WITH MANY GOOD LAWYERS WHO STRUGGLED TO PASS THE BAR EXAM AND DID NOT PASS IT THE FIRST TIME. HOWEVER, I HAVE ALSO PRACTICED WITH L;AWYERS WHO DID PASS THE BAR EXAM ON THE FIRST ATTEMPT BUT WHOM WERE NOT AS GOOD A LAWYER AS SOME WHO DID NOT PASS THE FIRST TIME.

JUST SO WHOEVER READS MY COMMENTS IS AWARE THIS IS NOT "SOUR GRAPES" AS I PASSED BOTH THE CALIFORNIA AND NEW YORK BAR EXAMS ON THE FIRST ATTEMPT. HOWEVER, I DID NOT LEARN HOW TO BE A COMPETENT LAWYER UNTIL A PARTNER IN A LAW FIRM TOOK ME UNDER HIS WING AND TAUGHT ME HOW TO PRACTICE AND PROPERLY REPRESENT A CLIENT.

I AM NOT FILLING IN THE PERSONAL INFORMATION AS I WISH TO REMAIN ANONYMOUS BUT I DO HOPE THAT SOMEONE WILL THINK ABOUT WHAT I AM SAYING HERE AND MAYBE FIX THE SYSTEM. LAW SCHOOL IS SO EXPENSIVE THAT HAVING YOUR PROFESSIONAL FUTURE DEPEND ON ONE TEST AFTER GRADUATING FROM AN ACCREDITED LAW SCHOOL IS PATENTLY UNFAIR.

THANK YOU FOR YOUR CONSIDERATION OF MY POSITION.

John T

I want to note a few things about me that I think might add some weight to my comments. I strongly believe in diversity of the profession, including gender, race, socio-economic background, etc. Moreover, since I graduated I dedicated my entire career to being a legal aid/public interest lawyer. I currently do public interest litigation. I am gay man of color (Vietnamese, in particular, so an underrepresented Asian American community). I suspect the majority of those with my background would support lowering the current cut score at 1440. I am NOT in favor of lowering the cut score. I've read a fair amount about why many public interest groups support lowering the cut score, e.g., being sensitive to how the score impacts women and people of color. I am HIGHLY sympathetic to concerns about diversity, pipeline, increasing access to legal services for the marginalized, etc. However, I think lowering the cut score is a very imperfect solution to real problems. I think the State Bar could do many other things to improve diversity, and encourage more access to legal services for the general public, including required pro bono hours for CLE, and to get barred in the first instance. The State Bar can also require schools in CA do more to support female students, and students of color, etc. I do not think have too few lawyers in CA. To the contrary, we perhaps have too many. We just do not have a good distribution of lawyers across different gigs requiring law degrees. So many law students graduate and strive to land a gig at a large law firm. Many never get there. They do not then do nonprofit or government work. They avoid such work, in part because they are not interested, or because the pay is terrible compared to private practice. The State Bar could work on increasing its IOLTA funds to help organizations pay their staff better. Again, there are SO many good ways for the State Bar to deal with real problems, but lowering the cut score is not one of them.

Anonymous

Rather than addressing maintaining or lowering the bar cut score, I think what should be determined is whether the law schools are doing a lousy job teaching and the consequence is the lower pass rate; if a cause is that most applicants take strictly online bar preparation, attending no classes, taking notes, if any, only by typing on a computer (taking notes on a laptop is apparently far less effective for retention than taking handwritten notes, studies show); or if the tests have become ridiculously more difficult than they already were and if in fact the State Bar or other force is actually trying to reduce the passing rate through fettering out applicants by more difficult tests, reducing the number of lawyers in the State.....

Murray Palitz - Mr.

An objective of the admissions committee should be to increase the number of licensed minority attorneys and "licensed" legal assistants servicing their respective ethnic groups. / Your discussions should as a minimum address these needs and how they would be affected by any change.

Kristy Schieldge

To Whom It May Concern:

My overall concern is that the examination be a valid and legally defensible examination to ensure minimum legal competency in the profession. As long as the cut score is defensible, and there can be assurances that the exam tests for minimum competency in the profession, I have no objections to the score being maintained or lowered (depending upon an objective re-evaluation of the exam). I think it is typical for examinations to go through cycles, and agencies who administer exams will periodically re-evaluate when the passage rates drop to these levels. Again, it should not be lowered based on political pressure, but merely re-evaluated to see if it fairly tests for minimum competency for the protection of the public. There should only be a lowering of the score after the examination is psychometrically re-examined to see if there are problems with the examination and that an adjustment is necessary to address concerns objectively found to be wrong with the way candidates are being tested. If there are problems, and the exam needs to be changed or the cut score lowered, it should not be temporary, in my view.

Robert Ward - Main Street Law Offices

If someone graduates from an ABA approved school why should they have to pass a Bar exam. Are our school standards not enough?
I flunked out of law school my first year and was given a second chance. I feel I was in the top 95% of my year in client volume, income and Office.
Several of the persons I flunked out with I believe would have made excellent attorneys because of their other life skills. We lost them from our profession.
I was older and paid my own way through school by working. I hated a lot of law school because it was bs to real life. I found a major difference between academia and the practice of law. Fortunately I got the opportunity to prove I was very good at the practice of law.
I do not know what the answer to your Delia is. I just think you should be asking more questions that what the cut off score should be.
One last note. Part of why I became very good was that I clerked/worked with a good attorney by necessity to pay for school as a student. I think more internships, both before and after graduation would help a lot of person learn to practice law correctly.

Anonymous

I need more information about the rationale underlying the cut scores to answer this question. Is there data on legal malpractice claims filed in the State that correlate to these proposed cut scores? Is there a desire by the State to exclude a certain number of applicants each year that correlates to these proposed cut scores? I would support a cut score that advances California's legitimate interests, but at this time I don't know what those interests are. Both 1440 and 1414 appear to be arbitrary based on the information I have seen.

Anonymous

This year the state bar lowered the bar to a 2 day test. The score and the days should remain the same as they were. There should be no pride in having a "high passing percentage." I thought the whole point of the bar was to keep people who are obviously not qualified to practice law (boobs) or unethical/dishonest people (liars and thieves) from having the honor and power of being attorneys? Lowering the bar lowers the standards for admittance to our profession. Said "lowerance" is clearly not needed.

-From a 12 year attorney in California

Morton Friedlander - Inactive

The cut score may not be the problem. A similar trend exists in Nevada and other states. Before doing anything hasty baste upon opinion, suggest that the ABA be queried to examine the process across the country. I do not think that the quality of the students is going down hill. As an arbitrator I deal with many well qualified young attorneys.

Meggie Ghidella

There is a basic assumption missed by many who took this survey. I found myself guilty of it as well. It is the assumption that people who don't pass the bar on the first or even second attempt will not make competent lawyers. By that logic, the high scorers are more competent than the low scorers who still pass... but those score are never disclosed. I guess the "barely passers" are competent enough.

The real question we should be asking ourselves is whether the bar exam is the correct measure of legal competency. It certainly measures critical thinking under stressful conditions but were any of us truly capable attorneys after we passed?

Deep in the weeds of my irrational mind, I imagined that a fairy judge would bonk me with her magic gavel as I was sworn in and kabam- I would know what the hell I was doing. I know one to many folks who immediately hung their own shingle and failed their clients. Clearly, it's the myth we continue to tell ourselves and law students. And it is as realistic as crossing into Mordor, fighting orc after orc up the side of a volcano, throwing the ring in the fire, and then sailing home comfortably on a majestic eagle.

Let's also not ignore the compulsion to make the next generation of lawyers suffer like we suffered. It's our profession's "I walked 10 miles to school in the snow and it was uphill both ways" curmudgeon moment. (I'm looking at my sweet and smart 2L intern as I write this too.)

It may be time for us to step back from being sadists and truly evaluate whether we are churning out competent lawyers with the bar exam.... after all, that is the purpose, correct?

Anonymous

While I agree that it is important to promote diversity in the profession, provide the poor with better access to legal services and encourage people to aspire to practice law we cannot begin to water down the profession because our pass rates are continuing to decline, or because we have the second highest cut score in the country, or because people are graduating with more debt and are unable to find jobs.

As a recent graduate I can still recall numerous instances when my fellow classmates talked about obtaining loans to buy a new car, party, travel, move into a bigger apartment in downtown, etc. With this in mind, I do not feel bad that some individuals are graduating from law school with high debt.

During bar prep my days were simple: study for about 17-20 hours per day, drink a lot of coffee, and eat and sleep during the remaining 4-7 hours. Those were the most brutal four months of my life but the goal was simple--pass the bar on the first try. During this time some of my classmates were texting me pictures of their trips to Cancun, Hawaii, etc.; outings with their loves ones; going to weddings, concerts, etc.; or simply taking mental breaks because they did not believe in studying for more than eight (8) hours per day.

As a former teacher I can appreciate that different people have different learning modalities and must adjust their studies to their learning styles. With this in mind, however, I don't think that someone who takes it easy during bar prep is really committed to passing the bar. To hit this point home, my law school classmate cheated during the practice exams (she would access the model answers and write those as her responses to get good scores; instead of taking the bar prep seriously she opted for a shortcut), took trips and went to concerts during bar prep, and exclaimed that the bar exam was "a piece of cake"--until she got the results. Her attitude didn't change much during the second or third try. In fact she was so determined to beat the bar exam on her own terms that once she learned that the bar exam would be shortened from three days to two days in 2017 she stopped trying and started "enjoying life" while she waited for July 2017 (almost two years later).

My friend's story is a good example of why people are not passing the bar-she, like many others, are looking for an easy way out--a shortcut that does not yet exist. The issue is not whether passing the bar exam is doable, the real issue is whether the people preparing for the bar are leaving it all on the line during those three of four months from hell.

I respectfully ask the Board members to help uphold the integrity of our profession and not allow people to benefit from shortcuts. I am a Hispanic male that was born in a different county and migrated to the U.S. as a child. Since then I worked extremely hard to accomplish my dream. A lot of people helped me during my journey, however, the ones that helped me the most were the ones that refused to lower their expectations because of my gender, color, nationality, or appearance, and demanded that I rise to them. The Bar should not lower its expectations and instead continue to demand that people who want to practice law in California rise to the current cut score.

We recently reduced the testing time from three days to two. Let's stop giving people shortcuts and insist that they rise to the expectation.

My Proposal:
I think that one way to reconcile both camps is to meet in the middle, as follows:

If someone takes the bar once or twice and then gives up, I would argue that it is better for the profession not to have that person practice.

However, if someone has taken the bar multiple times and the person is within a few points from passing, then he/she should be allowed to practice because the successive attempts convey commitment. I propose lowering the cut score only for those who have shown commitment. For instance, if someone has taken the bar at least four (4) times during the past three (3) years and they are within a few points of passing the bar, let them pass after the fourth attempt (if they are within the lower cut score).

Thank you for your time and consideration.

Anonymous

I can see making adjustments to the cut score, but they would have to be well-justified. I don't see making any changes retroactive, however: if the proposal were to raise the score, we wouldn't be having the retroactivity discussion.

Andrew Shear

I don't have a real problem with lowering the cut score a bit given how much higher it is than in other jurisdictions. However, I think this ignores the real problem. California needs to reexamine its practice of allowing students from non-ABA accredited law schools to sit for the bar. It is bar far these students who are failing the bar at very high rates. It is a disservice to these people to allow these law schools to continue turning out people who cannot pass the bar, and for the most part cannot practice anywhere else in the United States. The Bar should be looking at this as a primary source of the overall low pass rates. I am a California licensed attorney.

Fera Mostow - Law Offices of Fera Mostow

I believe the issue is not who is passing but who is allowed to get into law school in the first place. We have too many unaccredited law schools that allow unqualified students to get into large amounts of debt but who do not have the ability to pass the bar exam. We need to focus our attention on the virtual fraud that is being done to these people and not lower our standards. The people of California do not need more lawyers. They need qualified lawyers. If our concern is the underserved, then let's provide incentives regarding student loan debt, etc. to have qualified lawyers serve their needs. There is no guarantee that people passing due to a lower score will serve these people any more than there is a guarantee that the folks passing now do that.

Lauren Aminian - California Western School of Law

I would agree with option 1 if it meant CA allowing for reciprocity with other state. Otherwise, I VOTE FOR OPTION 2.

Anonymous

I am a 2007 Non ABA CA Accredited law school graduate. I took the bar exam every year (nearly every time it was offered) until I passed in 2014. Each and every time that I took the exam (to my recollection) I achieved a score higher than 1414. In fact, the very first time I took the exam, my score was higher than 1414. Yet I was given no accommodation by the Committee of Bar Examiners of the CA Bar to lower the score so that I would indeed be in the passing range. In fact, instead of lowering the score, CA Law was added which made it even more difficult for recent graduates to pass. Instead of giving up, I seeked a job as a paralegal, worked full time, and took the exam over and over again. Each time I came within a very fine margin of passing. I did finally pass the exam. Because I did not graduate from a top law school, finding a job in Los Angeles that is not a paralegal position, even with a resume as strong as mine, has proven to be ridiculously difficult. I do not see how it is even remotely fair to me, or any of the other lawyers who were forced to take the exam over and over and over again because we scored less than 1440 but in my case higher than 1414. Further, I know so many attorneys who are presently unemployed despite having passed the exam. Qualified, experienced lawyers. How does letting more candidates into the pool of licensed lawyers help those of us who are presently unemployed? I understand the argument that more individuals in the underserved populations would have possible legal representation. This argument is only valid though IF those who are being given the new pass rate are actually interested in working for non profits. Additionally, I also understand the argument about student loans. I had to struggle to find a way to pay my student loans while I awaited passing the exam. For many individuals, the starting salary in a non profit or a boutique firm (at least in LA) is hardly enough to cover the cost of the loan payment and living expenses. So I am failing to completely understand this argument.

The only way that I think this option is at all fair to those who came before, is to offer a rebate for bar exams taken and failed with a score of more than 1414 to attorneys who have passed within the last 5 years after a second attempt. This could come in the form of a bar fees credit, or a real reimbursement of some kind. I just do not see how it is at all fair to anyone who failed the exam to allow others in on a technicality.

Chistopher Mortweet - Latham & Watkins LLP

In my opinion the bar exam serves as little more than a barrier to entry for the legal profession. It does little to prepare future lawyers for practice. The multiple choice is an exercise in rote memorization and pedanticsim, but not in a way that serves the legal profession. What lawyer would answer a question they do not regularly answer without referencing the rules? The essays do not reward creativity or depth of understanding, and the ability to score well on them certainly does not make one qualified to practice law (without committing malpractice). The performance tests are the only portion that remotely resembles practice. This question does not ask whether we should drastically rethink the bar exam, but we should. I do not know if multiple specific exams related to competency, mere graduation from an accredited institution, a thesis project, apprenticeship, or an altered exam is the answer. Lowering the pass rate is, however, a start.

The community is underserved. This is largely a result of public policy decisions, but the bar exam bottleneck does not help. Some of the most interesting, caring, and intelligent people I know from law school failed. They were still fit to become attorneys and serve the community. This test has reached a point where it more closely resembles an exercise in hazing than a test of minimum competency. Passing the bar exam demonstrates competency in only one thing: the ability to pass the bar exam. So, I say lower the score now. Then considered why we have this test and whether it does anything at all for the profession. There must be competency standards for lawyers beyond the risk of malpractice, those standards shouldn't begin and end with the bar exam. Engage the profession. Find a new way. Extend access to justice.

Alison Merrilees

I certainly hope that the Bar does not place very much stock in the results of the survey because some of the questions, are illogical and vague. Therefore, the results of the survey are likely to be very unreliable. For example, how can we evaluate the importance of “The fact that the cut score in California is the second highest in the nation” on a scale of 1-10? Yes, our high cut score relative to the rest of the nation is certainly a fact. And yes, it is relevant. And yes, it should certainly be considered. But different people may agree that it’s highly important, but may think so for entirely different reasons. The question is not WHETHER it is considered, but HOW it is considered.

Likewise, what is “Maintaining the integrity of the profession” supposed to mean? Maintaining a high standard for the sake of having a high standard? Does “integrity” translate to a high (or low) score on the Bar Exam? Maybe “elitism” would have been a better choice than “integrity”?

At the same time, the survey did not ask questions that are relevant to antitrust and protectionist concerns that would shine a light on the motives of survey takers and therefore the reliability of the survey itself. For example, how about asking whether the demand in California for attorneys is sufficient for the state to need more attorneys to be licensed? Or whether standards should remain high because current attorneys had to comply with those high standards?
a.Increasing diversity of attorneys from different backgrounds1 - Not Important At All2345678910 - Very Important
b. Increasing access to legal services for underserved populations1 - Not Important At All2345678910 - Very Important
c. The fact that the cut score in California is the second highest in the nation1 - Not Important At All2345678910 - Very Important
d. Maintaining the integrity of the profession1 - Not Important At All2345678910 - Very Important
e. Protecting the interest of the public from potentially unqualified attorneys1 - Not Important At All2345678910 - Very Important
f. Declining bar exam pass rates in California1 - Not Important At All2345678910 - Very Important
g. The burden of student loan debt for law-school graduates unable to find gainful employment after failing the bar exam
Given the confusing nature of the questions, and the likelihood that answers provided in this survey of active market participants may well be self-serving, we suggest that the survey not be given much weight in the decision-making process.

Anonymous

Education is the primary tool that unlocks potential latent within each of us. Allow students trained and educated to serve as legal practitioners to practice and serve the community, instead of prioritizing the state's inflated sense of pride in having the high-ranking cut score. The community will be better-served those in charge do not act like they have a monopoly over knowledge.

Anonymous

The higher cut score that we now have does not seem to have produced evidence of CA having fewer incompetent lawyers. Since that goal of protecting the public from incompetent lawyers through this atypically high cut score is not being met, lower the cut score. Can't keep doing the same thing and expecting different results year in year out.

Anonymous

The Bar's paramount duty is to protect the public from unqualified attorneys. Lowering the cut score would be in direct contravention of that duty.

The legal market is saturated, new attorneys (who easily have passed the current cut score) cannot find work and are burdened with debt. Lowering the cut score would make it even more difficult for these recent grads.

The Study should examine where there is a statistical correlation between low bar scores and attorney disciple and complaints made to the state bar about a particular attorney. If there is the slightest correlation - the cut score should not be lowered.

Anonymous

The cut score should be raised, not lowered. We need to limit the amount of incompetent attorneys being admitted to the Bar, not increasing it.

The problem here is not the Bar Exam. The problem is the law schools. All of the unaccredited law schools in California should be shut down. All they do is steal tuition money from students who should not be attending law school in the first place.

Even some of the accredited law schools are to blame here. They are not preparing students to pass the Bar Exam. Again, they are just collecting tuition money and not caring about their graduates. It is no surprise that many law schools are now getting sued for advertising false employment data to lure students to apply there.

We should be proud that the California Bar Exam is the hardest in the country. The falling bar passage rates mean that the Bar Exam is doing its job of weeding out incompetent attorneys. We need fewer attorneys in California, not more.

Ultimately, the root of the problem - law school graduates with high student loan debt and weak employment prospects - stems from the law schools, not the Bar Exam. As a result, the current cut score should not be lowered. There should be an Option 3 to raise the cut score.

Anonymous

While this effort is appreciated, while the State Supreme Court should be applauded for entertaining and calling for discussions like these, and while the State Bar of CA is showing fairness and kindness in opening up the discussion to the public, this effort should and must continue to its completion: lowering the cut score to either 1414 or, better yet, to the national mean requirement of 135. If the goal in keeping a minimum competency level that is unusually high is to make sure California has particularly better lawyers, then very good evidence of superb California lawyers must exist to support the current cut score so that we get a performance benefit from the current cut score. However, we do not have that evidence. There is absolutely no evidence that California's unusually high cut score actually produces better lawyers than states like New York, Pennsylvania and Illinois. Lowering the cut score increases jobs, services rendered, and opportunity. Let's make this change!

Anonymous

Do not change existing bar pass criteria. To do so, does disservice to the public and a false reality to members of the 'protected class.' The option 1 cut score should remain in place.

Robert Henry

The first time I took the CA Bar -- Feb. 1989 -- the pass When I first took the Bar in Feb. 1986, the pass rate was 28%. My understanding is that the Feb. '86 Bar remains the lowest pass rate ever in CA Bar exam history. The low pass rates of that era had a significant impact on the lives of those exam-takers, many of whom went on to become ethical and proficient practitioners, but whose entry into the profession was delayed, with accompanying consequences in other aspects of their lives. While this could also be interpreted as an argument in favor of lowering pass rates going forward, the inequities of the past versus the future concern me. Why wasn't this addressed back in 1986? What are the true motivating factors now, and why were they apparently absent back in 1986?

Katie Charleston - Katie Charleston Law

There is no reason to lower the standards for admission to the bar. There are enough attorneys in the California and many of them ill-prepared. We should only want those best prepared admitted to the bar. I recently passed the Nevada bar 10 years after passing the California bar. I had to study while taking care of two toddlers and running my law practice. Nevada is experiencing a similar issue with its bar passage rates, yet I was still able to pass. Lowering the standard of the bar only lowers the standard of the attorneys. Thank you.

Anonymous

The score should be lowered to 136. The report published by the bar states recommendations but no reason for the two proposed scores. The lower score will allow for more attorneys and add diversity.

Linda Ackerman - self

Neither maintaining the current score nor lowering it to increase the pass rate addresses the question of why the California Bar exam pass rate is consistently below 50 percent. It seems to me that what's required is analysis of three issues:

1. If the majority of test takers are graduates of California law schools, is there a problem with the quality of legal education in California? Are there shortcomings in preparation not for the specific test, but for the kind of analysis necessary to address the questions on the test, both multiple choice and essay?

2. Are the criteria for admission to and graduation from many California law schools too low?

3. Is there a problem with the way the bar exam itself tests legal analysis skills? Has the California bar exam been compared with tests in other states that are believed to be equally demanding? If the exams are comparable in say, NY and Massachusetts, how do the pass rates compare?

Steve Smith

The consultant's report makes two comments that seem critical to considering the California passing score. Taken together these seem to recommend great caution in lowering the passing score unless there are accompanying changes related to the educational qualifications for sitting for the exam.

The first comment is that comparison with other states is "mitigated by the different eligibility policies among these jurisdictions and California's more inclusive policies." The accompanying footnote explains that "California has a uniquely inclusive policy as to who may be eligible to take the Bar Exam. Not only those who have graduated from schools nationally accredited by the American Bar Association, but applicants from California accredited and unaccredited law schools are also allowed to take the exam, as well as those who have 'read law.' This sets California apart from virtually all other jurisdictions."

The second comment regards Type I and Type II error. In short, the comment correctly notes that if there is greater tolerance for "adverse consequences from an unqualified candidate who passes (i.e., Type I error)," then the passing score should be lowered.

Because California relies less on relatively reliable legal education than do most states (via ABA approval), it has to rely much more on the bar exam than on the educational qualification. For that reason, absent a change in the educational qualification, I do not think that the citizens of California can afford greater tolerance for Type I errors. For that reason, absent a change in educational qualification, it is risky to reduce the pass score. Reducing the pass score would surely result in an increase in "unqualified candidates who pass."

Option 2 would be attractive, actually it would be wonderful, but only if it included a simultaneous change in the educational requirements. Specifically, graduates of unaccredited law schools should not be eligible to sit for the bar exam. In addition, the standards for California accreditation should be increased meaningfully, or California accreditation should be phased out in favor or national accreditation.

Because of the political difficulty in achieving these reforms, it may be optimistic to think they can be accomplished. If that is so, it sadly means that protecting the public in California is left to rely on the bar exam rather than sound educational preparation.

Anonymous

I have limited input on bar scores except to reiterate that scoring should reflect the reality of testing reveals the bell shaped curve and its bimodal reality despite content or difficulty. Obviously relative scores seem to more relevant to clarifying standing or test passes or fails. Absolute rather than relative grading seems appropriate for test results that measure standing relative to all Bar Exam members verses just that year's participants with that contemporary cohorts.

However, I wish to address the emerging "Maintanance of Certificate" problem in most professional organizations charged with "certifying the ongoing certifications" of its members. Having witnessed the formation of these ongoing certification "schemes" in medical specialties, I wish to observe that these certifying bodies seem to become a high paying environment for those that are seeking high reimbursement although they have shed the complex clinical working environment.i.e. high salaries for easy work. Attention should be paid to the evidence available that the certifying board adds value to the member. Have studies proved that spending all this time completing the boards requirements is associated with a higher level of care (and hopefully better clinical outcomes for patients or in the case of State Bar programs, their clients.) Currently in the medical realm we have no evidence that jumping through these expensive and and time consuming requirements improve care or outcome.

What is evident is that the members of thise boards are vastly overpaid compared to tfor the amount of work they do compared to the regular members they are monitoring. This new job description of top pay to for limited work and liability provides shelter for those not clinically competent, an interesting play of the peter principal of achieving the level of your incompetence.
In summary, I warn against the Legal-Industrial Complex that is developing despite evidencethat it really meets its objective. To me, it appears as another scheme to get rich without doing hard work.

Abril Turner - Experian

I am in favor of Option 2 at this time because California's cut score is out of line with most other states. Reducing the cut score by one standard error still puts California in the top tier, but closer to a majority of the states. I am interested to see how difficult the content of the California bar exam is compared to other states' exams. When the results of the content validation and law school performance studies are available, I will feel more comfortable with the entire analysis and could be persuaded that a cut score of 1440 or something other than 1414 is appropriate. But for the July 2017 exam, I feel comfortable lowering the cut score to 1414, which will have a positive impact on bar applicants without substantially impacting the quality of bar admittees.

Anonymous

As a tutor, I have worked with hundreds of students who have failed the California Bar. When I work with students who scored 1390-1439, their failure is typically attributed to minor problems: a single missed issue on an essay; incorrect knowledge of particular rules; missing analysis of particular facts; etc. For the most part, these students seem ready to practice law even though they would benefit from the guidance of more seasoned attorneys or mentors. On the other hand, students who score below 1390 typically have more major problems: an inability to identify which issues require attention; incorrect knowledge of general principles of the law (let alone the specifics of the rules being tested); an inability to articulate the legal analysis leading to a conclusion; etc. As these students' scores drop further below 1390, these problems become more and more magnified.

For these reasons, I encourage the California Bar to either keep the current cut score at 1440 or lower it to 1414 (perhaps even as low as 1390). However, lowering the cut score below that would be a disservice to the public who could unwittingly hire attorneys that are ill-equipped to help them with their problems, let alone even correctly identify what a client's legal problems are. I strongly discourage the California Bar from adopting a cut score of 1330-1360 as suggested by numerous deans of California law schools. The students I work with who score in that range have very basic, fundamental shortcomings that can and should prevent them being licensed to practice law. Indeed, it is sometimes questionable whether their alma mater should have allowed them to even graduate.

To give some concrete, recurring examples of the problems faced by such students, these are a handful of the most common problems among students scoring 1350 and below: in negligence, not understanding the difference between a foreseeable plaintiff and proximate causation; in criminal law, not understanding the difference between common law murder and first degree murder; in remedies, not understanding the difference between expectation damages, consequential damages, incidental damages, and reliance damages; in evidence, not understanding how to analyze whether an out of court statement is or is not offered for the truth of the matter asserted.

Thank you for soliciting public comment and I appreciate your efforts in addressing the concern over the California Bar pass rate.

Beth Schwartz - Clinical Legal Education Association

COMMENT OF CLINICAL LEGAL EDUCATION ASSOCIATION ON THE CALIFORNIA BAR EXAM CUT SCORES
August 23, 2017

The Clinical Legal Education Association, with more than 1,300 dues-paying members, is the nation's largest association of law professors. We commend the State Bar of California for commissioning the Standard Setting Study to evaluate its bar exam including its cut score. At the same time, we urge the State Bar of California to consider the limitations of the current format of the bar exam and weigh alternative assessment options that would more accurately reflect the range of lawyering competencies that are required for legal practice.

The Final Report of Dr. Chad Buckendahl of ACS Ventures, which conducted the Standard Setting Study, noted that the "meeting results and evaluation feedback generally supported the validity of the panel's recommended passing score for use with the California Bar Examination." Final Report at 4. The external evaluators who were asked to observe and determine whether the standard setting procedure met professional guidelines and technical professional standards, however, identified shortcomings of the study.

Dr. Mary J. Pitnoiak's report presented several shortcomings of the standard setting process including its implementation methods and the failure to provide a rubric or adequate training for participants regarding the method for establishing performance standards.1 The California Department of Consumer Affairs' external evaluator, Dr. Tracy Montez, applied the Standards for Educational and Psychological Testing and raised concerns with the standard setting methodology.2 In particular, Dr. Montez "highly recommended" that the State Bar of California conduct a comprehensive occupational analysis to determine the knowledge and skills necessary for effective practice to determine what should be assessed by a licensing examination.

The bar exam has long been criticized, by CLEA and others, for its ineffectiveness in assessing whether applicants will be competent and professional attorneys.3 As long ago as the Reed Report in 1921,4 law schools have been found lacking in their skills and professionalism training. Echoing the 1992 MacCrate Report of the ABA Section of Legal Education and Admissions to the Bar,5 the 2007 Carnegie Foundation Report also documented the need for integration of "theoretical and practical legal knowledge and professional identity."6 Law schools are now offering more experiential education, spurred on by the ABA's recent adoption of a six-credit experiential course requirement. Under Standard 301, the ABA demands that law schools "maintain a rigorous program of legal education that prepares students, upon graduation" not only for admission to the bar, but also "for effective, ethical, responsible participation as members of the legal profession." A licensing test that is solely focused on substantive law and legal analysis cannot guarantee competency in the range of skills that are necessary for competent law practice.

In considering how to assess these more foundational skills, the State Bar of California and the California Supreme Court can be guided by the recent study, Foundations for Practice: The Whole Lawyer and the Character Quotient, published in July 2016 by the Institute for Advancement of the American Legal System ("Foundations for Practice").7 The study documents categories of necessary lawyering skills that include interviewing, counseling, negotiation, trial advocacy and contract drafting. And the Foundations for Practice research study concludes that new lawyers "need more than we once thought. Intelligence, on its own, is not enough. Technical legal skills are not enough. They require a broader set of characteristics (or, the character quotient), professional competencies, and legal skills that, when taken together, produce a whole lawyer." Foundations for Practice Report at 38.

Other professions in the United States, and the legal profession in other countries, demand deeper experience in practice for professional licensing.8 For example, in England and Wales, barristers and solicitors are required to take practical training skills classes and one or two years of training under the close supervision or "pupilage" of a solicitor or barrister prior to admission. In six Australian states, there is a practical training requirement that can be fulfilled with either a practical training course that can take up to two years to complete or an in-house clerkship under a supervising attorney. In the United States, doctors must complete a residency of three to six years before their final licensing exam; an engineer must have at least four years of post-college work to be eligible to sit for the licensing exam; and an architect must document training under a registered architect. The State Bar of California should engage experts and begin to develop and model more comprehensive and skills-focused

licensing strategies for the legal profession.

The State Bar of California should seize this opportunity to become an innovative leader in the professional licensing of lawyers by examining the bar exam's effectiveness in assessing the knowledge and skills necessary for practice. By modeling lawyer licensing practices on those of other professions with more uniform and holistic assessment methods, California can assess bar applicants on foundational lawyering skills and competencies, not just substantive legal knowledge and analysis. A licensing scheme that better assesses the needed competencies of the profession will allow California to better guarantee that those admitted to practice will offer competent legal assistance to those they serve.

We appreciate the opportunity to comment on the Standard Setting Study and we share your commitment to improving the process of bar licensing.

Sincerely,

/s/ /s/

C. Benjie Louis Beth G. Schwartz
Hofstra UniversityFordham University School of Law
CLEA Co-PresidentCLEA Co-President

1 http://www.calbar.ca.gov/Portals/0/documents/admissions/Examinations/Review-CalBar-Standard-Setting-MaryPitoniak.pdf
2 http://www.calbar.ca.gov/Portals/0/documents/admissions/Examinations/Tracy-Montez-ReviewBarExamstudy.pdf
3 Roy Stuckey, et al., BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP 8-10 (2007).
4 Alfred Z. Reed, Training for the Public Profession of the Law: Historical Development and Principal Contemporary Problems of Legal Education in the United States, With Some Account of Conditions in England and Canada, Bulletin No. 15 (1921).
5 Section of Legal Educ. and Admissions to the Bar, Am. Bar Ass'n, Legal Educ. and Prof'l Dev. - An Educ. Continuum (Report of the Task Force on Law Schools and the Profession: Narrowing the Gap, 1992).
6 William M. Sullivan, et al., EDUCATING LAWYERS (2007).
7 Ali Gerkman and Logan Cornett, Foundations for Practice: The Whole Lawyer and the Character Quotient, available at
http://iaals.du.edu/sites/default/files/reports/foundations_for_practice_whole_lawyer_character_quotent.pdf
8 Yoonsuk Choo, et al., Admission to the Bar: A Cross-Jurisdictional and Cross-Professional Survey, a paper prepared for Harvard's Legal Profession Course (on file with CLEA) (Spring 2011).

Nida Maqsood - Injury Specialty Lawyers

I find that the score of 1440 is a really high cut score and should be lowered to 1414.

Anonymous

I am an attorney. I am very much against the reduction of the passipassing score. It is not like we do not have a shortage of attorneys. Why dumb down the profession.

Anonymous

If Option 1 is to be retained, then I would suggest that there is a change brought in the essay exam evaluation. These are the following problems:

Extremely Detailed Analysis Required: The essay exams require extremely detailed analysis, which is usually much more detailed than other bar exam essays. There is a drastic dip in scores upon not including the detailed analysis even if issues are identified and discussed.

Requires Long Answers: The essays require usually long answers to be written which is often a problem for candidates who cannot type fast enough like international candidates. The option to hand writing the essays is not an equivalent alternative, because a person who types fast will write much longer essay than a person who is fast in hand writing. Due to this, the essays written by candidates who are not good at typing or hand writing will often write shorter essays, impacting the detailed analysis.

If there is a change brought in the evaluation of the essays, such that the above problems can be overcome, then candidates will score better in essays. And then, a total score of 1440 can be retained.

For any reason, if the evaluation of essays cannot be changed, then its better to bring done the score to 1414.

I would suggest Option 1 with changes than Option 2.

Anonymous

Lower the score to 1390 to make this test fair and just.

Dara Fairchild - Bremer Whyte Brown & OMeara

Lower to 1390 or below. I have a full time job as a law clerk and have worked in the legal industry for over 10 years. I have references to my ability to be an excellent attorney from retired superior court judges, however, I have been unable to pass the bar exam.

This has financially destroyed me. There are other ways to maintain the integrity of the profession besides the bar exam.

ONLINE PUBLIC COMMENTS SELECTING OPTIONS IN FAVOR OF KEEPING THE CURRENT CUT SCORE

ORGANIZED IN CHRONOLOGICAL ORDER FROM THE EARLIEST FIRST.

Shahram Miri - Law Offices of Shahram Miri, Inc.

The reason for the recent lower passage rate is due to the decrease in the quality of students that have taken the exam. The evidence for this is lower LSAT scores of test-takers. If LSAT scores continue to decline, will the bar exam cut score be lowered (again)? I sure hope not.

Anonymous

Lowering the standard of achievement will not provide better results. As someone who achieved >1440, this is an insult and nothing more than an attempt to push unqualified people into the legal profession. Keep the score at 1440.

As an aside, California should now consider reciprocity with other states since it has already lowered the examination to coincide with other states.

Julie Hamill - Hamill Law

National efforts to explain the declining bar pass rates over the last eight years have focused on the precipitous drop in law school enrollment. Erica Moeser, President of the National Conference of Bar Examiners, believes that the decline in the job prospects of newly licensed attorneys led to a decline in the number of law school applicants which, in turn, led schools to admit students with weaker academic credentials. See p.3 of Study.

Law grads have had a tremendously difficult time finding gainful employment over the last eight years. To resolve this issue and keep profits high, law school deans lobbied the CA State Bar to lower the cut score to enable more (less-qualified) people to pass. Some legal aid organizations spoke up in support, saying that their prospective employees were not able to pass the bar and it hampers their ability to help people.

We do not have an attorney shortage in California, and such a shortage is not on the horizon. It's not just legal aid attorneys who are not making the cut- it's big law summer associates, unemployed people, high-powered sports agents and experienced attorneys from out of state. We do not need to lower barriers to entry in California's legal field just because people are not able to pass the test. Nobody has the right to practice law in California. It is disturbing that law school deans are pushing for this change, because they directly benefit from it. It keeps them employed. Law schools have been lowering barriers to entry across the nation, admitting people who wouldn't have met the requirements years prior. A lot of these people graduate with hundreds of thousands of dollars in student loan debt, and cannot pass the bar exam. The solution is not to make it easier to become an attorney.

If a school's students are not finding employment following graduation, that school must (1) work to change those statistics by improving employment prospects and better equipping students to find or create their own employment, or (2) close down the law schools with failing employment statistics. By lowering the bar, we are exacerbating the problem of these lower-tier schools opening up to weaker academic credentials with the promise of an easier time passing the bar. But guess what? Passing the bar does not create more jobs. You will just have a bigger pool of barred attorneys with weaker academic credentials and still no job prospects, and the real problem of insurmountable student loan debt will continue on.

Lowering the bar does not protect the public. In fact, it does the exact opposite.

The argument that lowering the bar will fill a gap in legal aid employment is a logical fallacy, unless we mandate that any new attorneys who reach the lower cut score but not the previous cut score must work for legal aid or nonprofits.

Michael Neu - Los Angeles Dependency Lawyers, Inc.

I strongly disagree with the proposed plan of lowering the cut score from where it currently stands. California already has a horrible influx of new attorneys flooding the job market every June and November; by making it easier to pass, this will only serve to exacerbate the problem we already have. There are not enough attorney jobs as it is! Please leave the standards the same.

Naomi Dewey - Buynak, Fauver, Archbald & Spray

As a practicing litigator and a hiring partner, I see attorneys every day who should not be practicing law - and I also regularly encounter employment candidates with excellent credentials, and active licenses, who are unable to find work.

The only groups I see advocating for a cut in the passing score are those who will benefit financially, such as those associated with non-ABA accredited schools who fear they will lose students if they cannot demonstrate adequate pass rates. I should note that I attended a non-ABA accredited school, Santa Barbara College of Law. The bar pass rate has declined at that school because of the quality of the students admitted, not because the cut score is too high.

Keeping the current cut score at 1440 is essential if we are going to maintain the integrity of this profession. If anything, we should be raising the cut score to increase the quality of those entering the practice. This will also go some way to limiting the number of individuals who pass the Bar but cannot find work.

In addition, I would like to see the Bar exam do a better job of weeding out candidates with poor writing skills.

Gary Nagasawa

I am a member of this organization, #122711. It is no wonder that the public holds the legal profession in such low regard. Rather than fix the problem, i.e. study harder, score higher, etc., instead we are considering lowering the requirement. It is of no relevancy that failed examinees could become lawyers in other states but not in California. That is the other states' choice and their potential detriment.

It is a privilege and an honor to earn a law license. Let us not cheapen it. Reach out to prospective law students by pointing out how important, in these ridiculous times, law truly is. There are a whole lot of folks coming into the pipeline in the changing demographic of this state and let's have this conversation about the importance of the profession with them. All is not STEM.
Implement the student friendly methods schools such as UC Davis use in helping borderline passers with tutoring. And please stop pushing the unrealistic dreams of examinees who graduate from sketchy law schools. A reasonable limit on passage attempts is humane. How many planes can a pilot crash?

Anonymous

Declining pass rates should be a reflection of the caliber of people taking the exam. We want competent, smart attorneys in California. Lowering the bar passage rate simply equates to tailoring to want to work hard for somethibg. Lowering the rate means we're just admitting to their inadequacies.

Anonymous

Some argue that reducing the score will not protect consumers from incompetent attorneys. If that is true why do we need a bar exam at all? Under that thesis merely graduating from an accredited school she be enough to obtain a license. Couple this with proposals for limited licensed paralegals and the public will continue to be worse off. I thought the purpose of the bar was to protect the public.

Anonymous

I have a few issues with lowering the score. First, unlike most states that have only law schools that are accredited by the ABA, California has three tiers -- ABA accredited schools, schools accredited by the State Bar and unaccredited schools. I've always viewed the higher cut score as being a necessary corollary to allowing graduates of non-ABA accredited schools to take the exam. I've practiced law in California for 21 years and have always found the graduates of non-ABA schools to be on a different level than graduates of ABA accredited schools in terms of how they practice. And to this day, there's a professional divide between graduates of the three types of schools. So if California is planning to limit the profession to just graduates of ABA-accredited schools, then I'd agree to lowering the cut score; if not, then I think it should stay at its current level.

Second, lowering the cut score cheapens the accomplishment of those of us who passed the bar with its current cut score. I failed the first time (I had a 1438 score and had several friends and classmates who scored between 1430 and 1440) but passed the second time. While it would have been great to have had a lower cut score in 1995, that wasn't the case and I really felt I'd accomplished something when I passed the second time. I'm afraid that lowering the score may result in some older lawyers looking down on new lawyers as not being good enough to have passed under the old rules. Combine that with the divide between the graduates of the three types of schools and it's just going to result in a more splintered profession.

Anonymous

Having seen the abilities of new lawyers in the courts, I find it amazing the the standards may be lowered. I work with Judges and see first hand who these individuals are fresh out of law school, having passed the current bar examination. I don't think it is a good idea to lower the standards. We need smarter people who understand what practicing law is all about and know how to behave in a courtroom. Better education seems to be the answer. Most of these newbies, cannot even write properly.

Eric Enciso - Law Office of Eric P. Enciso

As a first-time passer it seems as though many candidates who are unsuccessful fail to put in the required study time. 1440 seems fair, especially with the exam now being two days.

Anonymous

Greetings:

I am writing to comment on the options presented before the State Bar to lower the CBX minimum passing score, and to voice my opinion and to why it should NOT be decreased. I am a licensed attorney in both California and Oregon. I did not pass the CBX on the first attempt. Nor did I pass it on the second. I did pass it on the third attempt in February of 2015. I made changes to my study routine, and practiced writing more subject essays (over 100) in order to pass. If people cannot pass the exam, then they need to study harder and change what isn't working.

When I sat for the Oregon bar exam in 2016, I felt like the study habits I had obtained from successfully passing the CBX transferred over to that exam. The standard for obtaining a license in California, which demonstrates "minimum competence" should not be lowered because it will not serve the public interest for professionals whose analytical, writing and negotiating skills literally affect the lives of people.

The bar has already shortened the exam to two days, which is one full day less than the previous administrations of the CBX. By shortening the exam days and the minimum passing score, in my view this is lowering the passing standard too much.

I appreciate the opportunity to comment on this matter.

Anonymous

There is no shortage of attorneys in California. There are fundamental problems in our higher education system: excessive cost of education, insurmountable student loan debt, and bleak employment opportunities. Lowering the bar does nothing to address these fundamental problems; instead, it exacerbates them by allowing lower tier and unaccredited schools to continue enrolling people who should not be taking on $150,000+ in debt in the first place.

National efforts to explain the declining bar passage rates over the last eight years have focused on the precipitous drop in law school enrollment. Erica Moeser, President of the National Conference of Bar Examiners, believes that the decline in the job prospects of newly licensed attorneys led to a decline in the number of law school applicants which, in turn, led schools to admit students with weaker academic credentials.

Law grads have had a tremendously difficult time finding gainful employment over the last eight years. Not passing the bar is an obvious impediment to employment, although not the only impediment. In attempts to ameliorate this issue and keep enrollment and profits high, law school deans lobbied the California State Bar to lower the cut score to enable more (less-qualified) people to pass. Some legal aid organizations spoke up in support of a lower score, arguing that some prospective employees were not able to pass the exam, thereby hampering their ability to help people.

We do not have an attorney shortage in California, and such a shortage is not on the horizon. It's not just legal aid attorneys who are not making the cut- it's big law summer associates, unemployed people, high-powered sports agents and experienced attorneys from out of state. We do not need to lower barriers to entry in California's legal field just because people are not able to pass the test. Nobody has the right to practice law in California. Law school deans are pushing for this change because they directly benefit from it. It keeps them employed. Law schools have been lowering barriers to entry across the nation, admitting people who wouldn't have met the requirements years prior. A lot of these people graduate with hundreds of thousands of dollars in student loan debt, and cannot pass the bar exam. The solution is not to make it easier to become an attorney.

If a school’s students are not finding employment following graduation, then that school must (1) work to change those statistics by improving employment prospects and better equipping students to find or create their own employment, or (2) shut its doors. By lowering the bar, we are exacerbating the problem of lower-tier schools

enticing students with weaker academic credentials to enroll with the promise of an easier time passing the bar. But guess what? More people passing the bar does not equal more jobs. California will just have a bigger pool of barred attorneys with weaker academic credentials and still no job prospects, and the real problem of insurmountable student loan debt will continue on.
The argument that lowering the bar will fill a gap in legal aid employment is a logical fallacy, unless we mandate that any new attorneys who reach the lower cut score but not the previous cut score must work for legal aid or nonprofits.

Lowering the bar does not protect the public. In fact, it does the exact opposite.

Anonymous

NOT considering the major lack of practical skills in first year attorneys....

MANY attorneys (especially with little experience in a field) brutally struggle with doing this job. Bad motions, inane arguments, and illogical banter slow down and waste immense amounts of precious time.

We do not need to make the exam easier so that future attorneys will be even weaker.
Plus, we already have more attorneys than jobs....why would we want to make it easier to become an attorney while simultaneously weakening the average skill?

RATHER, I would wish that the bar associations work on LOWERING STUDENT DEBTS as a result of law school so lawyer bill rates can be reduced (thus allowing more access to legal aid).

Michael Wolf - Ascent Real Estate / M&JW Corp

Dont lower the bar, rather, focus on the symptoms that led to the idea of lowering the bar in the first place

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Anonymous

Keep the score as is. The State bar already reduced its standards by removing the third day! Further reduction will make those who worked hard in order to pass the standard that was set for decades - feel like the next generation of lawyers is truly not qualified and that the State bar is watering down the profession.

As a recent law graduate from UC Hastings, I made my first and only attempt at the bar in February 2017. I found the test to be straight forward and not have any hidden/deceptive issues. Granted, there was a lot to write about and I wonder how people get through it in enough time if they do not type fast. But, overall, I walked away thinking the test was easy. I did not feel that way walking into the test though! And I do not say this to sound braggadocios. It was a very grueling experience that I never wish to repeat again!

I write because I have colleagues that have not passed the bar and some are on their third, fourth, and fifth attempt. My colleagues attended various law schools; ABA and non-ABA accredited. To help them prep for the July 2017 bar, I read their prior bar answers and practice essays. In reviewing their actual bar essay answers, I saw plainly why they didn't pass! Some issues I saw included:

1) Too much time spent perfecting their rule.
2) One sided analysis.
3) Uncertainty in their answers when the issue is clear and could only be analyzed one way making the reader think the writer truly does not know the law.
4) Lack of organization/not using IRAC.

5) Missing issues/sub-issues.

Further, in helping them study for the next bar, I could see that they were not able to find the area of law being tested in the MBE's, despite knowing the law.

Finally, the work product my colleagues produce is indicative of the reason why they have not passed the bar. My boss is always asking me to review their work and fix it. Yet, they get paid more than I do.

When helping my colleagues study for the next bar, I found they spent too much time reviewing rules and not actively learning. Despite assuring them that they knew the law and just needed to practice, they were too scared to put pen to paper. Or, maybe it was because they were intellectually lazy. I don't know which. They preferred to watch the Barbri/Kaplan/Themis/Bar Secrets/Etc videos and memorize rules instead.

All I can say is that their final practice essays did not get any better before they took the July 2017 bar.

Please do not water down the profession by lowering the bar. If I could pass it, anyone can pass it.

Luis Montoya - County Counsel

Cut off score should not change. I took the bar exam 3 times. I passed the exam on the third attempt. I understand it is difficult and stressful for all bar exam takers. However, the solution should not be simply making the exam easier. California's legal market is already saturated given the low bar passage rates. Instead, the Committee of Bar Examiners should focus on scrutinizing law school's all together. Don't dumb down the test, but better prepare the student.

Anonymous

With respect, this is not a downward trend, it's a point on the data set. This is unwarranted, and devalues the profession and the overall reputation and value of lawyers in California. Law schools are peddling false dreams of success, allowing unqualified persons to sit and apply for the bar exam, consequently lowering the pass rate. Start revoking accreditation, because lowering the qualifications to practice law in this state is an unwarranted and extreme reaction.

Christine Greenfield

Why on earth would the State Bar of California considering lowering the bar for prospective attorneys? Is it better to lower the standards for
prospective attorneys? Shall we start lowering the standards for doctors? Are the law schools passing woefully inadequate students?
This is a ridiculous solution. I can think of only one reason --- to keep from losing dues.

Anonymous

I have not heard of any other professional organization lowering their standards to increase their numbers - not the american medical association, not the american dental association. I am really surprised the California Bar Association, with the current number of unemployed new graduate lawyers in the state (especially compared to physicians and dentists), would try to make it worse and increase these numbers.

Rodrigo Suarez - The Dominguez Frim

Provide better training on Bar Exam graders on how to grade the tests.

William May - Law Office of W. Derek May

I am an attorney licensed since 2006.

Anyone committed to practice law in this State and competent to do so can pass the bar as is. The lower scores are indicative of the economies in California. During the downturn, many people were laid off and figured they would go to law school while they were unemployed. In general this flooded the market with law students that were not really committed to becoming lawyers but felt they had no other options. These students performed poorly on the exam and would perform poorly in practice because the law was not really their first choice. Again, if they are truly committed they would study hard in law school and work hard preparing for the exam.

Lowering the pass standards will lower the overall quality of the licensed attorneys in California.

Anonymous

As an upcoming bar taker in February 2018 it's dangerous to lower the pass rate on an interim basis only for this July 2017. If the score is lowered after a comprehensive analysis then the score should remain lower for February 2018 as well. A one-time reduced interim scores serves no legitimate purposes expect to say that July 2017 was "new" (2 days compared to 3days) and, therefore, we should give them preferential treatment.

Adam Mitchell

The test is simple enough, we already have too many lawyers, and too many of whom are unfortunately less qualified than they could ideally be. Lowering the standards for the sake of more inclusion does not help society and will not help those who barely passed, but can't get a job. My analogy is that of a pilot. If pilots were failing a test, I would want different pilots, who would suggest on that case to simply lower the testing threshold? Thank you for your consideration.

Anne Rudolph - Hughe & Pizzuto

We should be striving to raise the quality of lawyers in California. Lowering the score to pass the Bar is going in the opposite direction.

Andy Miri

The idea of watering down the industry that should benefit from rigorous standard is an awful and ridiculously callous option.
The practice of law should remain the same or get tougher in a society that polluted with awful and reckless practitioners not to mention that pool of practioners are over saturated beyond control with new immigration law practioners being allowed to practice just by paying a licensing fee.

This industry practices is in opposite of bar mission statement trying deliberately to harm the community by lowering the standards.

Kent Thompson - Hughes & Pizzuto APC

If there is a pass rate problem, then identify why the pass rate is lower and fix the problem at the source . . . you don't lower the standards as the solution.

Anonymous

Californians deserve the best in legal representation. Lowering standards will not serve the public interest.

Jonathan Medina

PLEASE keep the passing score at the 1440 mark. Plenty of attorneys still pass, even those who go to only CA state accredited schools and those correspondence schools. I was highly against the devastating rule changes to the Bar to make the test 2 instead of 3 days.

The main argument is the lowering of prestige of the profession - and I think it has born out. I was honestly going to comment due to hearing about this story on NPR and I researched the issue. The only thing stopping me was a technical difficult. However, in the interim, my 91 year old grandmother sent me a news-clipping in the mail, yes, you read that right, a newspaper clipping in the mail (she has never used a computer in her life, and mails me interesting news articles a few times a year). The news clipping was an Associated Press article about California possibly lowering its bar passing score. This is highly significant - the message is out there. The general public's protection is the main mission of the CA State Bar, yes. But what better way is the public protected by competent professionals in the legal profession. It is highly critical to maintain California's higher standard. There is no shortage of attorneys - in fact I have many un-, under-, and transiently-employed attorney friends, went to such schools as Harvard, UCLA, Emory, UC-Irvine, and many other quality institutions. The public needs access to legal services, but there are plenty of attorneys to provide such services. If we continue to erode the profession with lesser standards, the public perception of attorneys will be even more negative than it already is.

This is frankly a large pill to swallow for younger attorneys like myself. Those who tried and may or may not have survived the Great Recession still had to deal with a 3 day exam and a high bar pass rate. But the reward was incredible! The prestige of joining a very difficult to join state bar and the comradery of the club. This is highly important to maintain adequate public perception of the profession. Our profession is already under assault in the media, recent graduates have suffered through the worst recession in 80 years, and instead the Bar is considering lowering instead of raising standards. That prestige and respect from the public must be earned, and it takes a long time to earn that. We have not earned it, and continue to have it erode. It will only erode further when the public learns how much easier it is to be admitted to the state bar with the shortening of the test and the proposed lowering of the score. This would critically undermine the argument I feel is strongest when I try to defend the legal profession to my skeptical and naysaying friends - friends both in and out of the profession. There is an important mismatch between how attorneys usually perceive themselves (highly) and the perceptions of the public (very low). I have succeeded in changing some minds when others belittle the profession when I can explain or remind them how difficult it is to become a member of the state bar. This would great undermine my argument and further erode the public's confidence in attorneys and the legal profession.

I was the first in my family to go to college (though many had a little community college or a few courses here and there. I came from working class laundromat store workers, loggers, hardware store employees, low-level bank quality controllers and semi-skilled technical workers. My family is working class from the blue and low wage white collar Seattle labor force (Seattle was known for a long time as a hotbed of labor activism). It was very outside the norm for me to seek anything beyond a 4 year degree. The degree of pride my family had in my achievements was great, but not matched by the rest of the public and fellow undergraduates at my small private liberal arts college. To them, success was expected and their parents often had prestigious positions. My parents succeeded through true grit and determination from very poor family lives in their childhood. This isn't a sob story, but it was hard to witnessed the disconnect between pride in my family vs. cynicism in the profession from elsewhere. We should make every effort to maintain the integrity, competency, prestige, and high standards of the legal profession through very rigorous standards and it starts in admission. There is no shortage of legal professionals, in fact, likely way too many. Let's keep the standards high to begin and try to maintain the small advantages we do have of trying of convince the public of legal professionals being intelligent, honest, upright and forthcoming. The public only hears about scandals, but has further fuel to their arguments when it becomes much easier to enter the profession. Let's keep our strongest argument that this is a valid honorable profession. Let's

keep the standards for admission high - that's the basis of the whole profession. Shortening the exam (while I understand the CA State Bar's need to save valuable funds on grading and administration) was bad enough and deeply injured formerly strong perception of CA's difficult in gaining admission. Let's keep the test score high to maintain what little dignity we have left.

Martin Cohn - Cohn Rengo

If the exam is truly scaled resulting in the degree of diificukty remaining the same from administration, then the applicant pool is truly less qualified. I have been a practicing attorney for over 30 years.
The practice of law has changed dramatically. Not everyone can be successful at it. A legal education is very expensive. Thus, a great number of qualified individuals are seeking other careers resulting in more less qualified applicants.

The net result is that the schools have lowered their admissions standards to protect jobs. Law schools must face reality. Industries change. Some businesses fail. Others adjust. Law schools are no different.

I struggled. I passed.

The standards should remain.

Anthony Hill

The standards should not be lowered because of pass rates. I am a licensed attorney, and it took me three times to pass the bar. I would have passed on the first attempt, if I had actually studied and committed to learning and understanding the law. Lowering the core competency requirement is a threat against our public interest, dilutes the quality of service delivery and tarnishes our profession. Even with the current cut off, there are attorneys that lack sufficient understanding about the law and its application. We should retain current standards. The current cutoff is effective, what it shows us is the decline in the caliber of student accepted into law school, the over-saturation of bad law schools, and the underlying profit motive connected with these inferior institutions. Moreover, the bar is now 2 days, which in itself might impact the pass rate. There should be a study related to the effect of the 2 day bar versus the prior 3 day bar, before any other changes are made. Also, a temporary reprieve of the score cutoff will create liability for the bar, because specific bar exam takers will be given preferential treatment when compared against prior and future bar exam takers.

Anonymous

Keep the current standard.

Tahnjah Poe - Law Offices of Tahnjah L Poe

Lowering the cut score appears to lower the standard. CA is a very progressive state with a diverse population and cutting edge issues. It only stands to reason that our Bar standard cut score should remain at 1440. It's already been reduced in endurance levels, and I fear lowering the cut score will diminish the extremely hard work and effort those of us Bar passers endured and conquered.

Ginger White

Just because someone cannot pass the bar at 1440, they shouldn't have the chance to pass at 1414.

I know someone who has failed it 5 times now. Sheesh. Do I want this person suddenly getting a license to practice law? Heck, no!

The exam is tough for a reason. I have heard it said that CA is the hardest exam to pass. Good. Keep it like that!

Emy Robles

The exam thoroughly reflects how much a student understands and applies the law to the facts. Lowering the scores would not be beneficial for the profession, neither helpful to the students. This equates to lowering the standard to the profession. What message will be sent out to the community, since schools dont equip well enough each student or if the student doesn't equipped him or herself, instead of assuring that they get equipped- we'll just lower the score. The exam results are a reflexion of the main issue which is the preparation that several schools or internet student has.

Lowering the score is like treating the symptoms and not the problem.

Thank you for taking into acount the comments.
Sincerely
Emy

New Attorney (Admitted May 2017)

A few thoughts....

First and foremost, my comments are not based on the report that accompanies this survey. The report is based on assumptions that I am unqualified to challenge; I lack expertise in interpreting the relevant data. I can, however, comment based on my own experience as a repeat bar examinee and new attorney.

The California Bar Exam is difficult. The exam is a big emotional and financial investment. I failed the exam the first time I took it in July 2016. I was very close to passing. I did not, however, blame the exam format/cut score for my failure. I accepted responsibility and studied harder because in my mind I knew the exam was passable if I took it more seriously. I won't elaborate on my sob story but the point is that I worked hard and passed my second time. To me, this experience illustrates adoption of a quality that all attorneys must possess: Grit.

Attorneys must have grit. Attorneys must be able to confront problems and learn how to solve them. Attorneys are required to learn new things everyday and be creative in their solutions. Attorneys are problem-solvers who need to learn how to overcome adversity. Attorneys are expected to adapt their skills quickly to new, unfamiliar problems to assist the public. Attorneys are called counselors for this very purpose.

I realize I sound uncompromising. I understand that students face financial difficulties during the exam study period and may choose to advance an argument that the exam is preventing qualified, minority law school graduates out of the legal profession. I understand that there is an argument that the exam does not reflect practical skills used in day-to-day legal practice. I think these arguments are based on good intentions but are simply ways to avoid personal responsibility for failure.

English is not my first language. I grew up surrounded by people with no ambition. Most of my friends grew up to become drug dealers. My parents are poor. My mom is a war refugee from Laos who supported my family on her own. I did not apply for college after high school. I started community college late and was placed in remedial English and algebra. I received my bachelors degree from a no-name college. I scored a 148 on the LSAT. If I listened to arguments about how testing formats and cut scores would prevent me from achieving my dreams, I

would have quit before I even tried because my credentials were not those of the "people who become lawyers." I'm glad I didn't listen and believed in myself. I worked hard to be where I am, and that is a source of pride.

Bar examiners should also see passing as a source of pride. The cut score is NOT unreasonable. There are MANY hardworking examinees who pass. Contrary to critics' beliefs, the exam DOES TEST practical skills. Understanding basic principles of law is required to operate in a fast-paced legal environment. The public employs attorneys for their EXPERTISE or for their ABILITY to grasp basic legal principles quickly. This is a trade that requires discipline and focus. On a day-to-day basis, lawyers draft memos similar to the performance test aspect of the exam and are required to apply legal principles in their analysis. I do not see anything unreasonable about requiring MINIMUM COMPETENCY on the exam. From my understanding, the current 1440 score is passable with MINIMUM COMPETENCY. I have read that all one must score are 65 scores on the essays and barely two/thirds on the MBE portion. This is completely reasonable given examinees are being tested on MINIMUM COMPETENCY. Real life legal practice does not become any easier. Examinees should not expect to be given a place in protecting the public if they adopt an attitude of entitlement.

Accomplishments are earned not given. So what if you went to law school? So what if other states have lower cut scores and are easier to pass? SO WHAT if you can't find a job? So what if you think life/the job market is unfair? NOTHING IS EASY. Its ridiculous that this basic principle needs to be explained to people who want to become FUTURE ATTORNEYS who are expected to HAVE GRIT and PROTECT THE PUBLIC. The communicative relationship between legal systems and the public is never easy. Persons who seek to become attorneys need to realize this.

To be frank, this whole "lowering the bar" discussion is a way to shift blame. I don't necessarily agree with how law schools are taught in every instance nor was I a fan of the NCBE's multiple choice exams in their various formats. However, law school and requisite exams should be viewed as obstacles that test GRIT and ADAPTABILITY. I will say it again: Lawyers are required to have GRIT. Demonstrate your grit by believing in yourself and knowing you can defeat any obstacle in front of you. Your client expects you to do your best. You should expect to do your best as well. Finding excuses to challenge the system is not doing your best.

In sum, the relevant focus should not be on the exam structure. IT SHOULD BE ON THE INDIVIDUAL EXAMINEE. There is plenty of help and strategies on how to pass this exam. BE A LAWYER AND USE YOUR CREATIVE PROBLEM SOLVING SKILLS. If a strategy is not working, try another strategy. Take accountability and be an advocate for yourself. Cases are not easy to win. Deals are not easy to pen. However, whether you succeed or not is a test of character.

I apologize that this comment is in a very rough format and unorganized. It was typed in a limited amount of time. I do think, however, that the message is clear.

DON'T LOWER THE 1440 SCORE.

Mary Campo - Hosp Gilbert & Bergsten

The California Bar is a passable test. Those who fail to put in the amount of time to learn the material have problems passing it.

Scott Bentley - Law Offices of Scott Bentley

I studied very hard to pass the bar in 2010. The experience of going through those three days is something that I will always remember. I passed the bar at a time when there was a glut of lawyers in the market. It would be unfair that the bar is literally lowered in order for persons who did not meet the same standards as I to enjoy the same benefits. Lowering the score would be to cater to mediocrity. It would also be unfair to those who have met the standards asked by the bar in the passed and those who will meet those standards in the future.

Robert Dundas - The Law Office of Robert B. Dundas

The purpose of the score is to draw a line between what is considering passing and what is not. Lowering the score is simply lowering the standard that we consider passing. This is a knee-jerk reaction to a decline in the overall scores; however, it is not the test that has become harder, thereby requiring the standard to be lowered -- it is the education standard or the caliber of the student taking the exam. Attention should be focused on the schools providing (or not providing) bar preparation and examination techniques and not on lowering the score.

I feel as if the score represents a gauge that directly measures the aptitude of the test-taker, but also the standard by which the committee has come to a consensus in stating what is considered the necessary standard by which lawyers should be measured.

Look to the schools. Do not lower the standard.

Mark Marion

We should now lower the standards to become an attorney in the State of California because of a low passage rate. Make it more difficult for a law school to maintain ABA Accreditation if they cannot prepare their students in an adequate manner to take the Bar Exam. The onus should fall strictly on the Law Schools to properly prepare their students legal minds to take the exam. Law schools throughout California accept anyone with a pulse into their schools as it fills their pockets.

This is the problem today. Not the "difficulty" of the CA Bar.

Kay Richards

Why would we lower the standards of our profession at a time when the reputation of our profession seems at its lowest? I had no problem passing the bar the first time in Maryland (with BAR/BRI) and the second try in California (when I went back to BAR/BRI after trying some fly by night self study crap out of Florida when I sat for the first exam in California). Are we demanding less of our students because they refuse or fail to do what they need to do to pass the bar? If students are trying to get by rather than taking their education seriously, that is where the change is needed, not unleashing a cadre of incompetents on the public who do not incorporate the values and standards of our profession into their psyche, which would presumably lead them to study and prepare -- two hallmarks of a competent attorney . Do not lower the standards, but instead demand discipline and results from our students and give them the tools they need to succeed.

Steve B.

Given that July 2017 is the first administration of the new format CBX, it seems more appropriate to see if the changed format has any noticeable impact on pass/fail rates before making any quantitative changes. That said, I favor the higher cut-score regardless. This history of the CBX as outlined in the study and staff report make clear that the pass/fail rate is not the problem. Rather, the for profit legal education system is a predatory industry that churns out law students who have high debt and little chance of passing the bar in what is rightly one of the most competitive legal markets in the country. A market correction is needed in the legal education industry, and lowering the passing score on the bar exam only forestalls that necessity.

Julia Briscoe

Are you kidding? The scores fall because the people are unqualified and unprepared, and you want to continue/worsen the trend by lowering them again? When are we going to stop lowering standards to mollify the people who don't make the standard? As it is you didn't even tell us our score. There are already too many lawyers in California. You already cut out 33%/1 day of the exam. In the opinion of someone who finished law school in the early 90's: What a bunch of wusses. Students now go through school with computers to spell+ for them; Excel to do their math; Google (not to mention their parents) doing their work and enabling rampant grade inflation; test "prep" for the SAT where they artificially inflate their score by learning to guess and parrot answers they don't know — and still the SAT has been made easier at least 3 times because as the takers get lazier, their scores continue to drop; Google/plagiarizing through college; more test "prep" for the LSAT; canned commercial outlines all the way through law school — just get rid of the case study method because no one does it — and another "review" course for the Bar exam. Scores fall because people are literally going through school without reading a book. Stop penalizing the people who are qualified and are prepared and are intelligent. Keep the current score, impose a waiting time after the second exam failure, and cut off further exams after the third failure. Then those people will think twice about law school in the first place. Test prep should be outlawed or at least required to be reported and if you stop lowering standards, you'll see performance improve. This is no different than overly permissive parenting.

Anonymous

The bar exam is intended to be a rigorous trial of a future attorneys ability to effectively decipher and apply the law. Lowering the standards simply to match the "quality" of students now attending law schools, is a disservice to the general California citizenry.

Clients require attorneys to conduct all cases with due diligenc. Why should the state bar lower their standards of due diligence when admitting practitioners?

Victor Jones

If you lower the cut score to 1414. ABA approved law schools in California will lower the quality of instruction that the law student receives. In addition, they will eliminate support services that the law student need in order to develop as a attorney. In addition,they will eliminate law clinics so that students will not get valuable experience helping local community residents. Finally, they will bully law students and protect corrupt law professors and law school deans.

This will result in even lower bar passage rates than you have today.

I attended the University of La Verne College of Law from August 2014 to May 2015. During this time, the law school; 1) combined two semesters of Contract Law into one semester; 2) doubled up courses by teaching two courses at the same time in the same classroom [Torts and Legal Writing] and [Criminal Law and Legal Writing] ; 3) eliminated legal librarians; 4) reduced law school library hours on the weekend; 5) eliminated legal clinics; 6) reduced grades so that law students could not transfer to another ABA approved law school if they wanted a better education; and 7) dismissed students from the law school program if they complained.

By keeping the cut score at 1440; it will force the law schools to train their professors so that they are able to provide quality law instruction. In contrast, law schools are going to say that it is the students that are not prepared for the demands of law school. I disagree.

Many law schools in California want the cut score to be lowered to 1414. The main reason is economics. It will be cheaper for the law schools to continue operating if the cut score is lowered because they can lower the quality of instruction and eliminate some support services for law students.

At the University of La Verne College of Law, they routinely kept law students enrolled that cheated on exams and assignments; kept students that ignored the schools personal conduct policy; and they did not fail students if they missed more than twenty percent of classes (even though this was law school policy). I believe that the University of La Verne College of Law did it so that it could make a case to lower the cut score because this behavior would lead to lower bar passage rates which would justify lowering the cut score; and to save money.

At the University of La Verne College of Law, their California Bar passage rate was twenty-five percent for the July 2016 exam.

Anonymous

As an attorney who often hires attorneys and paralegals often, my partners and I can see the difference in the quality of candidates who easily pass the bar and those who don't. The answer does not lie in the lowering of the scores, but in raising the quality of those admitted to law school, and the quality and number of the schools themselves.

Anonymous

Assuming that the standards of grading the bar exam to achieve the 1440 cut score has not changed, it is not hard to see that the declining scores can be linked to the lowering admission standards of law schools that has occurred since the last recession. At my alma mater, UC Hastings, for instance, admission standards have dropped considerably by any metric. Acceptance rates have climbed from traditionally 20% to over 50%. LSAT and GPA medians have dropped from the 90% percentile to less than 80%. This drop is consistent with Hastings' own declining bar passage rate. It is not rocket science to see a direct correlation. Lowering bar admission standards in kind, does favor to no one except the law schools who continue to fill seats without regard to the legal profession and what the public needs.

If law school administrators are unwilling or unable to protect the public from maintaining the integrity and quality of the profession, then the State Bar examiners and the State Supreme Court must be ever vigilant in their duties to maintain a standard of basic competence. Perhaps solutions should include imposing curriculum changes to ensure that students are prepared to take the bar and likely to succeed. The State Bar requires students from non-accredited law schools to take the "baby bar" after their first years, ostensibly because these students are more at risk of not passing the actual bar exam. Why not impose this requirement on underperforming students from accredited schools as well. Doing so will provide a reality check on students likely to fail the exam, offering them an opportunity to forego incurring additional debt, without having to lower bar admission standards for the sake of inclusion.

Noreen Barcena

The state bar needs competent attorneys who are willing to research, and understand how Case facts interact with the law. i believe that we should expect the utmost dedication from attorneys and see no issue with the bar exam as it is. Lowering It would lower the standard, and quality of our profession.

Anonymous

The solution to a poor bar passage rate isn't to further lower the standards. Rather than flood an already over-saturated legal market with more attorneys who can't meet the minimum cut score, restrict the bar exam to graduates of accredited law schools. Based on bar passage statistics from prior years, the pass rate would go up overall. Even better, reduce the number of accredited law schools (and/or their class sizes) so that admissions standards are higher in the first place. Why would we lower bar exam standards at the same time that law school application credentials are also falling? We aren't in the midst of a lawyer shortage in this state. In fact, the legal job market is still terrible. Why exacerbate the problem with people who couldn't pass the now truncated bar exam with a lowered cut score? It makes no sense, and is completely unfair to those of us who are already licensed.

Anonymous

Dumbing-down lawyers and the bar exam is an unbelievably reckless concept. Perhaps admitting groups because of their skin color or nationality did not do anything for the pass rate?

Anonymous

I absolutely believe the cut score should be kept, at minimum, at 1440. Thousands of lawyers were admitted with the cut off score at this level and the unemployment/underemployment rate for attorneys is already low. Lowering the cut score has the dual negative effect of both allowing more people to practice law who do not meet the minimum criteria that thousands of other lawyers have met, and floods the already saturated legal market with more attorneys.

Anonymous

I have taken both the California and Oregon bar exams and passed both the first time. The California Bar is not that much different from Oregon's in terms of difficulty except that it was one day longer. I thought that extra day was quite unnecessary and made the test less bearable for my fellow test takers (I also took the California Bar as an attorney the second time while working full time with no time off). However, since the Bar recently shortened the exam day to two, it should be comparable to most other states.

I know people who did not pass the first time. Many times I think it is the test's reputation (and therefore many applicants get "psyched" out). Overall, bar exams are unfairly skewed in favor of those who practice or want to do litigation (myself included).

Megan Herndon

I agree that California should not lower its standards to admit more aspiring lawyers. We are simply not in a demand shortage and it is important to set a bar. Perhaps California should consider whether it is wise to continue to allow unaccredited law schools. While I'm opposed to lowering the bar, I support increased transparency. For example, California lawyers who pass don't get their results unless they pay hundreds of dollars or more to join a second bar. Let current successful applicants know where they stand, and we will be better suited to know what a fair score is.

Daniel Klett - Klett Law Office

Lowering the bar is not the answer.

Tony Rafati

I am a strong proponent of keeping the current pass rate for a variety of reasons. At a high level they include:

--Becoming a member of the State Bar is a privilege and not a right. The high standards of membership is a point of pride for the members and those who wish to become members. Lowering the score is a disservice to the profession, undermines the hard work of many who passed using the current standards and diminishes the social standing of attorneys.

--The low pass rates is a product of law schools admitting students who are not qualified for the profession. Every professional association must have certain standards and requires certain minds to achieve. lowering the standard to increase the association membership numbers will not serve the best interests of the public, who rely on an attorneys for the most important maters in their lives.

--The State Bar should require law schools to be more selective in admission, provide more mandatory bar prep classes, and to cover the bar prep courses as part of tuition. Preparation is the solution to pass the bar - not lowering the pass standards.

--The toughest bar in the nation, is a symbol of pride for attorneys in California. Taking that away from us is unjust and unfair and undermines all the hard work we put in to become members of the Bar.

Gregory Thyberg - Thyberglaw

The lower bar passage rates are not a reflection that the test is too hard but that the quality of law school applicants has declined over recent years due to the high cost of law school, high unemployment for new attorneys and low starting salaries. There is no reason to lower the pass rate so there are less qualified lawyers competing with lawyers who already cannot find a job.

Sean Allen - Roseman & Associates

The California Bar Exam is difficult for a reason. We don't need more unqualified attorneys in this State. If anything, the exam should be more difficult, not less.

Anonymous

Bring back the third day. I took a third day, so they should have to too.

Anonymous

I am a practicing California attorney. I do not want to see the standards lowered, as it will lead to less qualified attorneys becoming barred in this state, resulting in lower quality service and reflecting poorly on the profession.

Gil Peles - Tauler Smith LLP

The standards for prior attorneys should not be more stringent than future attorneys. If you will change the exam, you should eliminate the multiple choice (MBE) portion. It has no bearing to the practice of law. The exam should be 100% essays and performance exams.

Anonymous

As a practicing attorney, I see I'll equipt attorneys every day. At a time when we have too many attorneys we should not be making the process easier.

Anonymous

Bring back the third day, please.

Anonymous

THE PROBLEM IS NOT THE CUT SCORE, ITS THE QUALITY OF THOSE TAKING THE EXAM. SINCE THE PASS PER CENTAGES HAVE GONE DOWN OVER THE PAST FEW YEARS, ONE SHOULD LOOK AT WHO IS TAKING THE EXAM RATHER THAN THE EXAM ITSELF. IF THIS WERE A HURDLES RELAY FEWER RUNNERS WERE ABLE TO GET OVER THE HURDLES, WOULD YOU LOWER THE HEIGHT OF THE HURDLES OR LOOK AT WHETHER ARE FEWER GOOD JUMPERS PARTICIPATING IN THE HURDLE RELAY. THIS IS ANOTHER EXAMPLE OF TRYING TO DUMMY DOWN THE PASS SCORE SO THAT MORE PEOPLE CAN PASS. WRONG APPROACH!.

Anonymous

California is already a heavily saturated legal market with more unsavory, unethical, unprepared, uncivil, and ignorant lawyers to count. Lowering the Cut score would not only allow EVEN MORE ill-fit lawyers into the legal community but also further saturate the legal market for clients hoping to find actual trustworthy and well knowledged lawyers.

Lowering the cut score is a bad idea.

Anonymous

The last thing we need are more unqualified attorneys. If anything, the exam should be more difficult, not less.

Mark Oliver

I am someone who is currently taking the test for the third time. If the score is changed to 1414, that means I should have passed on my first try. What I am interested in is the grading standards and not so much the score. The Chief Justice stated that there is a correlation between pass rates and available business for attorneys. This means the score itself is an ambiguous standard that means nothing. Lowering the score will still not fix the problem because the problem lies with the graders. I want to know what the court is doing to fix the ambiguous grading policies that they claim exists.

Anonymous

I believe the real problem with the exam is the Multistate (MBE). The MBE has no real law application. The state bar spends a lot of money licensing the MBE, but this portion of the exam is the least applicable to the practice of law. The declining pass rate, moreover, is likely due to the different scaling of the MBE.

The best solution is to have two days of essay testing and eliminate the MBE. This would save the state bar a lot of money in licensing fees and create an exam that exclusively relies on the section most applicable to the practice of law. It would also eliminate the "cut score" controversy surrounding the MBE.

In sum - Eliminate the MBE. Have two days of essay, and keep the score at 1440.

Anonymous

I want to inflate my wages by limiting access to the profession.

Jack Hamlin - National University

Given what other states in the Union provide as "lawyers," I am perfectly fine with keeping the standard of review high in the State of California.

Kelton Gibson - Myers, Widders, Gibson, Jones & Feingold, LLP

Lowering the standards for bar passage is not called for nor justified in the current situation.

The consensus is that although passage rates are lower, the standards for student admission were lowered by law schools due to a weaker legal employment market and fewer students seeking admission. The schools were able to fill their classrooms, but with less qualified students. Presumably, and justifiably, the State Bar did not reciprocally lower the degree of difficulty of the bar exam to accommodate a lower caliber of students taking it. The predictable result occurred: fewer of the less qualified students have been able to pass the bar exam, which has always been rigorous.

Additionally, lowering the standards just this once creates precedent. It encourages equitable arguments of waiver and estoppel for those who do not pass in the future. Why not do it again when you did it before? Once the door has been opened it will be hard to close.

There does not appear to be a shortage of attorneys in California nor an abundance of under represented individuals. So, lowering the standards, even just this once, does not fill a particular public need for legal services and representation. It just adds attorneys who do not meet the stringent standards historically deemed as prerequisite to being admitted to the legal profession in this state.

As a practicing attorney for over 41 years, I urge the State Bar not to lower its standards for admission, not even this once.

Kelton Lee Gibson, State Bar Number 65914
Myers, Widders, Gibson, Jones & Feingold, LLP
Ventura, CA 93003

Anonymous

Boosting the passage rate of the bar exam by lowering its standards seems like blaming the victim.

--Law school professors who blame the test for being too hard cannot be objective. Their institutions rely on bar passage rates to boost admissions, which may directly affect their own jobs. In addition, they are charged with preparing students to pass the Bar, so low passage rates may bear on their competence.No matter how brilliant their argument that the Bar is at fault, these vested interests bias their judgment.

I hope the Bar continues to guard the quality of the attorneys of the State of California. I hope the Bar has the courage to not buckle under to the pressure levied on them by their friends in Academia. I hope someday this prompts legal educators to take note of their shortcomings, and try to improve, rather than shifting blame.

--My law school lost its ranking, deservedly, several years after I graduated, . The poor value of its pricey, but low quality education has been noted nationwide. In February, 2017, only 1 in 5 first-time takers graduating from this ABA program passed the bar exam. Unsurprisingly, its professors are among the loudest voices demanding the bar passage rate be lowered.

--Please be aware: those charged with investigating and adjudicating client complaints would beg you not to lower the standards for an attorney to pass the bar.

--I cannot see a clear result from the forecasts and studies of whether there is an attorney surplus in this state. In the real world, many qualified attorneys living in metropolitan areas face intense competition for work and are often underemployed. Yet, shortages of legal help exist in the rural areas of the central part of the state, as well as in disadvantaged communities all over the state.

The bar exam is not intended to fix these problems, boost law school admissions, or to intentionally effect supply and demand in legal hiring. Instead, by making certain the exam rigorously and faithfully upholds its standards, the Bar will safeguard the profession, our citizens, and ensure each new attorney has the substantial knowledge base and skills needed to make their way in the legal world.

Matthew Hale - Los Angeles County Alternate Public Defender

We have too many attorneys in California, making it difficult for those who are qualified to get a job. Lowering the score necessary to pass the bar will only increase the pool of unemployed attorneys. Also, the additional attorneys will among those least qualified to practice.

Anonymous

I do not feel that lowering the standards for bar passage is either called for, nor justified.

I feel that that admission standards by law schools were lowered during the recession to increase their enrollment, at a time that enrollment in law the enrollment at law schools was decreasing due to law firms having layoffs and salaries for lawyers were dropping. As a result, I believe that less qualified students have been taking and failing the bar.

I do not feel that there is any shortage of attorneys in California, and accordingly do not believe that there is a need to lower the cut score.

As a practicing attorney for over 25 years, I urge the State Bar not to lower its standards for admission, not even this once.

Tyler Stutin

My CA bar card says that "protection of the public is the highest priority of the state bar of California." The State Bar should not change the cut score solely in response to a continuing trend of declining pass rates. Responding to declining pass rates by lowering the score required to pass does not further the State Bar's mission of protecting the public.

If the decision to cut the score was influenced by an actual or forecast shortage of licensed attorneys, for example, the State Bar would be acting to protect the public by allowing for the admission of additional attorneys with a lowered score.

There is no shortage of attorneys in California, and no reason to let vocal law school deans and declining pass rates influence a scoring regime that fulfills the needs of the profession and the public.

Anonymous

The bar examination provides a vital role in controlling the numbers of attorneys admitted to practice law in California. If anything the cut score should be raised to reduce the number of attorney admitted to practice law, and it certainly shouldn't be lowered.

Marc Hynes - Atkinson-Farasyn LLP

There are over well over 200,000 people who were able to pass the bar. There is no need to make it easier to pass.I think that declining scores are indicative of the failure of our system of education over the past 50 years. The declining SAT' scores have continually declined during this time. The fix employed there-to lower the standard-has not improved the situation. The same would be true if the Bar standard were lowered. If more attention had been given by our "educators" to teaching basic skills, and how to think,it wouldn't be necessary to cook the numbers of aptitude examinations. We now see presented the results of never-ending efforts to "make learning fun" and "relevant", the latter, in my opinion, only a code word for indoctrination or the ill-informed and un-informed in current left-wing pieties-efforts which have effectively dumbed down the target population.

Charles Wood - InfoSecurity Infrastructure, inc.

California has a unique population of bar exam test takers. When compared to all other states, California has the largest percentage of immigrants who do not have English as their first language (27% per a 2015 study conducted by the Public Policy Institute of California). This is a large percentage when compared to the average across all states (13%), so the difference cannot help but have a material effect on the pass rate for the bar exam, because the test is administered in English. Thus the pass rate in California is not directly comparable to that of other states, and the approach proposed by the survey (where it's all a numbers game) should not be used (because such an approach would be comparing apples and oranges). Accordingly, quotas and numerical analysis across states is not an appropriate way to make a decision regarding the pass rate cut-off. It is far more important to make sure that those who pass are competent to practice law in California, and that the public is protected by attorneys who know English well, can write English well, and can reason and present cases in English well.

Trey Brown - SAG-AFTRA

Lowering the cut score and making it easier to pass the California Bar Exam is irresponsible. Lowering the score would encourage individuals to obtain law degrees by taking on enormous student debt, entering a job market that is ill equipped to employ more lawyers. If certain law schools are unable to adequately train their students to pass the bar exam, that is the fault of the law school - not a reflection of how unfair the bar exam is. We should not be encouraging irresponsible practices by law schools seeking to increase enrollment at the expense of student debt loads.

Those of us who worked hard to pass the California Bar Exam do not deserve to have our accomplishment diluted because certain law schools are threatened by low passage rates. We should let the market decide solutions rather than stepping in to save programs that are failing students both scholastically and financially.

Anonymous

California already has too many unqualified and incompetent lawyers currently in practice. Lowering the bar "literally" so that more people can pass is an extremely bad idea. Either a person is competent or not. If we were engineers and the tests were made easier to pass, the result would be people dying when buildings collapsed from bad engineering. The result of lowering the cut score would allow even more incompetent attorneys to represent and harm innocent and unknowing clients. Don't do it.

Susan Mizner - ACLU

Fewer people are choosing to go to law school and fewer of the best students choose to go to law school. Lowering the standard so that we get people who may not understand how to practice law, or who cannot practice law well, does a disservice to everyone.

My colleagues who teach at law schools - especially the lower tier law schools - indicate that the quality of their students is lower. While we need more public interest lawyers, we don't have more money for public interest lawyers. So, saying that we can get them by lowering the bar is absurd.

I would prefer that we focus our efforts on making sure that attorneys who need accommodations in taking the bar can get those accommodations fully and easily, so that we do not inadvertently screen out qualified attorneys who would pass were the needed accommodations in place.

John Hudson

If the public becomes aware that the passing score was lowered to increase "diversity", it will unfairly cause minority attorneys who passed with the present score to be regarded as less than the best. This will cause clients who might have gone to "minority" attorneys to seek out white attorneys.

Anonymous

The legal profession already faces a public relations challenge in that the public validity complains of unqualified attorneys. We should be ashamed of ourselves if we lower the cut score. If our law schools are not teaching our la students to pass or our law students are not as dedicated to their law school study - then these students have ABSOLUTELY NO business engaging in this most noble of all professions. We should be attracting the best and brightest NOT LOWERING STANDARDS.We should not be falling into the trap of this new generational wave of lowering our standards - we should be raising our next generation to rise to the challenge not cower in the face of struggle and hard work.

Joseph Votroubek

I failed the California bar exam on several occasions falling between the 1414 and 1440 scores. Prior to passing the bar exam I can honestly say that I had not prepared adequately until the last two times I took it. Simply said, I was not ready to be an attorney.

If the threshold is lowered it will be a stain on the California bar. Inadequate preparation is not an excuse for lowering the threshold.

William Dahlin

I have not seen any meaningful discussion of WHY the bar pass rate has gone down. It is my subjective view the recent decline in bar pass rate is a result of law schools accepting persons not qualified and the law schools not taking the time to help their students understand the nature of the bar exam and provide sufficient time and aid so the graduates are ready for the exam. It may be that the lower end schools without ABA or at least state accreditation should face some further scrutiny.

Anonymous

30 years ago, you stopped prosecuting foreign attorneys who practiced without a CA License - because you mismanaged your finances. Then 15 years ago you allowed outside interests to manipulate you into the "registered in house counsel" rules - so any attorney from any other jurisdiction can practice in CA without qualifying in CA.. We have a glut of attorneys because of this and now you want to devalue the CA license again. The bar standards were put in place because CA permits non ABA approved schools to exist in CA and they make millions by churning out graduates who should never be lawyers. The schools can't give up the easy money they take from unqualified candidates but the State Bar should not change the rules. Current attorneys shouldn't have their livelihoods further endangered because of this. Its insulting to existing attorneys. Why don't you stand up for your dues paying constituents for a change.

Finally - the grading of the CA bar exam is so subjective and undisciplined that the suggestion that there is a material difference between the arbitrarily awarded 1414 and 1440 is laughable. The CA State Bar is an embarrassment.

Anonymous

The State Bar of California does not have the resources it needs to investigate and resolve the numerous complaints it receives against California attorneys right now, even with a high quality cut score. Will you be able to fund the hiring of more State Bar investigators and attorneys if you lower the quality of applicants that are admitted? The public needs more high quality representation, and better oversight of already admitted attorneys. Lowering the cut score will increase the number of marginally qualified applicants from being admitted. This will not be a benefit to the public.

Andrew Kwee - California Department of Tax & Fee Administration

I believe a primary factor causing declining bar passage rates may be less qualified applicants being admitted into California law schools. The number of law school applicants declined from close to 88,000 applicants for fall 2010, to less than 55,000 applicants for the class starting fall 2015. As a result, many law schools have lowered their admissions standards in lieu of reducing incoming class size. This can be evidenced by the declining average of admitted student LSAT scores at many California schools. Lowering the standards for admittance in California should not be the answer to this problem. This is not a solution, because making it easier to pass the bar exam only encourages law schools to continue to admit unqualified applicants, which will bring us back full circle to the same problem. As hard as it is to say, I believe that law schools will only attempt to provide a higher quality education or to admit more qualified applicants, if they are required to bear the consequences of their actions (here, declining bar passage rates are a consequence of admitting less qualified applicants or not sufficiently preparing students for the bar).

Anonymous

- Lowering the cut score to 1414 send the wrong message and is bad policy. It will increase the number of unqualified candidates It will be fundamentally unfair to candidates that have taken the exam under the old cut score - whether they passed or failed If we lower it to 1414, we would see an increase in pass rate by 4 to 6 percent. But this lower standard will eventually cause the bar passage rate to go down again over time as candidates study less and less. So what is the solution then, to reduce it again to artificially increase the pass rate.

Please do NOT lower the cut score.

Anonymous

The low Bar exam pass rate as described in this study is misleading as it includes all law schools regardless of quality. The prevalence of low quality law schools in California with students who will always have trouble passing a difficult exam leads to the results seen.

If California tightened the standards for law schools to be consistent with higher ABA standards, as opposed to allowing low quality schools to produce low quality students unprepared or unable to pass this exam, the rate would be more consistent with other states.

The idea of lowering the score so these unqualified students can pass the Bar exam and be unprepared to practice law and represent innocent clients is likely driven by political correctness and an unhealthy belief that everyone should get an "A" or trophy just for showing up. If anything, the Bar should be seeking to improve the quality of its practicing lawyers by increasing standards, not making it easier to be a licensed lawyer.

Finally, and perhaps most importantly, the unreasonable and suspicious refusal of the Bar to release the demographic information on Bar exam applicants does not help inform this review and comment opportunity. The Bar has important and relevant information that could assist in evaluating the Bar exam applicants who pass and fail. Hiding these statistics from the public reasonably leads one to conclude that they in fact demonstrate that unqualified students are permitted, even encouraged, to spend tens of thousands of dollars in law school loans only to be disappointed at being unable to pass an exam. Release the information and let everyone fairly evaluate whether the problem is the quality of applicants or the difficulty of an exam which leads to these results.

Boris Smyslov

The one and only purpose for the licensing people to practice law is to prevent incompetent people from ruining clients' lives/companies while charging for it. Diversity is important and it is sad that graduates struggle with a student debt, but none of these reasons would justify failing a client who desperately needs help and cannot do it on his own in the legal world. If the scores are reduced, clients are the ones who would suffer the most. And it will be especially vulnerable minority and immigrant clients who cannot afford a fancy law firm to represent them, but need help of a cheap, but competent attorney. California State Bar already made a move lightening the burden of Law School graduates by reducing the exam to a mere two days as opposed to three days before. We are yet to see how that would impact quality of service provided to those who are in need. But it would be morally wrong to put burden of student loan debts of Law school Graduates on the shoulders of minorities and immigrants who cannot afford hiring a more experienced attorney. And those graduates who will go to large firms, it would not be too hard for them to get rid of their debts in just a few years.

Anonymous

What is the impact that test takers from non-accredited law schools have on the pass rate? Does that skew the pass rate? I understand that some states only allow accredited schools. If you take that into consideration, does California really have a pass rate below 50%? Standards should be upheld, not watered down. If this whole issue is based on demographics, the promoters of this change in the exam cut score should be ashamed of themselves for denigrating the ability of all ethnic groups to meet high standards. In my 40 years as a state bar member, I generally only have praise for the standards that the vast majority of bar members adhere to. I think California has outstanding attorneys from all groups, and the present, diverse make up of the California Supreme Court attests to that.

Elen Brandt - Law Office of Elen Brandt

Gentlepersons,

Has it not occurred to anyone that the pass rate is dropping in direct relation to the continuing and abject failure of the whole educational system in California. When everyone gets an "A" because it might hurt their feelings should they not, we are all diminished. There has been a cultural shift which applauds identity politics over hard work, integrity, and a robust academic training. If you lower the standards to accommodate a lesser quality of candidate, you are only making the situation worse. Would you want to be represented by someone who is out of touch with reality, who does not work vigorously, who does not have the internal fortitude to get to the end of a difficult goal? No thank you. This profession requires real commitment, hard work, guts and courage. If you lower the standard - it only encourages less work and more entitlement. You argue that the poor need representation - but if that is true - don't they also deserve a well-trained and hard-working lawyer?. Someone's law school debt should not be a good reason to make it easier to be a bad lawyer. You are then rewarding bad behavior.

Randal Mcclendon - Cuneo Black et al

Dumbing down our profession by lowering the pass score would be a disgrace to our profession and a huge disservice to the clients we serve. I strongly oppose any efforts to do so. We already have too many borderline competent lawyers in our profession. We also have a terrible problem with lawyers failing to adhere to the fiduciary and ethical obligations our profession demands. Lowering the requirements due to perceived economic stress (student loans) or perceived lack of diversity will harm the consumer of our services. We need smart people-- not marginally competent ones.

I am not going to be a part of the dumbing down of the profession I care so much about.

Lowering the passage requirement further would be bad for the profession.

J Anthony Vittal - The Vittal Law Firm / The Li Companies

As a practitioner, I share the plaint of numerous judicial officers that many of the lawyers with whom they deal are simply not qualified to represent their clients. They can't read, comprehend, research comprehensively, analyze, write grammatically, spell, advocate effectively or otherwise do the things lawyers are supposed to do. While the California bar exam may be an imperfect competence screen, it is the best we have been able to design.

Legal education never should be about "teaching to the test." It never should be about where to look up answers, since the authors of treatises often write them in slavish adherence to their particular biases instead of providing unbiased accurate guidance. Whether publishing a treatise update to conform to the position the author is taking in pending litigation, or blatantly proffering a practice tip as controlling case law because of a dislike for the holding, the lawyer cannot trust because it appears in a learned treatise, a practice guide, or some other publication. He or she needs to know enough to see past (and distrust) the written word so that he or she will validate the published advice rather than repeat it to the detriment of his or her client and to his or her public or private embarrassment..

Most importantly, a lawyer needs to know how to think his or her way through a problem in the absence of controlling law and then to present the analysis as an argument in favor of his or her client's position. Liberalizing the bar exam will not promote that skill.

If there is any question about this, look at the immense and very costly problems caused by document preparation services (human or automated) that examine a problem in isolation rather than in context, and don't ask the right questions because they don't recognize - much less understand - the need for context. While those defalcations provide innumerable employment opportunities for competent lawyers, all too often the client is left without the resources necessary to even find a lawyer, much less engage one, to "unring the bell."

Anyone who truly subscribes to the principle of client protection and lawyer competence has to maintain, not weaken, the protections (such as they are) offered by the California Bar Exam and the existing "cut score."

Anonymous

Maintaining the integrity and competence of the legal profession in California is the mission of the State Bar, and its examination. The Bar should not attempt to expand the scope of its mission to include other considerations as this will only serve to dilute its original and exclusive mission. Stay in your lane.

Dennis Ward - Ropers, Majeski, Kohn & Bentley

This 'debate' is completely nonsense. The applications to law schools is declining, and now the California law school deans are requesting a lowering of the BAR exam standards to be lowered appears to me is that the only motivation for this debate/discussion is to keep the law schools from confronting (1) the lower applications and enrollments; and (2) ensuring the future employment of law professors and law deans.

The discussion/debate should be: Why are the law school doing such a poor job at education law students, i.e. otherwise the BAR pass-rate would line up with historical figures? That appears to be were the problems lie, not in either the test itself or the established cut score.

Leave the 'cut score where it is and that will require law school professors and deans to educate better than they are obviously doing now. Stated another way: make them fix the problem they have created!!

Anonymous

I don't agree with lowering the cut score without identifying the reason for the decline. Are law schools failing to prepare students for the exam? Are students failing to put in quality, adequate study time? Are the questions unfair? How are the scores computed?

Anonymous

Perhaps if we didn't have such a large number of barely accredited law schools in California we wouldn't have such issues with people failing the bar? I think the real issue at hand is that way too many people are being scammed into going to, well, poor performing law schools leaving them poorly or not at all prepared to pass the exam.

To add to this, if you lower the bar score you will have even more lawyers on the market. It is hard enough to find a job in the legal profession with the current pass rates. Imagine what will happen when the market is flooded because the cut scores went down. No thanks.

David Hammer - David Hammer, attorney at law

The most important goal is to ensure the public is being provided competent legal services. Lowering the cut score will not further that goal, but is likely to do the opposite. California has no shortage of attorneys. We have a shortage of judges and judicial staff, but not attorneys. There is no rational reason to lower the cut score. If applicants can't pass the exam after two tries, they should denied a third chance for a period of one year and require further education.

The decreasing pass rate, by itself, is not meaningful. Other factors that must be considered are the number of applicants. If the number has been increasing, the the total number of applicants passing may remain the same.

I have been practicing in the private and public sector for 42 years.

Anonymous

The State Bar should at least keep the cut score at 1440 if not increase it to become equal to the highest in the nation.

California needs smart attorneys with integrity. The shoddy overpriced work that I see from other California attorneys embarrasses me, especially from attorneys who serve low and moderate income persons.

While raising the cut score will burden many people who do not pass on their first attempt, I did not pass on my first attempt either.

Not passing proved a very important life lesson and forced me to study hard to succeed the second time when I passed one of the most difficult Bar Exams given (if judged by its ultra low pass rate).

Not passing the Bar Exam means that attorneys will not take the ability to practice law for granted, as many already do.

The legal profession has become more jaded than ever--even judges routinely fail to keep up with legislative or precedent changes in their areas of specialty.

To improve access to legal services for poor and minority communities, the State Bar has to find those people born with altruistic traits and lure them into the profession.

As the statistics have shown, putting more persons from poverty or from minority backgrounds has little-to-no effect on "access to justice". In fact, I have seen as many attorneys of color and attorneys from poverty abuse their clients as I have seen white attorneys of privilege abuse their clients. The color of one's skin or the wealth of one's parents does not automatically translate into empathy and sympathy. Whether a person cares for his or her fellow human constitutes an innate characteristic.

Unfortunately, the practice of law tends to be quite brutal (in the effect it has on those practicing and on those whose lives get decided); this reality dissuades the type of altruistic persons whom we need more than ever practicing law.

So, keep the cut score at least at 1440. The answer to the social problems will get exacerbated rather than helped by lowering the cut score.

We need to solve social problems by luring the right people into the profession.

Rhonda Povich - SSDI Contractor (for various firms nation wide)

I went to an on-line, non-ABA law school, took a prep course, and passed the bar exam on the first try. Not only that, but my computer crashed the day before the exam so I had to hand write in the laptop room. It simply isn't that difficult of an exam if one is prepared and the cut score should remain unchanged. Passing the bar exam weighs on 3 factors; intelligence level, general test taking ability, and preparation. The examinee can ONLY control the 3rd factor. I am of slightly above average intelligence and I am an okay test taker (i.e. don't get test anxiety, average at multiple choice, medium to slower speed, etc). There was really nothing I could do to control these 2 factors, at least not immediately prior to the bar exam if I hadn't been doing something already. Going into the exam year I read that the pass rate for people who did not take a prep course was under 5%. I guessed that even supremely intelligent people were failing if they did not properly prepare. So... I prepared. I did EVERYTHING the prep courses instructed me to do and... I passed... easily. In fact, I can honestly say that the only hard part about it was sitting for the 3 days. If you lower the cut score you will only accomplish 1 thing: allowing people to prepare less and get by. We don;t need anymore unprepared lawyers (which is really the main problem where there is sub-par representation). Additionally, this just isn't the real world... lowering the bar (no pun intended) so more people can get by with less preparation. Soon, maybe we can all pass just for signing up! If I can do it...anyone can. I studied for 68 days while raising children and working 2 jobs and WITHOUT going to Stanford. Thanks for listening! Here here!

Anonymous

The integrity of the bar and the competence of admitted attorneys should be the primary factor. Are law schools no longer educating their students? Are there too many non-ABA schools with minimal regulation? If we keep dumbing down the requirements to get a degree, then it makes sense that bar passage rates are lower; however, lowering the standards will not produce more competent attorneys.

Donald Schwabauer

The Bar should not reduce its admission standards o accommodate a decrease in the quality of students admitted to law schools. We are by our own ethical standards sworn to protect clients from exposure to incompetent attorneys. If there were a credible case to be made that our standards set the bar higher than necessary, that would change the analysis. But the State Bar's study makes a strong case that 1440 is indeed the correct cut rate.

Bardia Moayedi - Troutman Sanders LLP

Either keep the current cut score at 1440 or lower the cut score and bring back the 3rd day of the CA Bar Exam. It is fundamental to the integrity of the profession and the protection of the public to keep unqualified individuals from practicing law in CA.

Anonymous

I find it interesting that in your member survey, you failed to have a choice to check for licensed attorneys who are unemployed. This further proves how out of touch the Bar is to its members' needs. There are too many attorneys now for the number of jobs available. Dumbing down the exam to admit more is ridiculous. How about waiving in other jurisdictions, so that they will reciprocate and we can find work outside of CA?

Anonymous

Although I agree that declining passing rate is a concern, the solution shouldn't be lowering the passing score just so more people could pass the bar - it would just lower the standards altogether. Maybe the solution would be how to best teach the law students in order to help them pass the exam.

Anonymous

A racially, ethnically, and socioeconomically diverse bar is a huge asset to this diverse state, AND the solution to falling pass rates is NOT lowering bar admission standards. California does not need a flood of under-qualified lawyers, nor will increasing the number of attorneys in the state magically result in more affordable legal services for people who need them. If we want more lawyers in public interest fields, we need more ways to help them pay their educational debt. People approaching the exam at different levels of preparation should be offered additional assistance rather than a handicapped admission standard. Could the state bar offer high-quality, low-cost preparation classes? Could it widely publicize effective study programs at different cost levels? N.B. I say this as someone who took two tries to pass the exam. It is a difficult test, and it should be: Californians deserve the best.

Brook Foster - Foster & Myers

I strongly disagree with the plans to reduce the cut score for a number of reasons:

1. Despite the high cut score there are a shocking number of new attorneys who are in no way prepared to practice law. This could be addressed during law school with more practicum type courses and encouraging internships. Lowering the cut rate will allow a greater number of unskilled attorneys to begin to practice with, theoretically, a reduced knowledge of the law or the inability to provide the law and reasoning behind it when called upon.

2. I am a Bar Certified Family Law Attorney. I graduated from a California non-accredited law school. I did my undergraduate degree at Berkeley. I returned to law school in my 30's. While the law school I attended was great for a working parent and was affordable, I was keenly aware that I needed to devote a significant amount of time on my own to the study of law in order to pass the Bar on the first try. There were few graduates in my class that did pass the Bar. We all received the same curriculum and opportunities. Of the graduates passing the Bar there were no surprises. They were the same students who put in the extra effort, were prepared in class, took the Bar Prep classes and did well on their law school exams. The people who didn't pass shouldn't have passed.

3. There have been a number of stories about the debt students incur at high ranking schools only to find they are not employable at the level they had anticipated. The issue should be realistically addressing student's expectations to ensure that their educational costs make sense in today's world. There are lower cost alternatives which may be less satisfying to the ego. A big name law school might get you in the door but if you don't produce, you won't be there long, no matter how much debt you have. Passing the Bar with the current cut rate is a first step in the process, whether you practice at a large corporate firm or in a small town.

4. I found the questions about lowering the cut rate and the importance of encouraging diversity very insulting. The very questions pre-suppose that minorities don't have the same intellectual capabilities and that minority groups should get by with lesser skilled representation. As a woman in my career (I am currently almost 65) I have faced that same attitude. Law is an area where women have made great strides but, as shown by the current furor over the Google employee writing that women shouldn't be in the tech field, those stereotypes continue. No one can dispute the number of tech companies founded by minorities. The hard truth is that the world isn't fair, all people don't have the same abilities and opportunities. Some people will rise to the challenge and others won't or can't. Lowering standards is not the answer. Very few people would support the lowering of medical standards so to believe that lowering the standards for the practice of law, which impacts almost everyone at some point, is a good idea just flat out isn't logical.

5. The field of law is already crowded, which is one reason students aren't finding the same employment opportunities. Technology has changed how law is practiced requiring fewer people to do the same tasks. There are a lot of law schools, maybe too many, but the answer isn't to allow more students to pass the Bar so their pass rate looks better, but to do a better job preparing the students for the practice of law. Having high standards is often hard or more expensive, for example, emission standards. Keeping emissions standards high is better for the greater good and for the future. Maintaining California's high legal standards is also better for the greater good and the future.

Richard Somers - Somers & Somers, LLP

California does NOT have a shortage of attorneys. In fact, our court system has trouble handling the case load as it now exists. Moreover, the State Bar should be proud that we maintain a high level of qualified and proficient attorneys. Lowering the pass rate will only have a negative effect on the State Bar and attorneys of this State.

David Brown - Brown, Brown, & Brown

The standard is too low as it is. I have been a lawyer for 38 years, and see the multitude of dumb, incompetent lawyers daily. It is astounding that these people passed the bar. Keep the standards up, and if there aren't enough lawyers [public laughs], let the market steer better students into the profession, and let better students come here from other states. Don't dumb it down. That is not in the public's best interests.

Nathan Hicks

No need to lower standards, as there are plenty of attorneys in California. Lowering the standard only weakens the caliber of our bar.

Lori Morrissey - HouseReward.com

I dedicated three solid months to studying for the CA Bar after graduating from law school and pass on the first try. If current test takers aren't willing to put in the time and effort to pass the exam on the first try, then they deserve to take it multiple times until they take it seriously. It isn't a difficult exam if one studies hard for it.

I work out of state and get a lot of respect from other attorneys around the country for having past the CA Bar on the first try. I'd hate to see the exam's respect be diluted.

Anonymous

The purpose of the bar exam is to evaluate if someone should be allowed to practice in California. With that in mind, the cut score should not be arbitrarily increased merely because the pass rate is decreasing. Instead what should be considered is the caliber of individuals allowed to sit for the bar in the first place (or at minimum some analysis should go into the idea that CA is the only state that allows anyone to sit for the bar exam). Changing the cut score to increase the pass rate of the exam is not an answer. As an attorney who has sat for three bar exams (in three different states), passing all, I did not find the CA bar particularly difficult in comparison to the other bar exams. Instead I found it a fair assessment of my ability to practice within the state. More importantly because CA does not ask state specific questions (unlike the other two bar exams I have passed) it was not particularly nuanced in the questions being asked. Instead the questions were fair assessments of general legal knowledge. Though the CA pass rate is low I believe that just proves that CA wishes to hold the attorney's that practice there to the highest intellectual standard. For these reasons I believe it discredits the attorneys who have already passed the CA bar to arbitrarily lower the cut score.

Neal Millard - Musick, Peeler & Garrett

We clearly have too many lawyers and too many incompetent or barely competent lawyers. If the number of people who are not passing the exam is increasing, the answer is not to make it easier, the answer is to have better education and better training. This state has an abundance of "fly-by-night" law schools and unaccredited law schools. You might start by doing away with them. Then you might require all lawyers to have a bachelor's degree. The exam is passable, it always has been, but it has been a problem for those who are not intellectual fit to be lawyers. Lowering the bar rate to get those people in is not protecting the public and is actually doing a disservice to the public. We do not need more lawyers in terms of numbers, we need more competent and ethical lawyers.

Anonymous

Low pass rates are a problem caused by less satisfactory teaching in schools, poor bar exam prep classes or students not having time or money for them (perhaps law schooks should do bar prep as part of tuition), possibly overly tricky got-cha questions on exam, or exam and school teacings not being in sync. The purpose of the exam is to test competence, not to make sure a lot of people pass exam and become attorneys. When California public schools lowered qualifications for becoming teachers, California fell from have one of the best education systems to one of the lowest. The same could happen to the quality of attorneys. Grad students who take on college loan debt should consider that they may not be able to pay the loan if they dont pass bar the first or any time. Perhaps schools should figure out and provide solution to their students not passing and should have to warn potential students of school's low pass rate al

On slightly different issue, perhaps California should have reciprocity with other states so out of state attorneys with a few year successful experience can skip exam and ca attorneys can easily move to other states

Anonymous

My first objection is personal. Had the cut score been 1414 the first time I took the California Bar in 2013, I would have passed. Instead, I had to undergo all of the financial, professional, and personal burdens that came with taking the exam again. I assume there are many with similar stories. Lowering the cut score is unfair.

My second objection is broader. The difficulty of the bar exam isn't the problem. Lowering the cut score ignores a larger, underlying issues. If law schools are going to charge obscene amounts of money, they need to fulfill their obligations to prepare students to take the bar exam and to become successful lawyers. Law schools provide a service. And if that service is failing, they need to improve their service.

John Fallat - Law Offices of John L. Fallat

This is one of the few tests left in the "social sciences" that has some integrity. The applicant has to memorize rules, but also apply critical thinking and then communicate same in coherent writing. The 21st century quest for the lowest common denominator has to stop. The performance part of the Bar exam was added shortly before I took the exam in 1984 to hopefully pass more applicants. Perhaps that aspect can be examined more fully along with how other states conduct their exams before just lowering the score.

Jennifer Buckman

We have a societal problem in that neither law schools nor colleges/universities are doing a good job of teaching critical thinking skills. This makes it harder for people to pass the Bar examination. The answer to this problem is not to lower the passing score; the answer to this problem is to require the law schools and colleges/universities to provide J.D. candidates with the skills that they need to perform the job well.

Anonymous

I do not believe that the problem with the current bar passage rate lies in the cut score. Rather, the problem is the number of non ABA schools in California and non-California accredited law schools.

There are a number of schools (Non-California accredited) that set up law students for failure.

Instead of making it easier to become an attorney in a state that is already over-run by attorneys, the focus should be on ensuring that law students are given a proper education so that the bar exam is not such a hurdle.

By lowering the cut score, it is only the symptom that is being cured but not the underlying problem.

Patricia Walker

Unfortunately despite the aid of technology advances, the practice of law has not gotten simpler. Clients seeking legal advice should be able to have confidence that the attorney they retain can navigate the complexities of today's legal system. This means that the bar exam should retain high cut offs so as to preserve the competency of the attorneys admitted to practice.

Scott Nielson - Law Office of Scott Nielson

We should not embrace ideas that reduce the bar requirements for new attorneys. In fact, we should discuss raising the standard, not lowering it just because a certain percentage of potential attorneys cannot pass the current bar. Frankly, the California bar exam is not as hard as many would like to pretend. Potential applicants must learn the law before attempting the bar. The test is one of the only means available to trying to determine whether or not an applicant can apply the law and legal principles to basic fact patterns.

From my perspective, there is no shortage of attorneys in California. Why would anyone entertain the idea of making it easier to become an attorney in California? It is somewhat alarming that a study was commissioned to justify this action in the first place.

Practicing law in California is challenging. If an applicant cannot pass the bar (at its current standard) what makes anyone think they will be good in practice? Finally, the whole point of the testing requirement is to create a challenge to ensure basic competency of the law. If we start reducing or diminishing that standard where do we stop? I am sure this looks good to someone somewhere on paper, but the long-term impact of decreasing the current standard will be far less qualified attorneys practicing law in California.

Anonymous

Please do not dumb down the California Bar Exam. Plenty of aspiring attorneys are able to pass the bar exam with the current cut score, and California is not suffering from a shortage of lawyers.

The practice of some aspects of law is becoming ever more complex (perhaps unnecessarily so, but that's another story); we need to make sure California lawyers can demonstrate that they are well-equipped with the requisite knowledge and reasoning skills to ply their trade, whatever their ethnicity or gender (or the size of their student loans).

Anthony Marzo - Not Applicable

I am living proof that with preparation, hard work and dedication, the California Bar Examination can be passed the first time at the current passing score. We should not give in to those arguments that would have us reduce the standards of our profession. As it is, those standards are too low and there are too many attorneys practicing who have not sufficently prepared themselves to represent their clients, who step on the rules of practice and procedure, and who are unethical. I have seen too many attorneys who make a mockery of our profession. To lower the pass rate is to ask for more unqualified and unethical practitioners. We, as lawyers, need to reclaim our high standards, not reduce them further. Thank you.

Anonymous

I am a California licensed practicing attorney who passed the California bar in 2009. While I think most of us who sat for the California bar feel empathy for and a sense of connection with anyone who has gone through the bar exam (whether once or more than once), this is about more than a battle-hardened communal connection for those of us who successfully made it through the other side. The bar exam should be about setting basic competency expectations. Having fewer people pass does not justify lowering the bar. **This is especially true in California where you are not required to receive your legal education from an accredited school.**

I shudder to think if this logic were applied to medical board exams.

I have a lot of sympathy for those who do not pass, especially for those who take on student debt and struggle to pay it off. That does not justify lowering competency requirements; it means we should be examining law schools (particularly unaccredited ones), their instruction, and their tuition.

Lindsey Ball

I don't think it is unusual that the bar exam average is lowering each year. The rate of law school admission has also dropped dramatically. This means there are fewer qualified lawyers.

It is also essential for maintaining some semblance of marker competition in the legal profession. There are already many law schools in California and we do not need to increase the number of practicing lawyers in a time where many of our jobs are being mechanized.

Anonymous

If the cut score is lowered to increase the pass rate, would the cut score be made higher if the pass rate is "too high?" ... makes no sense to me to arbitrarily change the pass rate because of some desired pass rate.

Ronald Fiore - Sole-practicioner

Donald Trump was elected for many reasons.One of the paramount reasons was his attitude regarding "political correctness".With the mind-set of political correctness, our country ended up with President Barak Obama, and a nuclear powered enemy like North Korea.If America had a "qualified" President, during from 2008 to 2016, a qualified President would have dealt with a North Korea BEFORE, they had the nuclear capabilities that they have today.so now we are having to deal with the very real possibility that one or more American cities will experience a nuclear explosion.

Lowering the Bar Exam score, to allow less qualified applicants to pass, does nothing for the quality and effectiveness of the California Bar. It is, however, very "politically correct".So, we end up with a "warm fuzzy feeling", knowing that certain candidates, who could not pass the exam, with the normally acceptable passing scores, will now be exposed to the public, with lower performance capabilities. I just don't see the benefit to the public, or the California Bar Association.

Here's an idea. leave the passage level where it is, and allow these individuals to get themselves qualified, for the next bar exam. They will ultimately feel better about themselves, and the public will feel better about the qualifications of the California Bar. It worked for me. it'll work for them.

Steve Silver

Lowering standards to increase a pass rate is rarely a good idea, and with respect to the bar exam, it’s a bad idea. Lowering the cutoff score obviously means less qualified people will become attorneys. This benefits no one—certainly not the public or potential clients of the less qualified attorney. Were there a shortage of qualified attorneys, lowering the passing score might be necessary; however, that is not the case in California. The solution to a lower pass rate is better education, study and preparation by examinees, not lowering the cutoff score.

Anonymous

Lowering the bar for admissions to practice law in California would be a disservice to the public, the profession and the courts. If the pass rates are falling, then it simply shows that there are less qualified and more unqualified persons taking the exam.

Anonymous

If the point of increasing the pass rate is to increase diversity and increase lawyers working in public interest law it seems to me the bar should partner with law schools to create scholarships or other programs that require recipient's/participants to work in public interest law for a period following graduation in exchange for reduced tuition. I think there's a disconnect between increasing pass rates and diversity in the legal community or increased lawyers working in public interest law. I don't see how allowing more lawyers with lower qualifications benefits the public interest sector as these newly minted lawyers will still have the same student debt and therefore the same motivation to make money, not necessarily work in a less paying legal services.

Gary Brown - Law Offices of Gary S. Brown

It is quite difficult to respond to the survey provided without adequate information.

My highest priority is educating excellent lawyers and testing them in an appropriate manner to be sure they can confront and participate well in this very trying profession. I support an apprenticeship system. I was formerly a C.P.A. and that requires two years of apprenticeship. In law, I believe it should be at least three years.

Anonymous

Given the State Bar's concern about its mission to ensure lawyers performance is properly regulated, and that lawyers perform in a professional and ethical manner, I am frankly surprised the Bar would consider lowering the cut score. The Bar Exam is difficult for a reason; to weed out the unqualified.

The Bar just lowered the threshold to practice by reducing the exam by a day. Moreover, the Bar is seeking to de-unify the Sections when it is the Sections that provide the training lawyers need to avoid malpractice. The Bar's recent collective decisions reflect a highly dysfunctional and schizophrenic approach to managing our profession. The organization is increasingly vulnerable to private influence peddling because it is so busy trying to protect itself from blame instead of taking a leadership role and maintaining its mission focus.

This fact is that the effort to lower to cut score is really motivated by money. Banking institutions were allowed to charge exorbitant rates for student loans. Potential law school applicants concerned about being saddled with debt are reconsidering a decision to attend law school. This and other economic factors are contributing to the current dip in law school applications, now law schools want a band aid that will only poison the wound!

The Bar should not relax its standards in reaction to dipping law school attendance, or any other pressures. The decision to maintain California's high standards for law practice should be influenced by integrity and not by money. Address the problems with the financial and banking loan industry and this issue becomes moot.

Anonymous

I was about to go into a long rant about why we need to keep option one, but instead I will give my thoughts on option 2. Although I completely disagree with option 2, I can see that being option if modified. Obviously option 2 is meant to help out those on the fringe who were not good enough at the test to make the current cut score, while also acknowledging the financial toll it takes on someone if they fail. I do have some some sympathy for those in debt and were on the fridge because those people are severely limited in job prospects at that point. So if option 2 was implemented, I would recommend keeping the current score and creating a second tier of those who scored from 1414 to 1439. Those in the second tier should have to complete additional CLE credits or take some sort of additional course work over a 2-3 month period. Upon completion, those in the second tier will be granted passing status for the bar exam. This would be cost effective in terms of studying for an additional bar and allow someone to seek employment. I passed the bar first time as a July 2016 taker. Everyone I know who has failed the bar exam was either a terrible law student, not very smart, or did not take studying for the bar seriously. Final note, do we really want to lower the cut score so people can study less and pass the bar? If someone does not want to study hard enough to pass the bar, then maybe that person is in the wrong profession because life as an attorney is no cake walk either.

Anonymous

Having to meet these standards helps to ensure the quality of representation that individuals receive. The State Bar of California has high standards for the attorneys that are admitted to the bar, just as there are and should be high standards to become admitted. I shutter to think what will happen if the standard is lowered. We want to increase the public opinion of attorneys, not decrease it.

Barbara Koorey - Orange Coast Title Company

Anyone who makes a decision to enter law school must also be committed to do whatever it takes to get through all requirements, including passing the bar, successfully. If a candidate feels they will not be successful, or the work required is beyond their skill set, I would suggest they should be looking into another profession. I don't believe that, after all of these years, we should lower the bar for those entering the legal profession. I have watched our country reduce requirements in many areas to accommodate those less fortunate or less educated, and I don't necessarily take issue with it, however, when it comes to certain professions, I believe going down that road creates a slippery slope that may not be in our professions best interest.

I also feel the same way about the medical profession and other professions that, by their very nature, require participation be limited to those that can meet the high standards necessary to maintain the integrity of the profession.

Thank you!

Steven Schneider - Mitchell Silberberg & Knupp LLP

Lowering the cut score will only increase the number of barely qualified attorneys, to the obvious detriment to the public, and make the entire California Bar a laughingstock to the rest of the country. Do you really want to inflict even more barely qualified attorneys on our minority and under-served populations?

An analogy here is that the width of home plate in baseball is always and everywhere 17 inches, from the Major Leagues down to Little League. Batting slumps, poor team performance, and tearful Little Leaguers suffering temporary poor self-esteem do not mean that this width must be changed. The remedy here is not lowering the cut score, but making sure that California law schools do a better job of preparing their students for the bar exam, even if specific standards for that preparation must be promulgated by the California Bar for law schools and private bar exam preparation entities.

Anonymous

The bar exam pass rate is declining because fewer people are applying to law school because it's become so expensive. The law schools are accepting students with lower academic credentials to fill their classes, and this is why the bar pass rate is declining. Instead of whining about their low pass rates, the law schools should lower their fees and take other steps to attract better-qualified applicants.

Michael Bertinetti

The Bar Exam exists to provide assurance that candidates meet at least minimum intellectual and ethical standards to practice law . Its standards ought not to be lowered rescue law school administrators who have admitted too many students unqualified to pass the test. The cure for that problem is to let such schools go under financially, rather than keep them afloat by diluting the quality of the bar. Nor should the test be tampered with to enable unqualified persons to " pass" under a theory that allegedly underrepresented racial minorities or other interest groups are better off with unqualified lawyers than with no lawyers at all. The cure for that problem is for qualified schools to do a better job of teaching such candidates how to read, write and express themselves persuasively in standard English { if such still exists in this day and age of expanding computerized illiteracy}. These students already know how to think ; it is their grip on expression that holds them back.

The exam was a miserable experience in 1973 and probably also was in 1933. It has always been a difficult but far from impossible obstacle to well-prepared people of good intelligence and some measure of perseverance. Those are the people who ought to be lawyers -- who ought to stand between the public and claims for liability and damages. To lower the bar and relabel failure as success would be for the Bar itself to suffer the greatest failure, and one of its own making.

Anonymous

In determining the cut score, the Bar's paramount concerns need to be the protection of the public and maintaining the integrity of the profession. The current cut score has resulted in the admission of too many unqualified attorneys who waste court and client resources because they do not know basic civil or criminal procedure. Lowering the cut score even further would only flood the market with more unqualified attorneys. If an attorney cannot handle the preparation necessary to pass--and the pressure involved in taking--a bar exam, how is he or she supposed to function in the real world of legal practice, which involves commitments that are even greater in number and more time-sensitive in nature?

I do not subscribe to the argument that lowering the cut score would somehow increase the diversity of attorneys or increase access to legal services for underserved populations. I went to law school with many individuals whose social and racial backgrounds were different from mine. All of them passed the bar on the first attempt, under the current cut score. Bar exam scores are a function of preparation and basic legal knowledge, not race or socioeconomic background. Basic legal knowledge and the ability to prepare for and complete a challenging task are qualities an attorney should have--not only for his or her ability to function in the real world but also for the protection of the public. Nor would an attorney lacking such basic skills be of much help to underserved populations.

Simply put, the Bar's overarching mission is to protect the public. Lowering the cut score is counterproductive and antagonistic to that mission. Neither the Bar nor the Supreme Court should allow lofty goals and platitudes to interfere with their guardianship of the public in connection with the practice of law.

Heidi Lehrman - State of California

If we are comparing California's cut score to those in other states, are we also comparing the content and level of difficulty of the respective exams? If not, why? And is any comparison being done in the manner in which the bar exams are administered? Would other data be helpful to review in consideration of lowering the cut score, such as graduation rates in respective states, curricula, or grade point average? Otherwise, how is it relevant to state that the proposed lower cut score is still the second highest in the nation?

Anonymous

First, California has a large amount of unaccredited law schools, which is likely the reason for the low pass rate. All of the decent law schools have reasonable pass rates. Second, California allows people who have not passed law school to sit for the exam. This also contributes to the low pass rate and explains why California's pass rates are much lower than other states that don't allow people without law degrees to sit for the exam. Third, the exam has already been made shorter. Fourth, there is an abundance of lawyers in California. Finally, the California bar exam was not that difficult. Lawyers are faced with these types of challenges all throughout their lives and they should be ready for them. If someone cannot study for the California bar in 10 weeks they should not be able to practice law in our state.

Anonymous

It is not a good idea to dumb down the profession. Underserved populations are not served by subpar lawyers. Observe the quality of current legal education. If it is declining, do something about that.

Stephen Lindholm

Employment prospects for law graduates have been poor since the 2008 financial crisis. As a result, law school applications have declined significantly.

Nearly every law school in the country is admitting dumber and dumber students in order to keep their enrollment numbers up. (The exceptions are the very best schools, and the few schools with integrity such as the University of Iowa.) The result is that bar passage rates have gone down in California in particular.

The solution to having too many law graduates and not enough jobs is NOT to lower the bar standards so that dumber people can pass the bar.

The solution is for law schools to admit fewer students, or for the worst law schools to close. In fact, with proposed ABA standards, the worst schools would be forced to close because of the poor bar passage rates. This is a good thing - bad students should not be suckered into paying hundreds of thousands of dollars for a bad education.

As of yet, there has been ONE law school merger in recent years (Mitchell and Hamline) and ONE law school closure (Whittier). Enrollments are not falling nearly as fast as applications. Clearly the law schools are not responding to the changing employment prospects, and the blame for poor bar passage rates lies with them.

How is lowering the bar standards supposed to help students? Are the worst law graduates from the worst law schools going to find high-paying firm jobs simply because they have passed the bar? And how does it help the public? Is the public served by excavating a basement out of the bottom of the barrel?

For schools which have maintained their enrollment standards, the bar pass rates are still excellent. Keep the bar passage standards where they are.

Anonymous

We need to keep standards high, otherwise the profession will have less to offer the community. A license to practice law has to have meaning. If the standards are lowered, then it loses its meaning. This is a slight reduction, but once we start going down that slippery slope, it will be difficult to stop.

I am offended at the implication that in order to achieve diversity, we need to lower the standards. This implies that non-white test takers are not as capable. As an hispanic attorney, I know that diversity is needed and I am also aware of the barriers to the legal profession. The barriers are in getting students into college, through college, and then into an accredited law schools. The largest barrier I see is the cost of tuition, room and board, and opportunity for summer internships, not the test which is at the end.

The other barrier is motivation to enter the legal profession. I was asked to speak at career day to largely minority young women. In order to prepare, I researched cost of law schools, room and board, student debt and then looked at salaries and opportunities in the legal profession, for instance partnership opportunities. I was dismayed at the lack of diversity and women in partnerships in law firms. I started practicing in 1992 and had limited opportunities. It has not changed since then. Thus after looking at costs and the cost of other opportunities, I was reluctant to encourage young women to enter the legal profession. Lowering the standards of the profession would not increase diversity because it does not address the real barriers to the legal profession.

I oppose lowering the cut score. We need to address why test takers are not passing, and address those issues.

Anonymous

Given the number of attorneys in California who have passed the California Bar I'm confused why this is an issue at all. If anything there should be a movement to make the exam tougher so as to shrink the pool of attorneys.

Barbara Zimmerman - Zimmerman Pavone LLP

There does not appear to be a shortage in attorneys. Unlike accountants, I have never heard anyone say that they cannot find an attorney because they are all too busy to take new clients.

As a practicing attorney, I see too many fellow attorneys', particularly new ones, scrambling to get enough paying clients. The need to get enough clients to earn a decent living drives many attorneys to take cases they are not qualified for or which they can otherwise not handle resulting in low quality representation (and increased costs for the opposing party). While reasonable competition is a good thing, too many attorneys will only drive the quality of representation down. Experienced and knowledgeable attorneys' will not reduce their rates and the lower cost representation will remain with attorneys who are inexperienced or unqualified (who bill more hours at the lower rate in order to compensate for the lack of experience).

While there are insufficient services for low income persons, adding more attorneys will not fill the gap. With more attorneys competing for paying business, there will be fewer solo practitioners and small firms able to take pro-bono or clients unlikely to pay - you have to have enough money coming in to pay salaries and expenses while you or your employees work for free.

Anonymous

Even with the current cut score, there is a surplus of attorneys in the state relative to the number of jobs for lawyers. The State Bar should direct its focus at diploma mills with low admission standards instead of lowering the bar admission standards. The State Bar should put pressure on the government institutions that are financing these diploma mills with student loans. Many students that graduate from these institutions are saddled with significant debt and cannot obtain jobs even if they pass the bar exam.

Anonymous

I know how difficult it is for someone who has studied long and hard to go into the examination, finish it and then not pass.

I have been an attorney for almost 37 years and it was one of the most anxious times of my life.

But I studied hard, worked very hard in law school and studied for the bar exam for 8 additional weeks, 8 hours a day to prepare for the exam.

It was a 3 day exam and they were just considering the performance portion of the exam. I actually took two bar exams, the original and the volunteer exam where they selected 500 volunteers to attend a closed 2 or 3 day session where we actually had a full law office, courtroom, other lawyers, judges and bar examiners watching everything we did. It was very exciting and interesting. To this day I do not know which exam I passed, but I was well prepared and felt that I had passed the original exam, even though I was sick for about 3 hours on one day and that time was lost.

I want California to stay as the premier state to practice law. The exam is meant to test to see if an prospective attorney can meet a minimum standard, and from what I understand that is a 70%.

I don't think this number should be changed. Maybe the questions might be made a little more comprehensive, cover more of the course work from all eligible colleges and universities, or maybe the grading shouldn't be quite as harsh. I am not sure but probably implementing some of these ideas may work in the future. But we are only the second hardest, so we are not all by ourselves.

I am proud of the work I did and what I had to do to become an attorney.

And yes, it is quite more expensive to go law school. Maybe there should be a 20 point advantage given to persons that pledge to work for the good of CA residents and others that cannot afford an attorney for at least 10 years, as well as other incentives if that would increase the number of attorneys that will help the less fortunate.

Thank you.

Michael Dean

I presume that California students are no smarter nor dumber than those in other states. The lower rates can only be attributed to either inadequate preparation by the law schools or the failure of the bar exam to appropriately test for those attributes necessary to practice law in this state. Given my own exposure to new associates over the last few decades, my view is that 1) they cannot write English sufficiently well to be freshmen in college; and 2) their ability to analyze a situation is impaired by their reliance on digital technology. I may simply be an old guy (admitted 1975) but that's my overview of 40+ years of new attorneys. Changing bar standards does not address either of these problems. Changing the law schools so that students can pass the exam is where the answer lies. And yes, the first point regarding writing skills may be beyond the law schools' purview, but that still doesn't warrant changing the bar.

Anonymous

Perhaps California law schools should focus on preparing law students for working as attorneys AND passing the bar. To my knowledge, the test has not changed significantly-- the bar still tests on BASIC principles of law. It is a minimum competency test. If graduates of any law school (whether first tier, second tier, or unranked) cannot pass a minimum competency test, then they should not be licensed.

For those arguing that the current cut score is too high: again, the bar is testing the same basic core concepts (property law, contract law, torts, criminal law and procedure, civil procedure) for years. To lower the score now to accommodate a new generation of lawyers will 1) produce less qualified attorneys and 2) inundate the already waning job market with less qualified candidates.

Donal Cummins - Cummins & Holmes

Many law schools have lowered academic entrance requirements and many allow academic concessions to various minority students for the sake of diversity. Lowering the cut score would have the Bar falling in line with many of the law schools. What happens then? Many new attorneys, especially those granted concessions of one kind or another, who can find a job, don't perform well. I own a small firm for the past 48 years. I have always had young lawyers hired as employees. Most have gone on to developing their own firms. Some along the way just didn't have what it takes to effectively represent clients and had to leave my employ. I doubt that those are still practicing. This is a tough and demanding business. I don't believe that for the sake of diversity we are doing those young lawyers any favors by lowering the standards of the Bar. I don't think the Bar exam should be made less strenuous, nor do I believe we should lower the test standard threshold. What a colossal disappointment and feeling of failure for the mostly minority students who have received concessions to then be on the street and fail-- "on the street" is the ultimate decision maker and it is very unforgiving. The schools should keep strenuous standards as should the Bar.

Donal Casey Cummins

Anonymous

Do not lower the cut score.

Robert Arabian - Robert Arabian

Do not cheapen the practice of law. Those of us who had to meet a stringent standard are proud that we could meet it. CA attorneys are some of the best in the nation for a reason. If you are going to cheapen our status as attorneys, then concurrently you should allow other attorneys from the 50 states to "waive" into the state of CA as practitioners instead of taking a test. At that point, everyone can practice everywhere. Either the law student can pass a law school exam and apply that knowledge to the BAR or not. If the totally whack-a-doodle law schools want to teach all their social justice and not focus on the BAR, then maybe they can become lesser rated schools and suffer the consequences of having a low BAR pass rate. Once students don't attend any longer, then those schools will be forced to teach how to be a lawyer instead of how to be a socially conscious law student.

Philip Gunning - self

There are already too many attorneys, including a multitude of dumb ones, in Cal. Do we really need more? I'd propose raising the cut-score 10% or so to thin the herd a bit. Too much State Bar time seems to be spent "protecting the public" from allegedly wayward lawyers. If the Bar is so concerned about the "Public", why not protect it from an influx of even dumber ones? By the way, hasn't the Bar already dumbed down the Bar exam quite a bit by allowing those with so-called or purported "disabilities" even more time to answer the questions, than previously was the case?

Jerry Mann - Jerry H. Mann, Inc.

The State Bar does not need to send the message to the general public that we are lowering the bar. Instead of lowering the bar, why is the focus not on the education process. Passing the bar requires the same skills as a lawyer--diligence, focus, commitment and perseverance. Why undermine those values.

B. Burke Barclay - The Law Office of Burke Barclay

I am a practicing California attorney outside of the state. One of the things I hold very dear is that fact that I managed to pass the California Bar Exam on my first attempt. It not only says that I studied and applied myself to the level needed to pass, but it also says something to my colleagues. Any law student can pass the exam at its current cut score, it is only a matter of effort. By lowering the standard to become a California attorney, this does nothing for the profession. Because I worked so hard to pass the bar, I do not take any of my professional responsibilities for granted. I cherish my bar card and if the California Bar is so concerned about protecting the public as its highest priority, this is a step in the wrong direction. Please do not give into pressure on this issue. Please continue to maintain the Bar's highest standards and leaving the cut score at the current level is one way to ensure this.

Anonymous

Lowering of the cut score will expose the public to the inevitable harm of more unqualified people obtaining a license to practice law. It does nothing to improve the quality of service provided to the public or the future reputation of the State Bar.

Anonymous

Lowering the Bar Exam cut score is a disservice to the profession and to the public. First, the attorney market in California is over-saturated with qualified (and unqualified) attorneys. ABA approved law schools cannot place all their graduates in the legal profession, so it makes no sense why the State Bar is considering lowering the Bar Exam cut score so more attorneys will not be able to find work.

Second, assuming the Bar Exam is the same as the prior years, the pool of Bar examine takers may just be less qualified. This could be due to more qualified applicants choosing other professions such as tech. Lowering the standard and threshold to become an attorney is not the answer, and harms the public because the pool of attorneys will be less qualified.

I see no point in lowering the Bar Exam cut score when the attorney market is over saturated with qualified attorneys who have passed the Bar and unable to find work. If anything, the State Bar should look into how to maximize ABA accredited school's job placement numbers, perhaps by even increasing the Bar Exam cut score.

Carolyn Brock - Law Office of Carolyn R. Brock

I do not think that the cut score should be changed. It is supposed to be a difficult exam. It shouldn't be decreased in difficulty because students aren't willing to put in the study time.

However, I do think that providing the exam and exam prep classes in other languages might help those for whom English is not their first language. Accommodations, including extending the time allowed for those who are slower reading English might help in increasing the diversity in the profession and would certainly be an appropriate accommodation.

Anonymous

The CA legal market is already oversaturated. I know of some great attorneys but there are also many mediocre ones who pass the Bar, but are not able to get a job. The fact that law school admission has become easier in the past couple of years is so scary. Students go to law school and pay hefty tuitions/take out astronomical loans, thinking they'll pass the Bar and make $180K in their first year. Decreasing the Bar exam passing score is only going to feed into this fantasy. Instead of adding to the pool of unqualified attorneys, we should be coming up with creative ways to educate our attorneys and create more jobs. I'd support initiatives that'd offer more hands-on workshops during 3L, which would also better prepare the students for the Bar (specially on the PE portion). I'm already very unhappy with the change to a 2-day exam. Many jobs out there, especially in litigation, require long hours of work and prep. The 3-day exam more closely mirrored the real life of an attorney. It'd be shameful to deceive the law school students/potential students by promises of an "easier" Bar and shortcuts of becoming a CA attorney.

Anonymous

The pass rate for CA ABA accredited schools is well above 40%; the concern and focus should be on raising the pass rate for non-ABA accredited schools. Having law schools that do not prepare students to pass the bar is the core issue, not whether the test is too hard. This is an important profession and the integrity needs to be maintained. Making the practice of law more accessible should not come at the cost of harming consumers who rely on lawyers for their skill and expertise. The Minimum Cumulitive Pass Rate required for CA Accredited law schools is only 40%. How can we expect the pass rate to be higher than 40% if that is the goal that non ABA accredited schools are shooting for? Law schools that charge the same amount in tuition and saddle students with the same amount of debt as ABA accredited schools, but only routinely prepare 40% or less of each graduating class to pass the bar is a concern. If the requirements are lower for non ABA accredited schools, the tuition should be required to be proportionately lower so that students who attend law schools that routinely fail 60% of its students are better equipped to pay off their debt when they can't be admitted into the practice of law, in the form of having less debt than those students that attended ABA accredited schools.

Anonymous

The state of California has an abundance of lawyers, some of which are unqualified to practice law. Lowereing the pass rate will only add to that problem. Lowering the score will not fix any issues, it will add to the problems of law schools churning out lower level graduates. For five or more years now, law schools have accepted less qualified candidates because the economy was improving. It may be time for a law school or two to close or merge in California to fix some of this problem. I strongly oppose this change.

Milly Durovic - San Diego Public Defender retired 2016

The real problem is the academic qualifications of the applicants. So many law school graduates in California go to unaccredited law schools that academically inferior with minimal acceptance standards I worked as a supervisor for the Public Defender Office for 25 years and interviewed hundreds of applicants for jobs and internship positions. I found that applicants from the ABA accredited law schools, who actually graduated from a 4 years college were for the most part superior these graduates don't practice law.Just because you are willing to go into debt it doesn't mean that society has to give you a participation trophy which in this case is admission to the bar. Keep the current cut score. The pass rate when I moved here from Washington DC and took the bar in July 1984 was 47% and I thought this was the easiest bar exam I took; I took the DC bar and the Maryland bar which was by far the hardest one since there were questions on common law remedies. This country is dumb enough already we don't need to lower the standards for the bar exam to allow more poorly educated people to become attorneys.

Jay Chritesene - christensen & auer

The Bar should not lower standards to accommodate unqualified candidates.

Abraham Price - State Fund

If anything, please make the Bar exam harder. There is absolutely no reason to make the Bar exam easier.

Anonymous

Lowering the cut score by one standard deviation (by 26 points) seems like a drastic option when it will only increase the bar passage rate by 3-4%. Additionally, the exam just became a 2 day exam. There should be a few administrations of the 2 day exam to determine what effect that has on the bar passage rate.

Narek Mnatsakanian

A lower pass rate does not mean the cut store should be lowered; it only means that applicants should study harder. The biggest issue here is to make sure that applicants are well-qualified and prepared to competently represent their future clients. Lowering the bar score only makes this issue a bigger problem and does not serve the public's best interest. The California Bar should not lower their standards to accommodate the shortfall of effort by applicants.

Frederick Hull

I support retaining the current "cut score" for the California Bar Exam.

We all share the goal of increasing the representation of all communities in the legal profession and ensuring that legal services are affordable and available to those who need them. These goals are laudable, and they are listed in the survey that was sent to California State Bar Members, but they do not appear to be the reason that this change to the "cut score" is under consideration.

CBE AGENDA ITEM: JULY 2017 – O-100 references (a) declining law school enrollment and an increase in admission rates among law schools as accounting for some of the decrease in bar exam pass rates, and (b) the concern for potential changes to ABA accreditation rules requiring law schools to have 75 percent of their graduates pass a bar examination within a two-year period in order to maintain accreditation.

Both of these concerns are directly related to the quality of students that ABA accredited schools are accepting to keep their classes full.

While questionable, it is the right of a law school to lower their standards to keep their volume up. However, it is not incumbent on the Committee of Bar Examiners to admit the same percentage of applicants to the legal profession as in prior years during a period when ABA schools have lowered their standards.

Masking this change in the applicant pool by changing the "cut score" to pass the same percentage of people admitted to law school does not address the root causes of the decrease in applicants to law school.

If you assume that a large percentage of people seek a Juris Doctorate for economic reasons, such as increasing their earning potential, I would suggest that the decrease in student applications to law school is due in part to the following factors:

1) High cost of a Juris Doctorate degree from an ABA school, potential debt for that tuition, and the perceived or actual lack of high paying jobs for the majority of recent law school graduates.

2) The trend of increasing pay in the software and computer industry along with the ability to work at that rate of pay without the need for a graduate degree or license.

The first item would tend to decrease the number of applicants who are motivated by future income, unable to pay law school tuition out of pocket or debt avoidance. The second item however will also decrease the overall pass rate of the remaining applicants. It is anecdotal, but I found in law school that engineers had fewer problems with examinations and the bar exam than the other students. If this group of potential law students is opting for careers outside of law then the pool of remaining students will have a lower pass rate.

This is by no means an exhaustive list of why there are might be fewer applicants to ABA law schools, or even why the more recent graduates are having a harder time passing the bar exam. Whatever the causes, I would think that lowering the standard to be admitted to the California Bar is putting the cart before the horse. If there really is a problem with too few attorneys in California that should be addressed.

The California Bar Exam is the minimum threshold for admission to practice law in California. Lowering the "cut rate" because law schools are admitting and graduating students who are less able to pass the exam is a disservice to the citizens of California, to the justice system and ultimately to those who are admitted who are in over their head.

Anonymous

The California Bar exam already has a limited number of topics compared to other jurisdictions, which unlike California, test on a wide variety of commercial topics.

Before lowering standards for admission to a profession that already is "heavily populated," the State Bar should seriously consider whether there are too many law schools in the state and whether unqualified students are being admitted to law school in the first instance.

Lisa Davies

Are were really talking about dumbing down the Bar so this generation can feel better about themselves by passing? The Bar is the standard of competency and it is not supposed to be easy. It measures a person's dedication to passing. It is achievable for any student who has graduated from law school - if they put in the time and the work. If a person cannot pass the Bar, they should not be a lawyer - and remember the Bar can be taken numerous times! I worked full-tine when in law school and went to Whittier Law School....so it was important that I study hard to pass the Bar - and I did. But I knew people who for some reason thought they did not need to study and did not pass. These are the people who will benefit by lowering standard. We don't need more lawyers - we need better lawyers. I suggest we raise the Bar.

Frank Ariel - Ariel Law Group

If you lower the cut score, the only thing you accomplish is adding a glut of unqualified lawyers to the pool that already exists. We deal with people's lives. We need to make sure that the standard of practice is held to the highest level possible.

Anonymous

I do not believe simply lowering the cut score is an effective solution. In general, if the test is fair I do not favor making it easier because people are struggling with it. I hope to see a more substantive review of the entire process. Are law schools properly selecting applicants with a mind toward their aptitude to become lawyers or are too many people being admitted? Is the bar exam even an effective way to measure a person's likely effectiveness in the profession? Is the bar exam having a disparate impact? Is it helping to create diversity among practicing lawyers? Lets have an exam that serves the legal profession by fairly identifying effective future lawyers and promotes diversity in the profession. Lets also have an exam that makes sure the public trust in the legal profession is earned by admitting only highly qualified applicants and not lower the threshold just to accommodate too many unqualified people.

Anonymous

There are a plethora of unskilled, unqualified attorneys who have successfully passed the California State Bar Examination - We do not need to add to those ranks people who fail to pass the only real standardized gateway we have into the legal practice in California. Inflating test scores only serves to potentially put dangerously unskilled practitioners on the streets.

Leslie Barry

Over the 17 years since I graduated from law school, I have regularly (two to three times per year) participated in judging moot court competitions at the law school from which I graduated. I have observed an increase in the number of students and a significant decrease in the quantity of students. It is my opinion that the answer to the bar pass rate is the reduction of class sizes at law school so that only students actually qualified to eventually pass the bar exam graduate from law school and take the bar exam. The result would then be an increase in the pass rate.

Anonymous

Lowering the score on the bar would be a grave mistake! I am a practicing attorney. I cannot think of anyone more qualified than myself to speak on this subject. 1) It took me 4 tries to pass the bar. 2) I'm a successful solo practitioner now. 3) I have a flourishing bar tutoring business. My students pass at about a 70% clip. If anyone would benefit from the scores being lowered, it'd be me. So why am I against it? Because I see first hand how many woefully unqualified people there are trying to pass the bar. The integrity of the profession would suffer, as well as the quality of legal services that the public receives. Not to mention flooding the market with unqualified attorneys will leave more and more attorneys jobless. Lowering the standards would be a big mistake with far reaching consequences.

Anonymous

There is already an oversupply of lawyers in California, and the public would not be served by admitting additional, less qualified would-be lawyers to the bar.

The bar exam is an objective, neutral test that ensures that only individuals who are capable of practicing law proficiently are admitted.

If we are concerned about greater access to legal services and greater diversity of lawyers, we should fund legal aid centers and community outreach/tutoring for diverse communities, NOT lower the standards of bar admission.

Anonymous

Do not change the rules for passage after the test is taken.

Anonymous

Doing well (or poorly) on the bar exam does not in any way relate to whether one is a good, ethical, or quality lawyer. The skills and talents necessary for practicing law are not tested or revealed by the bar exam. As a result, changing the bar exam standards will do nothing to protect the interest of the public from potentially unqualified attorneys.

Neither - in my opinion - is one's score on the bar exam a predictor of who will be a good or ethical attorney.

The only function of the bar is to test a student's skills in taking that type of test - nothing more. There is no point in lowering the standards.

Anonymous

I practice primarily for the plaintiff, and have handled cases in the area of legal malpractice, as well. I have also been an attorney in this state since 1989. In my opinion the integrity of our members is on the decline. Admittedly, I have not done any studies on whether one's actual exam score has anything to do with one's integrity, and the members to whom I refer are all practicing attorneys, not new applicants, but my concern is lowering the cut score may indeed increase the pass rate and access to attorneys, but may also increase the California State Bar's work, in terms of consumer complaints and the need to police the profession. Thanks for the opportunity to comment.

John Durrant - Mitchell Silberberg & Knupp LLP (these are my views only, not necessarily MSK's)

I should say, at the outset, that I wholeheartedly agree with the goals of increasing the diversity of the profession and I understand and appreciate the goal of access of the public to capable legal counsel. I do not believe, however, either factor militates in favor of lowering the current standard.

In the first place, the current standard is really not that high. The bar exam does not require vast knowledge or analytical precision. Most of the questions on the bar exam tend to be uncontroversial black letter law that can be learned through fairly rote memorization. The application of law to fact is elementary – far easier than many questions attorneys encounter in real-life practice. There is nothing wrong with forcing candidates to dig in and learn the law; we work in a difficult, unforgiving profession that greatly rewards diligence and punishes laziness. The current standard reinforces that hard work matters, because hard work alone should be enough for most to pass the exam.

In almost 16 years of practice in California, I have encountered far too many attorneys, who lack appropriate command of applicable law and necessary analytical skill. As a result, they waste legal and judicial resources staking out positions that they will surely lose, picking battles over non-issues, and making illogical or poorly researched arguments. In short, there is already a crisis of lack of competence in the profession. Lowering the standard yet further, will tend to increase the supply of lawyers who lack necessary knowledge and skill to pragmatically represent clients. The fact that other states have lower standards likely means they see even more bad lawyering than a California practitioner.

Secondly -- and I say this as a diverse attorney who cares very much about opportunity and inclusion -- diversity is not aided by simply increasing the numbers of diverse attorneys. The very concept is insulting and counterproductive. It is insulting because diverse candidates are no less capable of passing the exam. It is counterproductive, because diverse attorneys are, if anything, held to a higher standard once they enter the profession, due to implicit confirmation bias and other factors. Passing a bar exam – even if it takes more than one try – sets new attorneys up to ultimately succeed. In addition, since diverse attorney are more likely to serve underserved populations, passing a bar exam has a tendency to ensure that such underserved populations are getting counsel who are capable.

We should draw a distinction between a relatively easy knowledge based test like the California Bar Exam that you merely have to "pass" and more difficult, "ability" based exams like the LSAT on which your score matters. While affirmative action might be necessary to remediate differential outcomes for the latter (which may be due to exogenous reasons such as historical disadvantage), it should not be for the former. Anyone worthy of the profession should pass the California bar exam, as it is.

Third, I don’t believe that the supply of competent lawyers can be increased to the point that it will materially impact the availability of lawyers to serve poorer communities. The overhead of a basic legal office is such that most people will not be able to hire lawyers. To many Californians, $100/hr or even $50/hr is cost prohibitive. Many members of the bar are already unable to find gainful legal employment, which itself refutes the contention that, as more lawyers qualify, such lawyers will lower their price until they find the clients to hire them.

Fourth, and relatedly, the profession is overcrowded; by dumbing down entry requirements, you are making things worse.

With respect, I think this is a terrible idea.

Anonymous

Maintaining standards of the profession is the State Bar's first priority. Lowering those standards, in the interest of easier access to membership, conflicts with that priority.

Greg Vigna - Greg Vigna, MD, JD

As a physician practicing medicine for 20 years and a CA Attorney since 2012 it is not surprising to see the percentage drifting lower. The quality of new grads/residents entering medical practice has gone down over the past 5 years from my casual observation. Despite having all the data available with a click of the finger, the new generation of professionals are not doing the work. The CA Bar should not change their longstanding standards to fit this new normal.

Greg Vigna, MD, JD
Certified Life Care Planner

Anonymous

As someone who previously worked with students who had failed the CA Bar Exam, sometimes multiple times, but who kept trying to pass it, I do not support lowering the minimum score. In my experience, these students failed for a variety of reasons ranging from an inability to form coherent sentences, a fundamental misunderstanding or lack of knowledge of the law to panicking under pressure of the exam. Rather than focusing on lowering the passing threshold, the Bar should look into taking steps to ensure students getting into CA law schools are prepared to succeed in school, on the Bar Exam and in their professional practice. Honestly, I'm concerned that focusing too intently on the passage rate leaves the Bar open to making changes that ultimately do not serve the public. Instead, the focus should be on ensuring those admitted to practice can adequately represent their clients.

Anonymous

Makes no sense to continue to lower what is required to be an attorney in California. California should consider reciprocity before making this kind of decision. The bigger issue is too many Law Schools that have very low pass rates. Close down unqualified schools and the pass rate will be the highest in the nation.

Kimberly Kirkpatrick

While I am sympathetic to the concerns of those graduating with law school debt, I do not believe that lowering the standards for admission to the CA Bar is an appropriate response. When you choose to enter law school, you have a fairly good idea, statistically speaking, of your likelihood of passing the Bar based on your LSAT and prior GPA.

California has long had a reputation for having a "tough" bar exam. No one entering law school should have any delusions that the CA Bar is an easy exam. If you are looking for an easy exam, try another State. California law is complex and requires a similarly complex exam to test the ability of those seeking to practice law in this State.

In terms of easing the burden of law school debt, I'd prefer to see debt forgiveness programs such as a specific number of years in under-served areas of law equating to some loan forgiveness, service in public agencies or the like.

Anonymous

Making sure that California citizens receive the best legal representation possible and that the legal profession in this state maintains high standards of integrity should be the goal of the State Bar. By lowering the scores needed to pass the Bar Exam in my opinion can detrimentally impact the type if legal service our citizens deserve. And to be quite frank, it is the protection of the public which far surpasses any benefit an applicant may receive by lowering the standards set many years ago.

Anonymous

Maintaining a high qualifying level is preferred. Modifying by lowering the criteria for passage to make the California system more "in sync" with other bar systems is a mistake.

The result of lowering will allow less qualified and in my opinion Unqualified individuals eligible to practice.

Anonymous

There is an over saturation of attorneys in California especially in the large cities. Jobs are already hard to find for many first year and young attorneys. Many young attorneys are drowning in debt because of the inability to find work and/or because of the very low paying attorney jobs that young attorneys are desperate to take. There are also too many current incompetent/unqualified attorneys in California. As it is, the State Bar cannot keep up with the back log of discipline and low level offenders are skating by without being held to high standards. The profession is somewhat of a mockery in California. The State bar should insist on maintaining a high level of integrity and protecting the public from unqualified attorneys.

Anonymous

There are more than enough incompetent attorneys as it is.

Anonymous

The Bar's focus should be on improving law school admission screening so that less qualified applicants don't incur unnecessary law school debt that they won't be able to repay practicing law, as opposed to lowering Bar admission standards.

Cary Mcreynolds - CDM LAW

The Bar has always taken the position that members must meet a certain competency level in order to represent clients. How the fact that the pool of candidates decreased in quality somehow justify reducing competency? Should doctors do the same thing?

Instead of cutting the quality of attorney's available to represent the public, how about eliminating non ABA schools? Their graduation rates are horrific and their bar pass rates are abysmal. Sadly, in my own experience, graduates of non ABA schools who do pass the Bar, are far more often poor practitioners and ineffective counsel for their clients than those who attended ABA accredited schools. This is not say all are that way, as I have also met some who are excellent practitioners.

Glenn Stover - Sto

PLEASE do not lower standards for certifying lawyers in California! There has been a virtual epidemic of incompetent attorneys afflicting California courts (ask judges...), and nothing good can be achieved by failing to weed out those who fail to pass the current Bar exam.

Consider: there is, most assuredly, no shortage of attorneys in the state -- judges will tell you that there is a shortage of *effective* attorneys in their courtrooms. Lowering standards will not address this problem, but merely make it worse.

Simple principles of consumer protection also militate against lowering the Bar exam cut score: why unleash a flood of poorly-qualified "lawyers" on an unsuspecting public?

If any changes are made to the standards used to pass the California Bar Exam, they should be to make the exam more difficult and, potentially, to *raise* the cut score for passage.

Thanks so much for seeking the views of current practitioners!

Anonymous

On behalf of those of us who passed the bar after five plus attempts and incurred huge punishing debt and felt like POW's when we finally became attorneys I will say your proposition is woefully misguided.

I know many unemployed middle aged attorneys who can fill the nonprofit void that allegedly exists and does not need to be filled by lesser attorneys who passed an easier bar exam.

It seems the real goal to find young sexy people and to condemn older, less successful attorneys already marginalized in the industry because our law-schools accepted us as "nontraditional" students who finally became attorneys to what?! flip hamburgers at McDonalds? Why? So younger wannabe models who can't pass and are too narcissistic to endure "the struggle" can join the trendy LA attorney scene?

So what are we? Chopped liver? Condemned to a "Better Call Saul" life?

Or is it because you are being lobbied by those million dollar ABA law school tenured professors who can't teach and are worried they will be revealed for what they really are - unadaptable dinosaurs who should be fired?

Whatever the reason is that law school graduates are suddenly failing the bar exam has nothing to do with the score.

It's either the test is harder or the students are worse. Lowering the score is not the answer. I was an average student in high school and college who somehow got into an ABA school and eventually after a 2 year struggle PASSED above 1440. If I can pass that test, anyone can ....eventually. I passed the hardest bar exam in the United States. I was an average type B non-competitive student (look at my transcripts!).

THERE is no shortage of attorneys in CALIFORNIA. If NON-Profits that serve the underprivileged have a shortage of attorneys it is BECAUSE the young sexy people and the professors and the millionaire attorneys who run those NonProfits have a disdain for older, poorer, less successful, less sexy attorneys and don't want to mentor the attorneys whom they turn their noses too because we aren't cute and sexy.

Shame on The California Supreme Court and the Bar Association for even considering lowering the score. I personally know a dozen underemployed minority and women middle aged attorneys who can't find work. Would these nonprofits like me to given them their contact info!? No! They want young sexy people they can mentor and flirt with. What a shame - being a lawyer used to be regarded in the same light as a medical doctor. No longer.

Gary Winter - Lawvex, LLP

The public is not well served by lowering professional standards. We should not lower standards in the name of diversity. The standard is set to protect the public. We should not lower standards because law students have failed the exam and have substantial law school debt. The debt was incurred in furtherance of and in consideration for a juris doctorate degree, which the graduate now holds. The Bar exam is a licensing exam and should be difficult because our standards should be high. When I solicit professional services from a licensed CPA, doctor or therapist, I am not well served if they simply survived the degree program and passed a cursory exam. I expect them instead to be able to demonstrate proficiency and perform under pressure. Would we say the same thing about a profession that holds lives in their hands? What about a surgeon? Or an airline pilot? Don't they have substantial school and training debt? But the idea that we would lower standards for those professions is ludicrous. Finally, the profession is not well served with more lawyers that are not excellent at their craft. Our industry has already been a poor steward of the lawyer's reputation. Bad lawyer jokes abound. Mistrust of lawyers due to rampant billing pressures and abuses are commonplace. Value and efficiency for clients in our industry isn't even being discussed so it certainly isn't a priority. I would argue that we should actually *raise* the standard. There is no shortage of lawyers. Many new law school grads turn to solo practice without an associate apprentice position and learn on their own because they can't get a job. This is not a healthy industry. The idea that we should lower standards is bad for the public and bad for the profession.

Robert Lucas - Robert Lucas Law

I see no reason to artificially change the cut score to increase the passage rate, and have seen no justification for doing so other than to increase the pass rate. If the exam is testing the knowledge needed to practice in California, then the examinees need address their own deficiencies so the can pass. If the bar exam does not accurately reflect the knowledge necessary to practice in California, then the test should be changes so that more can meet the current cut score at 1440. But, to just arbitrarily lower the score to increase passage does nothing to solve the problem, and would only create a new class of ill-prepared attorneys.

Fredda Ellis

As a bar member since 1979, I do not believe the bar exam should be made easier. I believe the reason the passage rate is so low is because law schools are not as rigorous and demanding as they have been in the past.

Michael Reich - Law Office of Michael Reich

If you want to increase bar rate passage, then end the California accredited law schools. They are terrible! They bypass the necessary substantive law that every lawyer should have to be somewhat knowledgeable on in exchange for jumping straight into practical training. The problem is that the most important job a lawyer has is to be able to identify potential issues in order to protect their clients and the non-ABA accredited schools tend to not give enough substantive background to do this.

Although the high cost of a legal education is an important issue, you cannot just lower the standards in order to ensure those who undertake the financial expense are able to find gainful employment. Eliminating the CA-accredited schools will mean weed out these people and save them from the huge cost of a legal education that will not serve them well.

While admitting more lawyers will certainly increase accessibility to underserved populations, those underserved populations will be in a worse spot if they are being served by incompetent lawyers. They are better off not being able to find a lawyer than paying an incompetant lawyer thousands of dollars to represent them.

Anonymous

I think law schools are not adequately preparing students to pass the bar. Only in recent years has the score decreased, did the exam get harder or are students less prepared? I think the issue is not with the state bar, it is with law schools. The more students they admit, the more tuition they get and less effort is placed on adequately preparing students. By no means do I think its fair for students to pay their money to these school and assume a huge amount of debt and then not be adequately prepared to practice law. Law schools need to take some responsibility in all of this and at this point they are deflecting from the real issue.

Anonymous

The bar exam is simply a test of ability to perform legal work and some general grasp of legal knowledge or where to find it. The real learning and competency comes about after passage when the rudimentary skills of the newly admitted are given practical, real world experience as to the application of the general principles learned in law school.

If you dumb down the passing score you are admitting that protection of the public is not as important as getting a higher passing rate, which incidentally admits that the applicants are getting dumber and less competent as time passes. Would you lower the admission requirements for doctors or nurses knowing that one of the newly licensed under the lower standard would be treating you?

To lower the passing bar threshold is to state firmly that "well not enough people are passing, it must be the fault of the schools or test, so let's lower the passing threshold and give these otherwise superior students a license in spite of their defective education and knowledge to respond to generalized legal situations and questions. If they commit malpractice later, the State Bar will hear about it from the harmed client" instead of keeping the standard and requiring the schools and individuals to meet it.

Based on the newly admitted that I deal with on a daily basis I believe that if you lower the passing standard you will have to water new admittees as they will indeed be that dumb.

Anonymous

The California State Bar has been the toughest in the country ever since I have known. I'm licensed in 4 states. It was difficult, yes, but nothing to cry about and demand substandardization. I just studied harder. The State Bar needs to protect the standard. AND, it needs to take an aggressive stance against the unauthorized practice of law. There is a huge abundance of people who are engaged in the unauthorized practice of law from large corporations to the street corners. If anything the standard should be raised. In many countries law students study law for 5 years and have 1-2 years of clinical practice. Where are we here? California is a higher education state.last time I checked.

Anonymous

Please do not lower the admissions standards for California attorneys. It would be a huge disservice to the public and to the profession.

As context to my view, I have been a California attorney since 1978. I passed the bar exam the first time I took it. I apparently did well - I was invited to grade bar exam essays, and did so for the following two years. I have been with the same law firm since 1978 and am currently the managing partner. Much of our firm's work involves civil litigation. I am involved in hiring entry level attorneys. I am also conscious of the fact that my perspective might be thought of coming from a "grumpy old man." I assure you, however, that I have given careful thought to this issue over a number of years, as the retention of young associate attorneys is a significant problem for small and mid-size law firms which cannot skim the "cream of the crop" of annual law school graduates.

The skill set of new law school graduates has steadily declined over the past two decades. Recent graduates struggle with basic concepts of civil procedure and evidence. Practical skills are few and far between. We see entirely too many law graduates give up after a new years, finding that the job is too demanding. Where young attorneys once looked forward to opportunities to appear in court, too many recent graduates seek to avoid appearing in court and having their work "judged."

Law, as a life long profession, is difficult and demanding. One's knowledge must grow and expand if one is to succeed over the course of a career. Having a strong foundation, coming out of law school and through the bar exam, is essential. Without it, young attorneys are "swallowed up and spit out" by the rigors of the job. If standards are lowered, too many attorneys will enter the profession with a weak foundation, and many will "crack."

Lowering the standards for admission to the practice might allow an occasional "diamond in the rough" to make it through and no doubt someone will have success after just squeaking by. At the same time, however, those lower standards will allow many more marginal cases to enter the profession, and those many will not have the skills, or the drive and desire, to succeed. Members of the public will be subjected to unqualified but licensed "professionals." Law firms and the courts will have to fill the gap, and serve to weed out the many unqualified attorneys who would get through the bar exam should a lower standard for admission be adopted.

If the State Bar's primary mission is to protect the public, then that mission should be honored. Lowering the standards for admission will not protect underserved populations or segments of society. Indeed, it would subject those needy groups to substandard, under qualified legal representation.

Charles Spears - Spears Law

Having been practicing law in California for over 30 years I have observed many younger attorneys who seem inadequately educated for the profession. In talking with them, they seem to almost universally have graduated from non-ABA accredited schools. I do think the bar should be lowered as I already have concerns about the quality of legal services being provided by some of these attorneys.

Anonymous

The level of incompetence in the legal field is already astounding and I believe that lowering the threshold to entry into the profession will exacerbate this problem. I understand and can relate to the crippling burden of student loan debt and the desire of bar-takers to get their careers started and get on the path to paying off their student loans. I do not see lowering the cut score is a viable solution to combating student loan debt and I believe that it will result in a flood of under-qualified attorneys into the practice.

Anonymous

The State Bar should not lower standards because fewer students are currently not able to pass the bar exam. Yes, the bar exam is difficult, but it should be difficult. Practicing law is a privilege and the public counts on lawyers to defend their rights and interests. They deserve and should expect the very best from legal professionals. In the last few years, my firm has hired around 10 newly admitted lawyers and I have seen the stereotypical complaints about "Millennials" play out first hand. The attitude that people are entitled to get what they want regardless of hard work or skill is all too prevalent among the newest members of our profession. Lowering the standards of the State Bar only exacerbates the problem and feeds into this notion that if something is too difficult, we will just change our standards to make it easier for you. Now is the time to demand more from our profession, not less.

Michael Norton - Law Offices of Michael Norton

The survey included in the same communication from the State Bar of California asks respondents to evaluate seven statements as to their importance as factors to consider whether or not to lower the cut score on the CBX. Three of these - maintaining the integrity of the Bar, protecting the interest of the public from potentially unqualified attorneys, and the declining pass rates on the CBX - are both important and highly relevant to the question of whether to lower the cut score. The declining pass rates, however, may well be the result of declining quality of education from kindergarten to college. Here, the question is really whether we want to accept lower quality education as a permanent condition. I do not. While increasing the diversity of attorneys from different backgrounds is an important and desirable goal, lowering the cut score does not seem to me to be an appropriate means to achieve it. In fact, this action implies that applicants from minority backgrounds need extra help to become admitted to practice law. I am not from a minority background. However, lowering the cut score to boost minority admissions seems to me to be patronizing, insulting, and even racist. I do not believe the cut score is a proper tool to achieve diversity. Using the cut score to increase access to legal services for underserved constituencies would at the same time serve to lessen the protection of the public from potentially unqualified attorneys. Increasing access is also an important and desirable goal, but I believe that using the cut score to achieve it is not doing underserved constituencies a favor. To me, the fact that California's cut score is the second highest in the nation is something to be proud of, not something to be concerned about. I have interacted with attorneys from many other states using lower cut scores. I may be biased, but I believe that in general, California attorneys are better educated and more competent than attorneys elsewhere. I think the problem of student loan debt is of great concern, and some means of alleviating this problem is very necessary. But I do not believe this problem is even relevant to the consideration of lowering the cut score.

Anonymous

In the course of practicing law (mostly transactional work but also a some litigation) I encountered an appalling number of attorneys who were ill prepared, ignorant of the relevant law, and seriously devoid of legal reasoning skills. I think dumbing down the pass rate (i.e., lowering the cut score) will make the situation worse.

Incompetent attorneys not only injure consumers, but also waste court time (already in short supply) and make the practice of law a very unpleasant experience. I should mention that I failed the bar exam the first time. But instead of complaining about the cut off score, I studied harder, and in the process, learned a great deal (significantly more than from law school).

John Rance - Sole Practitioner

Hate to say it, but I took the bar in the old days of 1981. I even took the Feb bar and passed on first try. And I previously attended a Calif State College and a Calif Only Accredited Law school.

I studied extremely hard. Kept track of my hours so I could prove to myself I did my all. I took a bar review class and Frank's Bar Review class.

Hate to say it, but passing is about preparation. I would bet that people who pass studied like me. And I took the old test format before the lawsuit against the bar for making it so hard.

Sorry, I am not buying it.

Anonymous

Rather than lowering the threshold of admission to practice, the State Bar should address declining academic standards. This would include investigating non-ABA approved law schools which tend to target students who are not able to gain acceptance to more academically rigorous institutions and also tend to be more expensive, thereby increasing student loan burden on those students least likely to pass the California Bar.

Anonymous

Rather than making the bar easier, why don't we eliminate some of the California Accredited and Non-Accredited law schools? The reason why there is such a low passage rate for the California bar is because of these schools which often times do not take in qualified candidates. If you look at the ABA-accredited schools, the pass rate is quite high. However, when you look at the non-ABA accredited schools, they lower the passage rate significantly. Do we need more unqualified attorneys out there? Do we need more people too hungry for work that they'll take any terrible case? This is why the public's perception of attorneys is so low.

Anonymous

There is a very difficult fact that we must all recognize: there are countless unqualified attorneys practicing law in California. But, they all passed the Bar Exam. Lowering the standards of admission to the Bar will only further dilute the quality of legal services in California. A better solution, one that would help achieve the more important purpose of protecting the public, would be to eliminate unaccredited law schools. The pass rate for graduates of these unaccredited law schools is, for the most part, atrocious and drives down the overall pass rate. If the pass rate was low this last year, what was the pass rate for students from unaccredited schools versus ABA accredited schools. I'll bet that would solve the problem. It would also better serve the public. Thank you.

Erin Aaland - Erin Aaland, A Law Corp.

The Bar exam is an endurance test, in my opinion. I only took it once so I'm no expert, but didn't find it as hard as I'd expected. Most importantly, it's not like CA is short on lawyers, enough people are passing.

Michael Kruppe - Law Office of Michael Kruppe

The fact of a recently declining passage rate is not in and of itself indicative of a permanent decline in passage rates that will continue unless addressed by the current proposal to reduce the score level required to pass. Instead it is like many things in life just another example of the ebb and flow or back and forth pendulum swing demonstrated by the fact that humanity is not subject to strict black and white consistent predictable results. What makes humanity enjoyable is instead the differences that we show from person to person and over a long period of time.

it is not necessary that we have knee jerk reaction to a short term trend (if such even exists) by demeaning our profession by lowering our standards to get into the practice of law. It is better to have a qualified body of attorneys smaller in number than it is to reduce quality by dropping the qualification levels merely so we can say we have a consistent number of practicing attorneys.

I myself did not pass the bar exam the first time but did on my second try. When i passed the passage rate was something like 27%. There was not then nor should there have been a panic and change in the circumstances to take rash thoughtless steps by changing the cutoff rate at the time i took the bar. Instead the bar exam is supposed to be blindly administered and is in fact INTENDED to sort out the capable from the incapable candidates.

Not everyone who somehow manages to get into law school should end up being a lawyer nor should there be any sort of guarantee of employment again just because you got in to a law school. Many in fact have no interest in practicing law when they apply to and attend law school. Instead there are many who merely like to postpone the reality of having to work for a living and feel safer ensconced in school as long as they can manage it. these people who in certain instances procure student loans to bankroll their fantasy and or try to procure some sort of respect from their fellow men and women kind because they have a J.D. by there name should not be rewarded by a state bar that would seek to deliver a meaningless honor merely because "they put in their three years and graduated".

No, it is more important to preserve the integrity of our profession which is fleeting enough by demanding that only the best and brightest be allowed to practice law. Practicing attorneys have definite impacts upon society as a whole. Dropping standards of qualification just to get a statistical number satisfaction is absurd and would hurt our profession an society in the long run.

Don't do it!

Brett Johnston - Brett T Johnston APLC

Competency should be preserved.

Rachel Grundy

The current cut score of 1440 should be kept as the standard for California Bar passage. Every subject on the Bar Exam is important and a good lawyer needs to have a firm understanding of these legal concepts. The public looks to attorneys for guidance and views their opinions as complete and final. We cannot lower our standards and allow those who do not fully understand basic legal concepts to misguide lay people. It is unwise and unethical. If, for example, the public learned that the standard examination for medical doctors was lowered to increase a passage rate, I personally as a non-medical professional, would feel very uneasy and may have a more difficult time in choosing and/or trusting a doctor. Of course, attorneys are not doctors, but the attorney's role in society and individual people's lives is just as important.

Anonymous

The answer to the problem of declining bar exam passing rates is not to make the exam easier to pass. The answer is to better equip those taking the exam so that they may pass, or stop admitting those who are not likely to pass. The exam has already been made easier by reducing it to two days. How much easier does it need to be. Law schools do little to nothing in terms of teaching students to pass the bar exam or to practice law. The focus should be on better training and teaching, and not dumbing the exam down.

John Matthes - Law Firm of Campagne and Campagne

To The State Bar of California,

While I am sympathetic to students who have not passed the California bar exam, as a person who took the bar exam twice and ultimately passed, I do not think that lowering our standards to meet the needs of a declining pass rate is the answer. The purpose behind the bar exam, largely, is to demonstrate minimum competency in the law. Maintaining a high standard on the bar ensures that students continue to study hard and that the most qualified individuals ultimately become members of the State Bar. Decreasing this standard may allow for students to become lax and strive less for success. Becoming an attorney is part intelligence and part hard work. Intelligence may be inherent and as such this may not necessarily be able to be changed. Hard work and work ethic can be changed positively and negatively, however. My fear is that by lowering the cut score, an attitude of decreased work ethic could result. The trickle down effect could result in attorneys who do not work as vigorously for their clients, which defeats the public interest policy behind the bar exam. We as lawyers and jurists have a duty to protect the public by providing the highest standard of legal representation possible. Lowering our standard does not serve the public well.

While I am also sympathetic of the costs and loan burdens that law school generates for many, considering financial burden is inappropriate in my view as a means to lower the score. Students, including myself, are well aware of the consequences of signing a promissory note to secure a loan. For me, knowing that I had to pay back a six figure loan amount fueled me to study harder for the bar because I knew I had to pass the bar to make it possible to pay back my loan.

I feel that the decision to ultimately lower or maintain the cut score, should be considered in a light most favorable to the interests of the public. Certainly, we want the most qualified surgeons to cut on us when we have open heart surgery. Certainly too, the operation of law can be quite complex and a client deserves to have the best shot at having the most qualified person to represent them in the court room. A lawyer can help create rights, defend from incarceration, and make or break a person's financial fortune that they have worked a lifetime to achieve. California owes it to the individuals who seek out legal advice and to the integrity of our centuries-old jurisprudence to not sell ourselves short.

I believe that the inquiry needs to be on the law schools to examine why the low pass rate is happening. (emphasis added.) What is different about students today than 20 or 30 years ago? Have law school standards become too relaxed? Are more unqualified students sitting for the bar than in the past? A study of these issues should be examined before knee-jerking and deciding to lower our California standard because fewer students are passing.

In sum, I believe it will be a detriment to the public and a slight to the profession to lower the cut score just after reducing the bar to two days from three. Reducing our standards only ensures that students will not take the exam as seriously and this lax attitude may be reflected in the profession. Lastly, I believe the inquiry is on the law school system to make sure that qualified individuals are being admitted to law school and are receiving an appropriate legal education to prepare for the bar and practice of law. We simply cannot afford to lower our standards for consideration of a student's financial burden. I believe law schools have an ethical decision from the beginning to make sure that students are accepted who have a likelihood of passing the bar exam. If law schools are accepting students who are unqualified in order to receive tuition, then maybe the question should be whether or not that institute should operate as a law school? A law school is not doing the student any favors by accepting a student and running up their debt to six figures if their LSAT and GPA indicate that they probably cannot pass the bar exam. My reaction is that 30 years ago there probably were not as many non-accredited law schools in California.

We should keep our standards high for the public and maintain the integrity of the profession. We should keep the score of 1440 as the passing score.

Anonymous

This is not a bar exam problem, it is a law school problem. The law schools need to keep the seats full to make money, even when they know they have lowered their standards so much that they are now accepting students who will never pass the bar exam. Don't increase the number of mediocre or incompetent lawyers by lowering the cut score. Instead, shut down the state-accredited only schools, shut down the schools with extremely low first-time passage rates, refuse accreditation for schools that pay students to delay taking the bar exam, and make it competitive again to get into law school. Underrepresented groups do not need access to a huge pool of incompetent lawyers.

Anonymous

California is inundated with lawyers. I don't see how letting a few more in each year would greatly increase services to anyone as there are thousands of qualified attorneys looking for work right now. I took the bar twice. If the cut score had been 1414 when I took the test for the 1st time I would have passed but I don't care. Taking the bar twice taught me many important lessons about managing my own time and forced me to greatly improve my legal writing skills. I am a far better attorney for having tried and failed the bar once.

Anonymous

Since when do we "lower the bar" when people do not succeed. Perhaps the Bar should look at the requirements for eligibility. When you allow non-accredited law schools persons who do not even attend law school to take the bar, you will have the lower pass rates. What is the reason for low pass rates?

Angela Curtis-Quintero - Law Office of Angela D. Quintero

In my 15 years of practicing law, I have observed too many attorneys who lack minimal competence. It is unclear to me how lowering the cut score to allow people to practice law, who otherwise have not been able to pass, will HELP society. Simply lowering the pass rate to increase the number of attorneys practicing law does not in and of itself mean that there will be more attorneys available to help the indigent. Keeping it at the historical standard of 1440, in fact, requires them to rise to the level of knowledge that will hopefully help society. I contradict myself on some level, as the cut score in and of itself has not prevented unethical attorneys from practicing law, nor has it prevented incompetent attorneys from practicing law and charging outrageous fees to innocent members of our community, but a line has to be drawn somewhere regardless. Lowering our standards in order to accommodate more people to be able to practice law is simply that.... lowering our standards. If the members of the State Bar of California wish to diminish our value and standard of education, that will diminish over overall value and credibility. I, personally, am not interested in devaluing what I have worked so hard to achieve. In my humble opinion, it's similar to saying that I'm going to begin speaking slang instead of using proper grammar because that's what is acceptable to society in this generation; or that we are going to change math equations because people cannot understand how to calculate without a computer. I suggest that we require candidates sitting for the California Bar Exam to hold themselves to the same standard as every Attorney who forged the way ahead of them. There is great honor in being a California Lawyer. There is great honor in the license that we worked so hard to achieve. There is great honor in knowing that our hard work paid off.

Morris Getzels - Morris S. Getzels Law Office

It is important to protect the public from unqualified counsel, and to maintain the integrity of the profession. There is no reason to lower the cut score.

Peter Logan - Peter Logan Law Offices

The Bar passage rate fluctuates, and the recent rate is similar to the 1980's. It went back up without a change in standards. No need to panic or lower the passing score. California has a proud reputation as a meaningful and demanding bar exam, and that should not be diluted. I used to grade bar exams, and believe it is fair (not perfect).

Anonymous

The CA bar exam should remain at the current required score. The state has a glut of attorneys and the last thing needed is more unqualified lawyers. The real problem is legal education and training for new lawyers. Law School should have an option for an expedited 1 1/2 year program, followed by a 1-2 year apprenticeship program. This is the only real way to teach young students the practice of law. Too many law schools are filled with professors with little to no real experience practicing law, they only have theoretical knowledge.

Debbie Vargas - D M Vargas, Attorney at Law

The more we lower our standards to achieve a higher success rate, the more we lower the quality of candidates passing the bar. Perhaps law schools need to be producing better-prepared graduates to take the standard exams. Perhaps marginal students should NOT be granted a license to practice.

In this country, it seems the more we dumb-down our standards to accommodate any minority class (be it women, people of color, etc.) in any situation (be it bar exam, or driver's licensing, or contractor's exams), the more we erode the high standards of the profession. I think candidates need to work harder to achieve success, not have the standards lowered to accommodate them!

Anonymous

We must not sacrifice quality/qualifications in order to bring more attorneys to this state. Integrity should be the priority. Why should others have it easier than I had it?

Anonymous

We need to continue to uphold the high standards of bar membership. These standards should not be "dumbed down" just so more people can pass. That sends the wrong message.

Anonymous

Look, law school attendance is very low compared to when I went, so in theory, law students today have many more educational opportunities than I never had. I ended up going to a small school out of state (ranked then in the 70-85 range). It was a very good education, but it provided no prestige.

Due to poor economic conditions there, at graduation, I returned to California for the Bar. I busted my butt studying some 8 weeks for the Bar, including learning areas of law specific to Cal. I passed. In fact, everyone from my small out of state school who took that July Calif Bar passed (white, Asian, male, female) while the Hastings passage rate was at best 70%.

Now, my passing the Bar into the dotcom bust did NOTHING to help me find gainful employment. For 7 years, I had to do temp gigs before getting a break. 7 lean years of earning on average less than $50K/yr. while trying to support a family in San Francisco while new graduate programmers stepped into $100K/yr. jobs without needing to get a license in whichever state they wanted to work. And, I was lucky. I know some people who, to eat, took anything they could and have never been able to get reasonable experience to land a meaningful job as a lawyer. For me, after that break, it was another 8 years of strategic moves to get the title of an attorney. 8 years of doing attorney work while being told it wasn't while being told I couldn't go inactive if it would prevent me from doing my work, because it would lead to termination. 15 years in total even after having passed the Bar the first.

The main problem is that the bar did and has done NOTHING to ensure that laws are changed to define clearly what the practice of law is. So, for those who work hard to pass the Bar, but don't have a chance to get a decent firm job due to the law school they attended or an attorney position with a governmental agency/entity, or do not have the luxury of building up one's own practice, end up doing work that constitutes the practice of law per Cal AG Opinions for employers who do not have to recognize the work as such, so they can pay licensed attorneys to practice law at 35-50% of an attorney salary while threatening them with dismissal for refusing to do the work as an inactive attorney.

Also, it would not surprise me if your desire to lower the bar for the Bar has to do with pressure from law schools in California to make their stats look better.

Tobin Dietrich - Discovia

The CA Bar exam has always been and should always be one of the hardest in the nation. It is a point of pride and esteem to all of us who have passed. Lowering standards demeans our achievement and our profession.

I am offended by the implication that law school debt can be used as a justification for lowering standards. A decade out of law school, I still carry over $100K in law school loans but I do not think that somehow entitled me to pass the Bar exam (or have a better shot at it). Rather attempting to justify my financial gamble motivated me to study harder and do everything I could to pass on the first attempt.

Anonymous

Although many the reasons proposed for lowering the cut score (e.g. the burden of law school loans, increasing diversity in the practice, declining bar passage rates, etc.) are valid concerns, there are better ways to achieve those goals. Increasing accreditation standard for law schools, requiring practical legal experience prior to taking the bar, or imposing diversity requirements in accreditation, among numerous other methods, are all valid ways to address this problem. Lowering the cut score is not. The bar exam is meant to do one thing: ensure that those who receive a license to practice law in California are fit to do so. Lowering the bar to serve other goals defeats the purpose of the exam, and is senseless where those goals can be served by other means.

Anonymous

I do not think the State Bar needs to make bar passage easier. This is a domino effect stemming from the fact that law school acceptance has gotten easier in California due to the glut of schools, both accredited and non-accredited. Further, the State Bar should stop permitting graduates of unaccredited schools to take the bar exam.

Marco Gomez

According to this e-mail, reducing the score to 1414 would increase passage from 43 to 47%. That is still a low passage rate. I would be more sympathetic to lowering the score if the passage rate would be 60% or more.

Has the Bar determined what the passage rate would be if unaccredited law schools and state-accredited schools were eliminated from the analysis? Every time I have looked at bar passage rates for schools, the rate of ABA schools is typically 60 percent or higher. Unaccredited schools are that high only if they have, for example, 3 test takers with 2 passing. More commonly, the passage rate for unaccredited schools is something in the neighborhood of 20% or less.

A high passing score is not the problem. It is the fact that too many test takers from unaccredited or state accredited schools are failing the exam.

Michael

The Bar Exam is not a good evaluation of whether an attorney is ready to actually practice law. The Bar Exam is helpful in that it shows whether a new attorney has a basic understanding of many areas of law and, to some extent, how they are interconnected, and general procedural requirements. This provides a basic framework for a new attorney to evaluate issues and generally spot problems. Given the limitations of the Bar Exam, the cut score should remain where it is.

Having recently studied for and passed the Bar Exam, I believe the questions are not too difficult. The current cut score allows an applicant to miss a significant amount of questions/material and still pass. For example, it is generally understood that an applicant needs to achieve an average of 65 points on essays to pass the exam. The applicant receives 20 points for writing anything. That means the applicant needs to acquire 45 of the 60 points possible on each essay to achieve a passing score.

In my view, there are two factors that lead to low exam scores. 1) The California Bar Exam is a long 3 day exam (this is changing) which certainly leaves applicants fatigued. I would like to see a study comparing Day 1 performance to Day 3 performance to how much the length of the exam contributes to the pass rate. 2) Applicants are not well prepared. To do well on the Bar Exam, an applicant needs to have actually paid attention and studied during law school. The better the student understood the material in law school, the better prepared they are for bar prep and the Bar Exam. Too many students learned enough to pass classes and never learn to understand the area of law. This is particularly true of areas the student does not intend to practice in. Internships tend to reinforce this issue. Students often have a general idea of where they want to end up (criminal, employment, ect.) and try to intern in those areas. That is great for getting a job, but does not help the student understand other areas of law that will be tested on the Bar Exam.

Lowering the standard for the Bar Exam is only going to allow more attorneys to have an inferior understanding of the law in general. If those attorneys stay in one practice area, the we may not see any negative result. If they do change practice areas, then they will be less prepared to represent clients.

Anonymous

There is a presumption that lowering the pass rate will allow more attorneys to serve the underserved. This is a utterly unfounded. The underserved do not benefit from less qualified candidates representing them. In fact, they are more vulnerable to damage resulting from inadequate representation. The integrity of the profession must be preserved to ensure public's continuous trust. Lowering the passing score only ensure less qualified candidates to represent the public, which is a disservice and errodes the public trust.

Anonymous

The bar exam is in part meant to protect the public from unqualified people obtaining their license to practice law. There are already attorneys out there that have passed the bar but do not possess the type of competence or integrity this profession deserves. Making the bar easier for those that are already unable to pass the bar will simply lower the bar for this profession and harm the public. An entire day has already been cut from the bar and it should not get any easier!

Tye Trostad - Law Office of Tye G. Trostad

The Bar Exam has already been cut down substantially and now Comprises 2 days and less material. Lowering the standards further By cutting the pass score is putting the integrity of the profession at risk. As well as the public welfare.

I think better questions need to be asked concerning the educational preparation students need
To enter law schoo and be succesfull there and when taking the Bar. I do jot believe the answer is to lower the standards Because applicants cannot pass. California needs better attorneys not more, less qualified lawyers.

Zhana Aivazi - Metis Law Group, LLP

There are already TOO many unqualified attorneys. Lowering the cut score will only add to the over saturated profession and decrease the quality of attorneys in the profession.

Christopher Duenas - County of Los Angeles

While there are good and bad potential lawyers at all types of schools, let's face facts. The fact that California has a number of non-ABA law schools affects the overall passage rate on the exam. Shutting down these non-ABA diploma mills would go a long way toward improving the passage rate on the exam and to improving the quality of attorneys in this state. Most other states don't have non-ABA law schools and their bar passage rates are higher.

In my practice at a government agency, most of the attorneys we encounter are either sole practitioners or are part of a very small firm with only 2 or 3 attorneys. Unfortunately, many of these attorneys are sub-standard. The state talks about improving access to legal services by allowing non-ABA law schools with non-traditional students, but at what cost to the public at large? I encounter people on a daily basis who would be better off without the incompetent attorney they have hired. They end up with the same result in court, but at least they wouldn't have to pay attorney fees for it. And this poor work is coming from people who DID pass the bar exam!

It's my understanding the exam is already being shortened from three days to two. I don't think that was necessary either, but shouldn't the State Bar at least see how that change affects the passage rate before dumbing down the exam even more?

David Medina - Orrick, Herrington & Sutcliffe

I think this is a complicated issue worthy of substantial consideration, and I don't necessarily know which option is the better one. Personally, as a recently admitted lawyer, I thought the bar exam was difficult, but not insurmountable. Because I recently faced the bar exam and passed, I tend to believe that the Bar should stick with the same standard that has been in place for a while now. I don't know what benefit the state would gain if the cut score were lowered.

But, I am concerned with why the passage rate has dropped. If the lower passage rate is due to less qualified candidates, then I think the Bar should firmly maintain its standards. If the decline in passage is due to other factors, for example if a larger number of current candidates-- who are equally as intelligent and capable as the previous groups-- struggle with this type of standardized testing, then I would be inclined to support a change to the test itself.

I believe the purpose of the bar exam is to ensure that the public have access to a broad pool of lawyers who all possess a certain minimum competency. It may be that the current format of the bar exam is outdated and does not adequately test a future lawyer's minimum competency. If that's the case, we should consider broader changes than just dropping the cut score. But, without knowing why there has been a continued drop in the bar passage rate, I would not drop the cut score. With all of that in mind, I would be in favor of keeping the cut score the same for now, while the Bar more fully investigates the reasons for the drop in bar passage. I would also like to add that while I think keeping the score the same for the moment is appropriate, I could be convinced otherwise. I am merely expressing my thoughts at the moment, thoughts that have not yet had the benefit of rigorous discourse with others.

Jared Cohen - Law Offices of Jared M. Cohen

I fully understand the Bar's desire to increase bar passage rates. However I feel the reasons for doing so maybe misguided. I'm sure the State Bar wishes to see increase dues revenue, and less selfishly to protect students from overburden some debt with no means to repay loans. Having more attorneys would also potentially help the most underserved areas. However the solutions to these problems are not to create a less competent profession. The bar exam in California has always been exceedingly difficult, meaning only the best attorneys can practice here, I do not think financial or institutional concerns should lower the standards to which we've always had ourselves.

Moreover I do not think a higher bar passage rate solves the problems above. There are no shortage of opportunities to volunteer and help underserved communities. The problem is that these positions often do not pay, or do not pay well, meaning attorneys often forgo them. If we create more attorneys by lowering the passing score, these position still will not pay well, and even more attorneys will simply be fighting for the same existing jobs.

Anonymous

Protecting the public from incompetent attorneys is of paramount importance. I believe maintaining a high "bar" is a great way of doing this. Passing the CA bar is difficult. Passing the bar demonstrates hard work, intelligence, grasp of legal concepts and rules.

The goal should not be to just have attorneys. The goal should be to have good attorneys.

Please do not change the pass rate.

Anonymous

I have worked as an attorney for almost 25 years. I have been a university professor for more than 40 years. As part of my legal practice, I have represented students attending various law schools in the U.S. The problem with poor passing rates can be attributed in large part to the proliferation of for-profit (or so-called non-profit) law schools in California. A significant number of these law schools are admitting unqualified students who are unlikely to ever pass the bar exam. The competency of instruction at these schools is dubious. The ultimate purpose of these schools is to overcharge desperate students while catering to their dreams of becoming lawyers. These schools are inadequately monitored by the Committee of Bar Examiners or other accrediting bodies which are supposed tot exercise oversight. Don't tinker with the bar examining process or the standard for passing the bar exam. Address the root cause. The State Bar needs to ensure the integrity of legal instruction by policing these law schools.

Anonymous

It is plain to any observer that there are numerous California lawyers who do a very poor job in providing legal service to their clients. We should not make matters worse.

Anonymous

It isn't clear to me that merely having a lower pass rate affects anything important.

Are there not enough attorneys in CA already? It seems like a lower pass rate would only affect the number of attorneys licensed to practice. If there are enough attorneys practicing, then what is the problem this change is intended to solve?

If people are not able to pass the bar, a question is raised as to WHY those people can't pass? Do we really want to lower the standards just dso we can say we have a decent pass rate? What does that give us?

David Hirsch - Law Offices of David J Hirsch

Why does California allow unaccredited law schools? The fact that our state does this is the number one contributing factor to the low pass rate, low attorney competency rate and lack of reciprocity with other states.

It is time to "make the cut" at the level of admissions to accredited law schools rather than a two day exam!!! Let's stop allowing the owners/promoters of unaccredited law schools to make money off of low achieving law students who take on debt to pay tuition that is equivalent to accredited law schools and THINK they will gain admission to the state bar and have a job at the end of three years of substandard instruction and experience--with the unintended detriment of the bar passage issues.

Bob Courshon - Sole practitioner

We should not lower the cut rate; and allow people who are not qualified to practice law in this state. We have already made the test easier by having one session of multiple choice. When I took the bar we had 6 written questions per day for 3 days. I went to Hastings and we were taught the law and I received a great education and passed the bar the first time. I think the law schools need to get back to teaching the law and not some liberal, social justice nonsense. Then the pass rate will go up and you won't have to lower the standards to let people in who don't deserve to practice law in the first place. James Robert Courshon, San Mateo Attorney for 53 years.

Anonymous

While the pass rate may be low in California there is also a VERY large number of licensed attorneys. It is very difficult to find an attorney employment position that begins with decent pay. Particularly for a person who had an established career prior to law school.

The expectation of many hiring employers are, that if a person is an attorney, they are overqualified for lower level positions. Additionally, good government attorney jobs are going to those from the best schools while attorneys who graduated from non ivy league schools are overlooked for these positions.

Lowering the pass rate will also open the doors to under-qualified people who do not put forth the effort that is required to study for the exam as well as zealously represent their client's best interests.

Anonymous

Given that there is no shortage of attorneys in California the duty of the State Bar must be to maintain the integrity of the profession and make sure that only prepared attorneys are passing the bar exam. To the extent that the State Bar wishes to achieve any of the following goals as indicated by the survey, those goals are not best met lowering the passing score:

c. Increasing diversity of attorneys from different backgrounds
d. Increasing access to legal services for underserved populations
e. The fact that the cut score in California is the second highest in the nation
f. Declining bar exam pass rates in California
g. The burden of student loan debt for law-school graduates unable to find gainful employment after failing the bar exam

Specifically, increasing diversity in the field and increasing access to underserved populations are both better achieved through scholarships and grants and other monetary incentives to encourage persons of diverse backgrounds and an interest in helping underserved populations to enter the field. Such efforts also keep down the student loan debt or make such employment more financially attractive thus increasing the odds that you will draw good candidates. Simply lowering the score and flooding the market with attorneys does not inherently increase diversity (unless we contend that minorities are less able to pass the test... which points to a test design flaw) nor will it make it more likely that students saddled with massive student debt will be more likely to take low paying jobs helping underserved communities.

Also, the mere fact that California has a high cut score and declining passage rates is not a reason to lower the bar and the level of service which we offer the public. The reality is that many people want to practice law in California and we have a staggering number of law schools. The declining scores and massive student debt problem is one better addressed through law school reform than through simply lowering the standards to meet declining quality and to help out people who took on major debt to join a profession for which they are not competent. Moreover, California is not short on attorneys. It needs to have a high cut score to avoid flooding the market with attorneys, which would in turn force starting salaries down and make it more difficult for attorneys to find gainful employment which allows them to dig out of their student debt.

Though I appreciate the significant problems currently facing our profession and think that we do need to address the four above issues, lowering the cut score does not do that, it merely harms the profession and may even perpetuate the problems facing the Bar.

Anonymous

In my 45 years of practice I've seen plenty who should not be licensed. Lowering the standard will make it worse. In times like this we should not dilute our requirements.

Anonymous

You have limited my comments to "Study methodology and possible cut score options beyond those specifically identified below". Therefore, my comments are as follows:

It SHOULD be very difficult to pass the bar exam. Only those who really want to practice law and are willing to work hard should be granted a license and the privilege to practice law. Lowering the cut score will only lower the standards of those who are allowed to practice law.

Carole Demarco - CROSSMARK

I do not think it is right to lower the cutoff because of the decline. How fair is that to others who have taken the Bar exam in previous year's and did not pass with a 1440 but got a score over 1414. That is wrong. I think we should let things be the way they are and perhaps the students need to take the exam more seriously.

Matthew Marnell - San Bernardino County office of County Counsel

It is my understanding that the primary concern in support of lowering the admission standards is serving a broader spectrum of the population.

I suggest, instead, that those people consider more direct and more fruitful approaches to achieving that goal. For example, society has already developed systems were college students/teachers excuse their student loan debt by serving just the segments of the population who are apparently the same target of this idea.

I am very much in favor of facilitating additional assistance to persons who do not currently have access to attorneys. However, I have not heard any competent evidence that lowering the admission standards of attorneys would accomplish that goal. I consider the assumption that it would do so as overly simplistic and unrealistic. You have to create positions which have at least a minimal level of financial support to hope that attorneys will serve in that capacity.

I believe that it is more likely that the outcome of lowering standards would result in the presence of more attorneys attempting to get the same clients, and perhaps therefore bring much negative effects, such as incompetence in the practice of law etc.

There is evidence to support a contrary conclusion. While it is frequently commented that we have one of the highest standards for admissions, I reflect that we also have one of the very highest per capita rate of attorneys as compared to the population. I do not believe that the already existing high ratio of attorneys as compared to other states has resulted in a higher degree of service to deprived and underprivileged people as compared to other states. So that situation should deter this idea of lowering standards.

Eric Mackey-Fitzgerald - THE LAW OFFICE OF ERIC D. MACKEY-FITZGERALD

Protection of the public shall be the highest priority for the State Bar of California and the board of trustees in exercising their licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount. BPC 6001.1

I fail to see how lowering the fundamental requirements to be licensed to practice law in California protects the public.

Richard Daggenhurst - Daggenhurst Law APC

Here is the key issue to consider.

Is there a correlation between a higher cut score and better performing attorneys, with lower incidences of client complaints and or SB violations?

If there is not, or if the correlation is weak, and if having more attorneys (likely from under-represented cross sections of the population) will help access to justice for the disadvantaged, then by all means drop the cut score.

If there are no data on any correlation, then don't drop the cut score, as it might result in harm to the very section of the client population that the SB is trying to help. In the absence of hard data, it's not wise to press ahead and to hope for the best, not least because the paying client base might well have a well founded grievance against the SB for 'passing' incompetent attorneys.

BUT, if the data show that attorneys who pass with a cut score of 1414 are in the main (broadly) as competent as those who pass with a cut score of 1440, then drop the cut score.

That does of course beg the question: if in 10 years time the pass rate keeps dropping even at a cut score of 1414, then are there any data for the lowest cut score where the attorneys are reasonably competent? If so, then why not lower the cut score to that level NOW, and not wait 10 more years? In other words, why deny people the right to practice law, and why deny underprivileged clients access to lawyers, for 10 more years? Lower the cut score NOW to the lowest possible level that still allows for reasonably competent lawyers. The foregoing assumes that data to support to such a decision exist.

Robert Heron

I was admitted to the bar over 50 years ago and my 1965 spring bar exam pass rate I believe was 57%. A high number then and apparently still a very high number.

I have been retired for about 20 years and have a daughter who is now a partner in a major LA law firm so I know what it takes to do this job well and it is darned hard!

On the other hand, we now retain lawyers to do all of our legal work and the work that I used to do. I have been shocked to see the low level of competence of lawyers that have done work for us. One of the principal problems is that they don't know what they don't know but that doesn't stop them from taking on jobs that they have no business doing. I at least have a bit of experience to help us get through but too often, if my wife or sons are involved in matters that I don't see, we end up with some horrible results if we have anything the least bit out of the ordinary. No lawyer has ever told us that we have a problem that they are not competent to handle and we recently discovered this problem too late.

The public needs protection and the State Bar MUST continue to do everything possible to admit only intelligent, competent applicants. Too many are slipping through that apparently don't have the ability or integrity to recognize their limitations and they will take their clients money and not worry much about the quality of the work they do for that client or the result. All they want is their fee.

I'm wondering how judges are responding to this issue. They undoubtedly see attorneys practicing before them who are simply not up to the job.

I don't believe that the standards can be lowered. The dangers to the public are too great.

And I don't know how to train new attorneys to recognize their limitations as they start to gain experience, so they can associate more experienced counsel or refer out cases that are beyond their ability to manage.

Please don't lower the standards.

Martin Blake - Walker Hamilton et al.

The California Bar standard has been justifiably high for many years and has been effective in weeding out those individuals who are intellectually unsuited to practice as lawyers. Even then, as many practitioners and judges know, there is a certain percentage of those who pass the Bar who remain less than satisfactory practitioners. To lower the academic standards will be to increase the percentage of such persons and to damage the public interest in maintaining attorney standards and in insuring, as far as possible, that only competent people are admitted to the practice of the law.

Nowhere in the list of factors to be considered is the effect on the existing bar of increasing the numbers of new lawyers. For those who reside in the Ireland, as I do, it is a recognized fact that it has become increasingly difficult for newly qualified lawyers to access decent employment. This is because of the significant increase in the numbers of people entering practice. The result has been to squeeze out many talented young people who cannot afford to work for little or nothing until a good work opportunity arises. This scarcity of employment favors the affluent or those with family support and harms those who have neither. Though perhaps counter intuitive, opening the numbers gate does not provide greater employment access but rather damages existing access for those who most deserve it.

Respectfully Submitted.

Martin Blake

Patricia Halsey-Munroe - Retired

Since taking the bar exam, I have long believed, based on exam experience & knowledge of friends & others who have failed the exam, that California is no more difficult an exam than other states. One must study for the exam, & I have known those who did not study as much as was (obviously) required to pass. Thusly, they failed once or twice, & later passed.

The other significant statistic that needs to be analyzed is the data on those taking the exam from unaccredited law schools. California allows students from unaccredited law schools to take the bar exam. Some students should never go to law school, expecting to pass the bar exam. Passing the bar exam is not in their future, for whatever reason. Unaccredited schools & those law schools with lower admissions standards may be enrolling these students, only for the student's later disappointment with the bar exam. This data needs careful analysis.

Data could also be gathered & analyzed as to what skill set, level of education, is needed before the student enrolls & pays for 3 or more years of law school; & what could indicate for the student if they might pass the bar exam, or what might indicate they might not pass the bar exam.
Then share this data.

Anonymous

As a staff attorney for an appellate court, I see the work of numerous attorneys that causes me to wonder how they passed the Bar Exam. This state simply does not need to "dumb down" its bar exam pass rate. Unqualified legal assistance is not helpful to the public.

Anonymous

I believe there is a strong public interest in making sure that licensed attorneys are competent in their field. Lowering standards will certainly impact judicial resources if attorneys are less competent. California has no shortage of attorneys. Many graduates often have difficulty securing positions. The likely risk to the public seems greater than the benefit that will come from lowering passage rates. It also seems that there has been no explanation of why we need to lower passage rates to increase the number of lawyers in California.

Anonymous

The issue is not low bar exam pass rates but rather the issue of decreased barrier of entry into law school itself. That process should be more selective - selecting candidates that show potential of being successful in law school and passing the bar exam. I feel like it is getting easier and easier to being accepted into law school, and then students are shocked when they struggle to do well, or are shocked to know how competitive it can be, and ultimately shocked and discouraged when they cannot pass the bar exam, find gainful employment, and pay off their massive student loans. It is a vicious cycle and lowering the pass rate is not the answer.

The pass rate should remain the same and the integrity of the profession should be maintained so that we can ensure the public of the competency and quality of our attorneys. There is a surplus of licensed attorneys in the state, which causes employers to get away with offering lower wages. Being offered no other choice or alternative, licensed attorneys must settle for these lower wages and then barely be able to afford to pay off their accumulated student debt and maintain a comfortable lifestyle in the county of Los Angeles. The answer is not lowering the pass rate - that would just make the surplus of attorneys even greater, making the market more competitive and making the wages even lower. It is getting ridiculous out there the salaries and employers are offering to licensed attorneys. After we pay our loan and our rent, our wages are gone.

Please do not lower the pass rate. We need to be more selective with who we allow into law school - the best and the brightest - the cream of the crop. The students who cannot pass easily are those students who probably should not have even started law school to begin with. By allowing them admission into law school, you are giving them a sense of false hope that you believe that they will be successful in law school and successful in passing the bar exam and successful in gaining meaningful, well-paying employment, and sadly none of that is or was ever true for them. It is harsh but look where it's left too many students - a pile of law school debt and nothing to show for it. They can't pass the exam and they can't get a job. We need to nip this issue in the bud.

Anonymous

So long as California allows people to sit for the bar who go to unaccredited schools-- or no school-- it will have a low pass rate. For-profit schools in particular take money from students who can never effectively represent clients. The State Bar should not change its standards to allow incompetency.

Vincenzo Giarratano - Superior Court of California, San Diego

The practice of law is a prestigious and long-standing honorable profession. It requires high levels of tact, intelligence, and perseverance. Lowering the score for a recent lull in bar passing scores would only serve to undermine those attributes. While we in California can all attest to extreme difficulty of the bar exam, the decline is scores should not be blamed on the exam but perhaps on the law school preparing students for the exam.

Anonymous

Lowering the passing score undermines the integrity of the California Bar Exam.

Anonymous

As I understand it, the bar exam and the cut score have not changed during this period of decline in the pass rate. This means the problem must be in either the qualifications and abilities in those taking the bar exam, or the quality of the education being provided. My guess there are more students from unaccredited law schools taking the exam, which skews the pass rate downward. Nonetheless, this is what needs to be evaluated - the quality of the law schools and the admission, and graduating standards. Literally "lowering the bar" to practice should never be an acceptable solution in practicing law, as much as many professions. You wouldn't want surgeons, pilots, and a host of other professions to be licensed with a lower pass rate, merely because the pass rate is declining. This doesn't get at the root cause of the problem (if it's even a problem, or rather the process working correctly - i.e. people who can't pass the bar exam do not earn the privilege to practice law).

Anonymous

If someone cannot pass the bar with the score required they should. It be admitted. Society should not keep lowering the standard. We do that in public schools already and we have illiterate low functioning students. Because we do not demand they excel, we lower the standards and pass them along, without providing them the tools they need. America is never going to compete in the world market if we only have low standards. California attorneys are welcome to practice in other states because we have high standards. Lowering the standard devalues those of us who worked hard and passed the bar. We don't need more lawyers. Short test and low score equals low quality.

Anonymous

If not enough people are passing the California Bar Exam, perhaps attention should be given to why that is and solving that issue (and there are likely several issues at work) instead of lowering the cut score. Passing the California Bar Exam is a feat. Don't diminish it for those that passed the bar by failing to address why some couldn't.

Traci Park - Burke, Williams & Sorensen, LLP

California historically has been one of the more difficult states in which to pass the bar examination. However, that is known to any student who elects to enroll in law school, and preparing for the bar examination is something that students can and should be preparing for from day one. If a student does not want to go to class, do the work, or take the time to adequately prepare for the test, then law school and a career as an attorney in California are not the right fit.

Ours is an elite and intellectually challenging profession that should set the highest expectations of its members. Even with the cut rate at 144, I already see young attorneys entering the workforce without the adequate writing, research, or advocacy skills. Worse even, I regularly work opposite senior attorneys who did pass the bar examination at the current cut rate, but who lack the same. Sitting through the Superior Court docket on any given weekday often makes me wonder how licensed professionals can be so unprepared and poorly skilled. The last thing we need to do is flood the field with even less prepared or skilled lawyers.

There is no shortage of attorneys here in California. A 2015 ABA report of lawyer population by state revealed that California has 165,952 active attorneys. Why would we need to add more who cannot pass a test that requires basic analysis of basic legal issues? Truly, the bar exam is not even that hard if you take the time to learn the material!

https://www.americanbar.org/content/dam/aba/administrative/market_research/national-lawyer-population-by-state-2015.authcheckdam.pdf

I understand that California law schools have advocated for reducing the cut rate. Of course they do. They make money from law students, who are less likely to attend schools with low pass rates. If the cut rate is lowered, overall law school pass rates will be higher, they will attract more students, and make more profits. That is not a valid reason to dilute the attorney population with less competent lawyers.

I read in the New York Times:

"And only 51 percent of the graduates of the University of California Hastings College of the Law passed the state's exam in July 2016. That result, the school's dean, David L. Faigman, wrote the California Committee of Bar Examiners last December, was "outrageous and constitutes unconscionable conduct on the part of a trade association that masquerades as a state agency."

https://www.nytimes.com/2017/07/13/business/dealbook/california-bar-exam.html?_r=0

With all due respect to Dean Faigman, that is nothing but rhetoric and nonsense. This Committee should hold candidates for admission to the State Bar of California to the same exacting standards it always has.

Thank you for your consideration.

Michele Cusack

The bar exam is voluminous but not difficult if one takes the prep class and studies diligently for a few weeks.

A better way to raise the pass rate would be to limit candidates to those who have graduated from accredited law schools.

I'm completely in favor of affirmative action, but lowering standards is not the answer. Lawyers have a bad enough reputation as it is.

There are already too many not-very-smart lawyers practicing, and there is certainly no shortage of lawyers in CA. Lowering the pass rate would not increase access to legal services for the poor because less well qualified lawyers are no more likely to provide pro bono or low cost services or to gravitate toward public interest law.

Joni Halpern - Joni Halpern, Attorney

The problem of leaving law school with high debt is not going to be solved by lowering the cut score. There will be more lawyers instead of fewer, and so more competition for clients. There are already many lawyers who cannot make a living in law. Some of them are teaching as adjunct faculty at various places, some are counting on spouses to amplify family income, and some are driving for Lyft. What will address this debt problem is to hold law schools accountable for telling the truth in recruiting. What is their real placement rate? How much help do they give their students in finding valuable internships and experience before they graduate? How broad and deep are the law school's contacts in the legal world? Are they the kinds of contacts who are interested in their alma mater's students? What advantages can they give their students in practical experience so that when they get out of school, they know more than just the theory of law and procedure?

As for diversity, I have had the privilege to work with many lawyers of different races and ethnic backgrounds. They were proud of the fact that they passed the bar without any reduction in standards. They practiced law with excellence and dedication.

Finally, it will not help poor people one iota to lower the cut score for the bar exam. Lawyers who help the poor have to be better than the average lawyer, not worse. They have to know law more broadly and deeply than others, because their practice crosses all lines of subject matter. They have to know more law so they can see a problem that might be affected by some other area of law. The reason I know this is because I have been a poverty lawyer since I started practicing law. I never wanted to be the kind of lawyer that made low-income clients leave the office and say, "What do expect for a free lawyer?" And I never wanted my opponents to think they would not have to work as hard on a case I handled as they would on a case from a high-end law firm. So how would it have helped poor people if I had passed the bar on the first try because they lowered the cut score? I don't think people who need a lower cut score to pass are any more likely to serve the poor than those who pass with a higher cut score. In fact, if student debt is the problem you are trying to address, these new lawyers will certainly not seek a career helping low-income clients.

Kevin Harris - Attorney at Law

There are already too many Attorneys practicing in the State of California. It has always been difficult to pass the bar and should remain so to ensure that only the most competent people become attorneys. The fact that California is the second most difficult bar exam is due to the fact that most other states screen who can apply by limiting test takers to those who graduate from ABA schools. Before you jump to conclusions on the difficulty of the bar, a better comparison with other states would be to compare the percentage of individuals who passed in California from ABA law schools with the passage rate in other states.

Patrick Burns - Law Offices of Patrick J. Burns, Jr., PC

I believe the California bar's cut score should remain at 1440. The California Bar is widely viewed as the gold standard for Bar passage. Lowering standards for passage of the California Bar is not the right way to go. First, California is unique in that it has numerous non-ABA accredited law schools. Many of these schools have extremely low passage rates and should be shut down. That would instantly result in a much higher bar passage rate. Non-ABA accredited law schools with mediocre passage rates should be placed on probation and shut down if they don't increase their Bar passage numbers. Second, ABA accredited law schools with low passage rates over several years should be put on probation and the ABA should review their continued accreditation if their Bar passage rates continue to be low. Third, the number of students admitted to ABA accredited schools should be looked at. If a school has a low passage rate, they should look at tightening up their admission standards. Simply lowering the passage standard doesn't address these root issues. In fact, it creates more issues by potentially admitting less qualified Bar members.

Jonathan Durham - Law offices of Durham and Ng

They have already significantly changed the bar exam by making it two days. How does it benefit clients to have attorneys who are not qualified to practice law. The bar exam is not supposed to be easy. It requires intense preparation and commitment to leaning. If we start to water down the requirements more unqualified attorneys will be admitted and the clients will suffer.

Steven Mendelson - Mendelson & Mendelson

One assumes that the 1440 cut score means that someone hitting 1440 or above has adequate knowledge to practice law (or begin to learn how to practice law).

It is my understanding that best and brightest students are now moving into MBA and STEM in order to make money. If that is true, why would we want to make less capable
students lawyers? To pay dues to keep the State Bar more solvent? To lessen the public's perceptions of lawyers even more?

Anonymous

Instead of lowering the cut score, the State Bar should either remove unaccredited schools/low-ranked schools or significantly reduce the number of students admitted into law school. Students who enter unaccredited or low-rank schools have a low chance of passing the bar. These students should not have to take on the high cost of law school when they are unlikely to pass the bar. Instead, these students should pursue other careers where they will have a better chance of succeeding and not spend the rest of their lives in debt because they are unable to acquire a job that pays them enough to pay off their debt.

There are already too many lawyers who are unemployed who have passed the bar on the first try with the current cut score. Adding more lawyers by lowering the cut score will only make the employment rate worse.

Lowering the cut score isn't the answer. The State Bar should reduce the number of students entering law school and eligible to take the bar exam.

Linda Linton - Linton & Associates, P.C.

I took the California Bar Exam in February 1995. At that time, I understand the bar pass rate was 41%. I passed. Why would you allow a LOWER bar pass rate? During those days, we could only take the bar two times a year.

Keeley Nickelson

I don't think the cut score should be modified. The format of the test itself should be modified. Going from a 3 day bar to 2 day did nothing - applicant's are still required to study the same amount of material.

Nobody practices law off the top of their head. The memorization required is not reflective of the job of an attorney.

Henry Nunez - Law Office of Henry Nunez

I believe we should keep the score at 1440 for the simple reason that even at 1440, and I have been an attorney for 13 years, I still encounter, in my opinion, attorneys who should never have passed the bar exam. I believe that integrity in the profession and exceptional service to our clients are strict requirements of being a lawyer and lowering the score to 1414 would just being in more unqualified lawyers. Making student loan debt a factor in deciding pass rates is, in my opinion, a red herring; if someone decides to take up law school and does not possess the requisite knowledge to make it through, then why should it be the State Bars responsibility to pass the person merely because this person acquired a student loan.

Anonymous

Maintaining the competency of the legal profession should be the foremost concern for all involved. Anything less would be a disservice to the community. As a practicing attorney in this state too often I have come across shoddy representation, which have not only hurt the individual clients involved but the reputation of the legal profession. Reducing the cut score would mean reducing the knowledge and competency of entering attorneys. We have limited mechanisms of measuring prospective attorney skill and competency, the BAR exam is the only measure to date. Therefore, I do not agree with the proposed reduction.

Anonymous

There are already enough incompetent lawyers who make judges and opposing counsel shake their head on a daily basis. You don't need an A+ to pass the bar exam, in fact you could fail an entire essay and still pass the bar. The law school and bar experience teaches one how to critically think and without this skill set, which is necessary to pass the bar exam, it is unlikely that one will be a competent lawyer. I have employed dozens of law students and the law clerks who were quick on their feet and could perform their tasks in a timely manner with level of competence that one would expect from a law student and they all passed the bar; the law clerks who could not even draft a simple letter, did not pass the bar. The public places too much trust and value in our profession and lowering the pass rate betrays consumers.

Freda Pechner - Attorney at Law

I am happy to provide my opinion on this issue because I think you are asking the wrong questions. I did not pass the Bar the first time I took it because I expected the questions to require answers, but I was wrong. I passed the second time because I understood that the questions were designed to elicit the ability of the person taking the test to "think like a lawyer" apparently meaning having the ability to analyze a situation from different perspectives, including the wrong perspective. Unfortunately, there is absolutely no benefit to having potential attorneys consider the wrong perspective as having any validity at all, it should be rejected - that it the point of the legal system, after all, rejection of inequity, Lady Justice is our emblem weighing the scales without regard to race, age, gender, wealth, only on the facts. After discussing the Bar Exam with many, many attorneys in the decades I have been an attorney (in solo practice, for the most part), I have come to the conclusion that the Bar Exam does nothing more than allow people to pass who are skilled at taking tests, it is not an indication of who will be a good lawyer (meaning ethical, honest, fair, and dedicated to serving the public with the great honor of becoming a licensed attorney). The ethics exam does not lead to the conclusion that those who pass will be ethical lawyers, it means those who pass are aware of the rules, not that they will follow the rules. Since the essay portion is so important, those chosen to evaluate the tests, notwithstanding the training they receive on the manner in which those tests will be graded or that others may review their grade if the applicant does not pass, the grades cannot help but be colored by the bias of the people who read the essays, because no two essays will ever be the same. The Bar should be working on a way to test applicants to find out who will be a good lawyer - it may be that applicants should be personally interviewed, let's talk to those people before they will be unleashed on an unknowing public. Who will put their client first, not their own monetary gain or ego boost they might get to take a case? Who will discourage the client who does not have a legitimate case? Who will take a case with the law against them, but the law is wrong, and the case should be brought, because it is the duty of attorneys to work to change unfair and inequitable laws? Who will tell a client not to pursue litigation because the legal process is not a means to batter someone, it exists solely and only to serve the cause of justice? Find those applicants who will, as lawyers, represent clients and uphold the dignity of the justice system, not because they did not get into medical school or get into a profession so they can get rich. If California lawyers had the reputation of being honest, hard-working, dedicated to justice even if everyone else is against them, serving the needs of those who cannot take care of themselves, well, we would not need an ethics exam - I remember it was instituted because Nixon and many of his cohorts were California lawyers, so this was our response to show we were swearing in ethical lawyers, but it surely has not resulted in all lawyers being ethical. Government lawyers - public defenders, district attorneys, deputy attorney generals - attorneys in private practice for themselves, in a firm, as in house counsel to a business, all of us must be honest and ethical (would be nice if we could insure they are also smarter than the average bear, but that would be too much to hope), and serve the cause of justice, their duty is the highest of all callings. I have reminded many people who love to joke ''The first thing we do, let's kill all the lawyers" from Shakespeare's Henry VI, Part2, Act IV, Scene 2, that the tyrant believed mass murder to be necessary because it was only the lawyers who would stand against political evil, whether a dictator or president or premier or prime minister, we are the ones who shout "NOT FAIR" and act upon it, regardless of the peril to ourselves. The integrity and fairness of our judicial system is based upon the world wide belief that wrongs can be addressed in a civilized manner, the little guy can win against the big guy, corporate or government, and peaceful resolution of a conflict is possible. We all believe, as an essential truth in this country, that judges are independent and fair and will judge those before them without regard to wealth or color or age, and lawyers will fight for what is right and help those

obtain due process, if there is one religion all Americans have in common, it is the religion of justice for all. Potential lawyers should be interviewed - let's find out what kind of people they are. The bar exam should have questions where one alternative is wrong - pass those lawyers who realize it is wrong, and have the courage to so state in their essays. Give the State Bar Courts the ability to take quick action against attorneys who betray their oath and hurt their clients or adversaries in an unjust manner, so that potential lawyers know that if they act badly, their legal career will end quickly. We should not be the butt of jokes, but we are because of the few we allow to be lawyers, and take so long to discipline, letting them hurt others when we first know they are doing so. Once we have better lawyers, then the public will see what we truly are - the bastion against anarchy, the protectors of the weak and defenseless, the only profession who will uphold the Constitution of the United States, in letter and spirit. Being a lawyer for almost 40 years has been one of the great honors of my life.

Anonymous

Law school is too expensive. If these schools are charging more money to graduate lawyers who are less likely to pass the state bar exam, there is no justification for the rising costs. Allowing more deeply indebted law graduates to pass the bar by "dumbing it down" doesn't serve the public, it just dumps more unqualified people on the street to compete for more scare resources, jobs. The bar already cut the exam from three days to two, which is shameful. Isn't that enough to make it easier for the new generation who apparently are having a very hard time with the bar many, many others have passed.

Ronald Luttringer - Attorney

Don't dumb down the exam

Anonymous

Here are my reasons for keeping the score the way it is. 1. CA has a high amount of lawyers as it is and lowering the score would simply flood the job market. 2. If people arent passing, there is likely a plethora of reasons and lowering the score would not address those reasons that could be fixed without lowering the score (e.g. formal study programs are ridiculously expensive, not enough bar study is covered in law school, lots of unacredited schools in the state, etc.). Lowering the score really just feels like jumping the gun. 3. The bar exam should be hard for a lot of reasons, integrity of the profession, public opinon of attys, competency in terms of everyday legal skills, etc. 4. Lastly, I took the exam and I failed and that was MY fault, not the Bar Committee. The next time I took it, I changed my approach. Passing the exam should be on the adult taking the test to take responsibility. It is hard but it is has to be hard. If 2% was the difference between passing and not passing back in Jul 2016, then those folks need to buck up and reach for that 2% next time.

- US Department of Labor

CA has plenty of lawyers; why lower the score when we have ben presented with a natural opportunity to cut the supply and increase demand for those who are qualified? Don't dumb it down just because the next generation can't get it together.

Paul Fogel - Reed Smith LLP

I have graded the Bar Exam (although my experience is dated). I have worked for the Supreme Court (experience also dated). I have served as a superior court judge. I also teach at a nationally accredited law school. As an appellate lawyer, I have read hundreds of trial court records and experienced, up close, the quality of lawyering by hundreds of my California lawyer colleagues. In addition, I have lots of experience working with young lawyers and law students, both in my firm and elsewhere. I also had a chance as a bench officer to observe the quality of lawyering, both written and oral. I firmly believe that the Bar Exam pass rate should NOT be arbitrarily increased with a "cut score" lowered, to 1414 or at all. Good, quality lawyering requires good writing and analytical skills; that should not be compromised because of pressure from law schools that are hungry for students (and tuition). Nor should it be compromised because or illusory pressure from those who say we need more lawyers to serve the public; I am opposed to increasing the ranks of California lawyers with those who,if we lower the passing score, might lack the sufficient analytical skills to tackle a difficult legal problem or competently represent a client. Do not bow to the pressure to lower the passing score. Thank you.

Anonymous

The drop in bar passage rates is correlated with the drop in law school application and admission standards in the years following the 2008-2010 recession. While correlation does not equal causation, this fact seems to be missing from the debate.

Anonymous

The bar has an obligation to ensure competency. Lower the pass rate (cut scoring) does not fulfill this obligation. Those who make the grade by passing the bar deserve to be admitted. It does not make sense to lower the standards to "allow" a higher percentage pass rate if it means allowing the unqualified or less qualified to practice. It is not justifiable to lower the pass rate to achieve affirmative action or diversity when the result allows mediocrity in the profession. Look at the number of attorneys who are disbarred or suspended each year. We need to maintain a high standard of professional expertise, not to reduce the quality of the profession by admitting those who obviously could not have the passed the bar in previous years. Whoever came up with this idea of changing the cut score is motivated by improper and unjustifiable motives.

Christy Sharp

Why should we lower our standards simply because people are not willing to work hard enough to uphold them? I went to law school in Alabama, moved to California literally the day I graduated and by the time I moved out here, I was two weeks late for the bar review course. Having just moved to California, I was obviously distracted by the new and exciting experiences. Nonetheless, I did the work, I made up those two weeks in the library, and I passed the bar on the first try. I had to pass I only had one chance. Too many younger and bar takers a.k.a. millennial's, don't understand the concept of working hard. Again Do we really want to lower our standard to accommodate those that are not willing to work as hard as we did? I think not! It's not like there's a shortage of attorneys, and if someone want something bad enough they will work for it and achieve their goal. No handouts!

Anonymous

I have an interest in making sure that there is a diverse pool of attorneys in the state, including individuals from traditionally underrepresented backgrounds - both racially/ethnically and economic. However, there appears to be an excess of attorneys notwithstanding California's low bar passage rate. I would be interested in seeing how the bar passage rates of the attorneys from underrepresented backgrounds has changed, both on its own and relative to other groups, over the past years. If the decreased bar passage rate has disproportionately impacted applicants from underrepresented backgrounds, and there is no other factor accounting for that impact (i.e., increased number of underrepresented applicants from non-traditional schools), then I would be more inclined to lower the score. As it stands, however, such an impact notwithstanding, California appears to have an ample number of attorneys.

Anonymous

As a recently minted attorney and first time bar passer, I oppose lowering the bar exam passing score.

A solution must fit the problem it attempts to solve. Here, the problem is that law schools have created a class of people who hold JDs and are deeply in debt, but who are not attorneys because of the seemingly insurmountable 1440 minimum bar pass score. Many of these people are angry at their law schools for deliberately misleading them about the realities of becoming a lawyer. The law schools attempt to deflect some blame onto the bar examiners and claim that the bar association's unfair and malicious hyper-vigilant gatekeeping is the problem, not test takers abilities. Now the bar association is under pressure to solve this foreseeable problem by lowering the bar exam passing score. Is lowering the passing score to allow these people licenses the proper solution? No.

The bar exam is one of the most legitimate gatekeeping mechanisms to the practice of law. It is an objective metric of an individuals knowledge of the law, critical thinking skills, and ability to work under extreme pressure - all of which are crucial to actual practice of law. The purpose of the bar association is to regulate the practice of law and protect the public from unqualified or unscrupulous lawyers. It is not the job of the bar association to help people become attorneys. That is the purpose of law schools. At a time when unemployment remains high in the legal profession, law schools are dropping their standards and admitting students who are objectively unlikely to ever pass the bar exam. Whether their motivation is greed, desperation to remain open, or they truly believe *anyone* (with $150,000) can become an attorney is irrelevant. This is unethical of the law schools on a multitude of levels; it's harmful to the students who take on hundreds of thousands of dollars of non-dischargeable debt who will never be attorneys, harmful to the educational institutions whose ranks and reputations plummet, and to the profession as a whole. I have seen this phenomenon first hand while earning my JD at a once well regarded first tier law school. The median LSAT of my entering class was a full 7 points higher than the entering class only 3 years later. Unsurprisingly, the bar pass rate had an even more significant drop off (approx. 17 percentage points). Rather than recognize the glaring correlation and address admissions, the dean sent out a sniveling email feigning shock and confusion, and of course, blaming the nefarious bar examiners. That email only solidified the opinion I express here: avaricious law schools are largely responsible for creating a problem and now they attempt to make it everyone else's problem too. Don't let them.

There are better ways to address the issue here. Most importantly, the bar association should be cracking down harder on law schools for admitting (and graduating) students who are objectively unlikely to ever pass the bar exam (e.g., students with LSAT scores below 150 and GPA below 2.8). Several law schools have been sued by former students for fraud and similar claims. An obvious solution, which almost no one will admit, is that many of the unsuccessful applicants should find alternate careers. The practice of law is full of harsh realities, but the reality that some people are not meant to be lawyers is unutterable blaspheme. I am sympathetic to unsuccessful applicants because I too dreamt of being an attorney and suffered through law school, bar prep, the bar exam, MPRE, moral character application, etc. to finally hold my bar card. But I disagree that simply lowering the bar admissions standards is the solution. Lowering standards is hardly ever a good idea and in this instance it will only add to unemployment and underemployment and potential malpractice and encourage law schools to be even more reckless, greedy, and fraudulent in recruiting students.

The bar association has an obligation to maintain strict standards and stem the problem that law schools are creating by churning out under-qualified JDs. It will be a mistake to give in to the crocodile tears and whining of humiliated law school deans and misguided, unsuccessful applicants.

Anonymous

I think lowering the cut score would be unfair to current attorneys who have had to study and retake the exam and have paid the costs to be able to retake the exam. Additionally, I think lowering the score would be a large disservice to the state of California. The purpose of the bar exam is to ensure that people with a high competent level are admitted and that has been happening. There is not a shortage of attorneys in California and there is no obvious reason to lower the score besides to cater to people who are seeking to be attorneys. The people who are meant to be protected by the bar are not this group.

Gabriel Sandoval - Telleria Telleria & Levy

The California Bar has long had the tradition of having an entrance examination tougher than the rest. With the complexities of laws in California, this is good reason.
All current attorneys had to adhere and pass this standard and many have had to take it more than one time.
Lowering this standard would, in my opinion, lower the California Bar's sense of prestige.

Susan Miller - Miller Farr & Associates

Dumbing down the populace of attorneys, when there are already way too many attorneys and still not enough *good* jobs that make law school that's worthwhile, will be a detriment to the industry. It makes no sense.

Anonymous

Please keep the current cut score.

Yes, visually/graphically/analytically California will appear as a state w tough bar passage requirements. But will lowering the cutoff score really achieve your goals?

We want law school grads to be given a realistic opportunity in the legal profession. Conflating bar passage and competence is not ideal but the former may be a good indicator of the latter.

But right now, the market is already saturated. How will lowering the score help that grad get a job? If the cutoff score is lowered, yes thid could increase diversity but will it increase legal access for the poor?

The problem starts w law school recruitment practices. The schools need to be held accountable. The problem isn't w the California bar exam.

Decline in qualified law school applicants means that the schools may have to market harder in order to meet its quota of students that provide the cash flow needed to support the school's expenses.

Having a perceived "tough" cutoff score is a gate to integrity and standard. Yes, 4% of the testers can benefit. But at whose expense?

Anonymous

I do not believe the cut scores need to be changed. I think the real problem are the non ABA approved schools that factor largely into the students who do not pass the bar. I believe California needs to STOP allowing Cal-Bar approved schools and non-ABA or Cal-Bar approved schools should be made illegal. They are the real problem since their pass rates are much lower than ABA schools and costs students comparable costs.

Anonymous

I think it is up to the schools to help prepare their students for the bar exam. Declining pass rates may be indicative of the amount of bar prep classes schools require.

Anonymous

Since 2010, law schools, nationally, accepted students with lower and lower LSAT scores and undergrad GPAs to keep their enrollment (and therefore tuition income) the same despite the declining number of applications. I was a professor at an ABA-accredited law school and know thi happened at that school, and I read ABA Journal articles about it at other campuses. I was not impressed by many students. I am not surprised they have passed the bar exam at a lower rate than California bar exam takers historically had. Just because the applicants do not test well does not mean the test standards should be lowered to their level.

Protection of the public from incompetent attorneys is the most important function of the State Bar. No one is suggesting the Medical Board lower their standards for licensing a doctor so that there can be greater access to doctors by the underserved, or to increase diversity in the medical profession, or so that medical school graduates can find employment and not be saddled with educational debt. The focus is on quality care for patients. Identically, the State Bar must ensure that only highly qualified people become attorneys so the public receives competent representation and legal services.

Bernard Jasper - Jasper Law

Do we protect the public by allowing their interests to be represented by lawyers who are not minimally competent. We live in a diverse state, have a diverse student body at local law schools and the State Bar brags of a diverse membership. My experiences in looking for a job and competing for clients confirmed the State licenses a great number of lawyers. And blogs and publications inform me that many licensed lawyers continue to search for work. Do we best protect the public - and the integrity of the profession - by lowering the minimal standards necessary to obtain a license. Or is the public and the profession better served by structuring better programs that encourage under-employed lawyers to contribute time and energy to programs which aid in the lawyers' enhancing their skill sets and the public being served by the best lawyers in the nation.

Anonymous

I believe the primary reason for the low pass rate is the quality of law schools in California. I do not think any law school should be allowed to operate if it is not ABA accredited. Why should the integrity of the profession be degraded with lower cut score. The quality of the applicants should increase.

Anonymous

We should RAISE cut score. This is ridiculous that the State Bar is even considering this. You have already shortened the test to two days. There are enough incompetent attorneys in this profession as is, making it easier to become a lawyer will only exacerbate this.

It takes hard work and dedication to pass the bar. Materials are given to you, it's not a test where you do not know what is coming. Making it easier to pass because certain people are failing and/or not studying hard enough is a slap in the face to those of us who did pass.

Robert Scribner - IFO

My recent experience as a practicing attorney in both the San Francisco Bay Area and Fresno has been that there has been a significant decline in the writing and critical thinking skills of attorneys and support professionals entering the legal field . Not long ago, I briefly employed a young graduate of the University of California who was incapable of independently composing a single English sentence. No kidding. This individual had responded to a job posting calling for applicants with strong English writing skills. Unfortunately, my experience is not unique. Blame it on the internet. It is reasonable to assume that low Bar passage rates are attributable to the increased volume of law school graduates and the number of those graduates who are being passed through at both the undergraduate and graduate levels without the training or skills for which the Bar exam is intended to serve as an objective gauge.

If the exam itself is defective or unfair, fix it. If not, leave things well enough alone. We have an epidemic of grade inflation as is. With the advent of the wild west of internet professional rating services , the Bar exam may be the only measure of professional aptitude that has not been gamed .

Anonymous

Let me see if I (and you...) have this straight:
Are you saying we don't have enough lawyers already in this state... let alone in the entire country?

Paul Hall - DLA Piper LLP

The proposal to consider changing the cut score from 1440 to 1414 is a truly bad idea for several reasons:

(1) We have too many bad attorneys already. As a litigation attorney since 1975, I have seen a lot of truly bad legal work among attorneys admitted to practice under the old system of the cut score of 1440. Most of the bad work I have seen has been done by white male attorneys, so this comment has nothing to do with race, gender or diversity. Rather, our ONLY concern should be providing to the public well qualified attorneys, and protecting the public from poorly qualified attorneys. There are plenty of bad attorneys out there already with the present cut score of 1440, and we should not take it any lower.

(2) The declining bar passing rate is due to simple economics in our free market economy, and not any larger social problem. The Great Recession of 2008-2009 caused (a) a catastrophic down-turn of jobs for attorneys who had the bad luck to come out of law school in those years; (b) then after the economic recovery, still a permanent contraction of the legal market to some degree; (c) over time this caused a market shift of some people who otherwise would have gone to law school into MBA and/or science and technology graduate degrees and professions (a trend which has been accentuated by the astronomical incomes in the MBA and tech worlds that have gotten so much publicity); and (d) thus over time a marginal "brain drain" shift of some smart people away from law and into MBA and tech professions, thus leading to a lower bar passing rate. That is okay--it is just some people voting with their feet in a free market economy to pursue other professions. But that marginal economic shift should not cause us to panic and change the cut score to admit more attorneys who couldn't pass the bar under the old system.

(3) In the public short survey (which I also filled out), there were a number of questions about whether we should reverse-engineer the bar cut score to achieve various ancillary social objectives, such as helping students coming out of law school with heavy debt, increasing the number of minority persons admitted to the bar, etc., and also asking the racial and gender identify of the attorney responding to the questionnaire. These questions are all wrong. The many excellent law schools in California already have terrific and longstanding programs to increase diversity in the profession, and most law firms and public agencies do also. We should not reverse-engineer the bar cut score, to intentionally admit to the bar more people who otherwise would not have passed, when the bar cut score of 1440 already admits many attorneys who later turn out bad legal work. Our job is not to increase the number of attorneys in California (there are already way too many attorneys who can't find jobs and have marginal qualifications), nor support the incomes of attorneys, nor facilitate their student loan repayments, nor reverse-engineer various social outcomes. Our ONLY concern should be to provide good attorneys to the people of the State of California, and conversely to protect them from poorly qualified attorneys. As noted above, in my 42 years of law practice, I have seen a lot of deficient attorneys, the vast majority of whom were white males. This is not a social engineering or diversity issue, but an issue of protection of the public. We should not lower the bar cut score.

(4) Note about the respondent: these comments don't come from a socially unconscious person. Rather, the respondent is a public-spirited person who worked at California Rural Legal Assistance during college, and has served as a Regent of the University of California, President of the Boalt Hall Alumni Association, President of the U.C. Santa Cruz Alumni Association, President of the U.C. Santa Cruz Foundation Board of Trustees, and who currently serves on the Board of Directors of the Western Center on Law and Poverty. This respondent's concern is that the sole consideration here should be delivering good attorneys to the public, and protecting them from poorly qualified attorneys. We should not lower the bar cut score.

Anonymous

Don't lower the bar just to inflate the bar. Quality should trump quantity.

Anonymous

Growing up, the California State Bar Exam was always mentioned as one of the most difficult test to pass. Anyone who is able to take, and pass the exam is automatically considered to be someone extraordinary. Unless the test has gotten significantly harder over the years, perhaps the drop in passing rate reflects a decrease in the quality of test takers. Dumbing down the test or lower than minimum passing score won't correct any problems associated with test takers being under qualified. It will be cyclical and trigger further deterioration of the system.

I was fortunate to have the opportunity to take the California State Bar in 2009. Due to financial circumstances, I had 4 weeks to study for the test, all the while working 40 hours a week. I did take a Bar Review Course and learned enough to pass the Bar. As hard as the State Bar may be, it is still less rigorous and less difficult than the US Medical Licensing Exams (USMLE) Steps 1, 2 and 3 which I also took and passed in the years 1997, 1999 and 2000.

California does not need lawyers who can't study and pass an exam, even if the test fails to reflect what lawyers do in the real world. The Bar Test is just that, a test. It's to test for the ability to see a pattern, memorize enough information, and to regurgitate enough under time constrain to put forth a satisfactory product. Anyone who is unable to perform this task should not be a lawyer.

Anonymous

I say don't lower the score and only take the smart one! If we keep lowering everything no one will learn and will keep expecting everything handed to them. Plus I worry about medical doctors if standards are lowered. We will definitely die! Life sucks on that end.

Thomas Hogan - law offices of thomas hogan

We need to keep the integrity of the profession and now lower the scoring to accommodate the law schools that graduate too many unqualified attorneys. If anything, we have too many law schools that are not up to par.

Anonymous

I think the state bar needs to work with law schools early in the law school career, on how to pass the bar exam. The solution is not in lowering the points needed to pass the exam.

Anonymous

As an attorney, I was dismayed that the California bar exam was cut from three days to two. The grind of the three-day process was a great test of the pressures one faces as an attorney. Lowering the passing score would further erode my confidence that that the bar is allowing only truly qualified among us practice law. In addition, recent conversations with law professors have suggested that the current generation of law students enters law school much less mentally and intellectually prepared or interested than prior generations. Sending these unprepared minds into the legal profession would be a disservice to the public.

Peter Glaessner - Allen Glaessner Hazelwood Werth LLP

Focus on cut number and bar passage rate is the worst type of metric driven logic. I have practiced 35 years. There is a significant (20 percent) segment of lawyers who passed state bar who fail to write, examibeceitnesses or argue with basic , argue, wrepresent their clients with a knowledge of procedural rules, evidence, or professionalism. Better skills training in law schools is needed. A skills based component to the bar exam is needed. Reducing the cut figure is a cosmetic, appealing way to make the law schools, law students who are borderline feel heard. This is just rearranging the deck chairs on the Titanic.

Dotty Lemieux - self

I don't know enough about "cut scores," but the idea should be to train good lawyers, who know the law and can apply it with each client. I do want more attorneys serving underserved populations. I think the tests should be more equitable, and test for real life legal challenges. I passed the Bar when pass rates had been low for several year and I think they made it a tad easier in my year, although the test wa a bear. It was also completely irrelevant to actually practicing law. In my opinion.

Let's have more schools in underserved areas, more practicing lawyers teaching. More hands-on work, and make lawyers be mentors to others. I'm more concerned about the shyster ambulance chasers on TV, who are not the low income practitioners we should be concerned with.

Anonymous

The answer to declining passage rates is not lowering standards so that more attorneys can be admitted to the bar (and more fees collected by the CA bar) - it's increasing the quality of education at law schools, requiring applicants to graduate from accredited law schools, and ensuring that potential attorneys will have the skills and qualifications needed to pass the bar exam and practice successfully. I love being a CA-admitted attorney - it means we passed a certain standard of rigor to be a part of and maintain the integrity and prestigious quality of the CA bar. While standardized tests certainly have their flaws in ability to gauge a person's competence and success in a profession, so long as we keep the CA bar exam, the standards must be maintained or raised - not lowered. Otherwise, the cycle of attorney incompetence (and student loan debt) will be perpetuated, as more people think it's easy to be an attorney (often as a back up plan), take on more student debt to attend law school, and lower the overall quality of the practicing attorneys in California.

Penny Wigand

Most of the attorneys now do not know the law, despite all of the CEB courses. Judges in San Diego are not much better. Everyone thinks they are ready for reality TV, and civility is gone. I passed the bar after attending and graduating from law school on an accelerated program, on the first try. on the lowest bar rate passage in the history of the state of California. I am tired of constantly having to educated attorneys ad judges on the law, and I am especially tired of the bully pulpits they take. I ate, slept and breathed the law when I was in law school. I went to bed with earphones on my ears--I listened to tapes in the car--I briefed every cae. I had the best of the best for my law school professors. I thrived in law school! If anything, make the bar exam harder to pass. Raise the bar. I thought the bar exam was easy. I walked out every day 20 minutes early every day. And this was after staring at the exa, finisshed, for 20 minutes.

It is time to raise the bar for the bar. exam, not to lower the standard.

I help people, and I let them pay what they can afford. This is not about money for me. It is about doing right, about changing the world .

Anonymous

I learned how to read and write in grade school. My middle school and high school experience was poor. The result was I attended a junior college before I went on to a university, USF to be specific. After graduation immediately got married and a few years latter had 2 kids, both in diapers when I decided to fulfill my dream of going to law school. I attended a night program at an unaccredited law school and graduated in 4 years, took a bar review course at which I learned how to pass the Cal Bar Exam. I took the Cal Bar and passed. The first time. I had no student loans of any kind and paid my entire higher education from working full time starting from graduation from highe school to completion. of law school. I attribute all of my success in my academic life to an excellent grade school experience and a commitment to hard work. No one gave me any breaks, preferences, or anything else that would have made it easier for me to pass and succeed. I taught law school part time for 19 years at a night time Cal Bar accredited law school. I served on the student rentention committee participating in the process of determine whether a student who didn't do well in the first year of law school should be permitted to continue on to the next year. The Committee also dealt with students passing from the second , third, and fourth year. This experience taught me that the LSAT test was a valid measure of whether a person would succeeed in law school or fail. It also resulted in my developing an opinion that students who came from California public school, versus private schools were more often more capable writers and critical thinkers. As for college and university experiences of our students, those who attended a California State College (now a State University), were the poorest writers and critical thinkers in copparison to those who attended a University, public or private.
A person who has competent writing skills, a high LSAT score, and takes a bar review course should be able to pass the Cal Bar Exam. The failure rate on the Cal Bar is a result of a failed public education system in California! It's that simple. Until one conducts a study that looks to this as a premise for the failure of students in the Bar Exam, one isn't really going to determine whether the failure rate should be dealt with by a lowering of the Bar Exam Standards. Preferences for weak students, regardless of their race, sex, color, and any other form of discrimination, is not the answer,. We have enough I'll prepared lawyers practicing law in our courtrooms in this state. I spent the past 42 years observing and experiencing this first hand. Some of theses lawyers have made it to the bench. It's nuts what I have seen from these folks. Please don't lower the standards. It will have a negative impact on the public who is being served by lawyers and it will also further weaken our courts where people have a rifght to get justice from a compentent Judge.

Bradley Childers - Acker & Whipple

I don't feel the answer to declining passage rates is to make the exam easier to pass. It will lead to less qualified attorneys practicing in California. I have encountered more than a few attorneys who caused me to wonder how they ever passed the bar.

Mary Frederickson

Dumbing down the incoming attorney class, by dropping the bar examination cut score, is flat-out wrong, harmful to the profession and to the public that count on a California law license as meaning something beyond - say - an Arkansas law license. If a significant percentage of graduates of law school are not able to pass the examination, fix the schools, but do not simply paper over the problem by dropping the standards. More stringent criteria for entering law school. More stringent criteria for what qualifies as credit toward graduation, both type of coursework and the pass line for obtaining credit. Improved counseling about school debt versus employment/salary realities. Improved counseling at the undergraduate level as to what coursework should be pursued in order to prepare for law school. Resist the pressure toward race/sex quotas favoring diversity over merit. As an attorney licensed in California (and Arizona), I feel a vested interest in maintaining the California law license as being an indicator of excellence, not merely a participation trophy.

Patricia Eulloqui - Law Office of Patricia Eulloqui

The State Bar should not lower its standards. Still, schools should provide students with low-cost or no-cost bar prep courses and bar prep should start early instead of in the last year of law school.

Anonymous

Compared to other bar exams, the California exam is not particularly difficult. Lowering the passing score is absolutely not the answer.

Two things would meaningfully raise the pass rate.

First, when calculating the pass rate, do not include candidates who failed the exam due to failure to actually take the exam. When I took the exam, a full 20% of my proctor's section did not complete the entire exam. In other words, 20% of the people sitting in my section failed because they did not show up for all the parts of the test! More and more people went missing after each section--even ignoring that attorneys licensed in other states were able to skip the MBE--until by the end at least 20% were gone. My section didn't have the most drop-outs either, and when I asked my proctor (after the entire exam was over) about the huge number of MIA bar exam takers, she said it was about average in her experience, and she had proctored exams where even more candidates were gone. These candidates should not be factored into the pass rate, as they quit the exam. You cannot pass if you don't finish the exam. To this day I still find the number of exam drop-outs shocking. I have taken three bar exams, and only California had a significant drop-out problem (at the other two, I did not see anyone missing from the exam room, and certainly did not see a 20% drop-off in my proctor's section).

Second, stop allowing graduates from non-ABA accredited "law schools" to take the California bar exam. These schools have historically awful pass rates, in part because they provide a substandard legal education. California is one of the few places where you can sit for the bar without going to an accredited law school, and doesn't have an apprenticeship requirement (like Vermont does) so there is no surprise the fail rate is so high. Students from those schools rack up the same (or more!) debt as students who attend an accredited school, only to remain unreasonably disadvantaged--their chances of passing the bar are low, and even if they pass they are pretty much stuck in California (as other states are not required to allow a non-accredited school graduate to practice in their jurisdiction). The only legitimate argument I've heard for allowing these mostly for-profit schools to operate without accreditation is that many of them have night-school or part-time enrollment which allows some people to go to law school who otherwise could not. These arguments are inevitably made by the schools themselves, many of which are for-profit, private institutions--if they were serious about their graduates passing the bar exam, they would be more careful in selecting qualified candidates, and they would provide tuition waiver or reimbursement for those who cannot pass the bar exam. Providing future attorneys with a shabby legal education and equal law school debt to an accredited program is worse than providing them with no law school education at all. If this is truly a concern, the accredited law schools need to offer non-traditional options--especially those that are state-funded institutions.

On a related note, when a test is "too hard"--which the California bar exam is not!--the proper response is to better prepare the test-takers and NOT to make the test easier.

As someone who sat through three bar exams--including taking the MBE and the MPRE twice each--I can definitively state that the California bar exam is not more difficult than the other exams I have taken. (Notably, I took the Texas bar exam when it was 3.5 days and covered oil and gas law separately from property, and when there were separate evidence codes for both civil and criminal cases and the bar exam tested the differences between the two. That was far more difficult than the California exam, which I passed without knowing very much California-specific law.) The reason we have a bar exam is supposed to be to guarantee an absolute minimum level of competence for new attorneys, any one of whom can hang out a shingle and represent the public as soon as they are licensed. Lowering the required score does a disservice to the public, as well as to the profession.

Anonymous

Deciding to pursue a career in law should not be a choice that is made lightly. An aspiring attorney should realize the potential risks of taking on a massive amount of debt in the event that scholarships or other financial aid is not available. It is also a well known fact that the California bar exam is one of the most difficult in the country. This has not stopped thousands of people each and every year from attempting to take the bar exam.

I must admit that lowering the cut score to 1414 would have benefitted myself the first time I took the bar exam (I scored 1428). But having to take the exam a second time made it all the more sweeter when I received the incredible news that I had passed. Failing the first time was one of the worst days of my life. Passing the second time was one of the best.

The path to becoming an attorney in California is difficult. But this difficulty adds to the respect of the profession. Moreover, there is no doubt in my mind that in the years to come, the pass rate will rise and fall again without any modification of the cut score. Such is the way of life, and those determined enough to surmount the California Bar Exam will not need a lowered cut score in order to do so.

Steven Muni - California Department of Justice, Office of the Attorney General

Lowering the standards rarely results in improving the quality of the performance. One reason for the decline in bar passing rates can be the overall decline in people going to law school, not just in California. There are a number of reasons for that--a glut of attorneys (it is an old saw but true that "20% of the lawyers do 80% of the business"), and also crippling student debt to name just two.

One argument advanced for lowering the passing score is that would allow more attorneys from diverse ethnic backgrounds to become lawyers, and these lawyers would then go and serve their under-served ethnic communities. This argument is fallacious. It assumes that (1) that these newly minted attorneys would actually return to their ethnic communities, and (2) that they would provide quality legal services--both highly speculative, at best. Allowing unqualified or under-qualified attorneys to serve their under-represented ethnic communities does these communities no good. People who need the help most will have unqualified lawyers up against more qualified practitioners. I fail to see how this helps the under-served---giving them second-rate representation strikes me as being insufferably patronizing and promotes the worst ethnic stereotyping.

If law schools are turning out unqualified lawyers who are unable to reasonably pass the bar exam---which should be a difficult task, given the importance of the work that lawyers do, then the answer is to hold the law schools accountable, not lower the standards to become a lawyer. Perhaps the law schools are accepting under-qualified applicants to maintain their ranks. Perhaps the law schools are then allowing these students to graduate by lowering the standards of the law school. If so, the Bar Exam becomes the last bastion against mediocrity. The lowest common denominator is never a path to success.

Doug Honig - law offices of douglas honig

I think the cut score should be higher. I have seen many young lawyers who seem unprofessional, poorly educated and that they just don't get the law. I have interviewed many of them and am appalled at writing samples, understanding of law etc. IF you dumb down the profession you are hurting people. Offering a poorly qualified lawyer for an indigent can be a disaster for that poor person. There are plenty of lawyers out there-who needs dumb and dumber ones-I think some must have had someone take the bar for them or the exam is so easy. Compare the exam now with what was given in 73. Here they pull out the issues and invite comment-when i took it you had to identify the issue by yourself. Either we have respect or people will accuse us of being a bunch of dopes. The world needs quality not quantity. The innocent victim of the unqualified lawyer does not care about student loans

Anonymous

California should continue to setting the standard and protecting the public from poorly qualified attorneys by keeping the current cut score of 1440.

Ory Sandel - The Idell Firm, APC

Based on the attorney survey, it appears the State Bar is concerned with the following issues:

a. Declining bar exam pass rates in California
b. The burden of student loan debt for law-school graduates unable to find gainful employment after failing the bar exam
c. The fact that the cut score in California is the second highest in the nation
d. Increasing diversity of attorneys from different backgrounds
e. Increasing access to legal services for underserved populations
f. Maintaining the integrity of the profession
g. Protecting the interest of the public from potentially unqualified attorneys

The State Bar's primary -- and perhaps only -- concern should be ensuring that the public has access to quality, and qualified, legal counsel.

There is no reason to ease up on standards because purportedly "too few" people are passing the bar exam. Rather, the appropriate response is for bar takers (including those burdened with student loan debt) and the persons and entities serving them (law schools, BarBri, etc.) to better prepare them for the bar exam. Changing the bar exam to a two-day exam rather than a three-day exam already represents, to my mind, a lowering of standards, and there is no rational purpose to further easing up our standards -- particularly in a state with as many practicing attorneys as California has.

Moreover, in the absence of statistical data, I question whether, and why, there would be a correlation between bar exam pass score and diversity in the profession. Is the State Bar implying that persons of underrepresented ethnicities, races and/or religions are somehow incapable of meeting current standards? At any rate, a law student of any background that has student loan debt will have to earn wages sufficient to pay back loans; accordingly, I do not understand how underserved populations (presumably, indigent/poor litigants) would have greater access to legal services as a result. Those underserved populations are equally entitled to quality legal counsel.

California is a leader among states, and we need not compare ourselves to others. Whether others have lower "cut scores" should therefore be of no concern to us.

In summary, I am strongly opposed to lowering the "cut score" for the California bar exam.

Stanley Imerman - Law Offices of Stanley Imerman

More questions than comments:

1. Has a study been undertaken to determine the reason(s) for the lower pass rate and, if so, what are the findings and conclusions?

- Law schools turning out and graduating less qualified applicants?
- More graduates from unaccredited schools applying?
- The bar examination is covering more subjects than when I took the bar in 1965?
- Has the goal of seeking diversity among members of the bar impact the pass rate?

2. Does the lower pass rate apply equally or near equally for all accredited schools? For example, how do the pass rates for Stanford, Bolt, UCLA and USC compare with other California accredited schools?

3. Is there a significant difference in pass rates for graduates of California Law Schools as compared to graduates of non-California law schools?

4. I took the bar exam in 1965 and passed on the first attempt, after spending most of the summer preparing for the exam. Is the exam administered today appreciably more difficult than it was when I took the exam?

Thomas Clarke - Retired

The essay questions hold the potential for assessing an applicant's grasp of the important quality of issue spotting. The one aspect of the current Bar Exam that does not assess this beneficial talent is the multi-state. Since it is not focused on CA law, it is an utter waste and should be eliminated. I would recommend elimination of the multi-state, followed by several years (at least 3) of essay-only testing to determine if that change impacts the pass rate. At that time, then, a further evaluation of the need for modification of the Bar Exam can be undertaken.

Anonymous

The passing score is not the main cause of the low passage rates. What, if anything, is being done to ensure the quality of the California accredited and unaccredited law schools where only 20% or so of graduates are able to pass the California bar exam? The difference in passage rates of ABA approved and unapproved law schools is too great to only blame the low passage rates on the bar exam itself. Lowering the passing score under these circumstances is akin to changing basketball rules in order to lower the basketball hoop because some teams have terrible coaches.

Jerry – Solo

Supply and demand.
There are too many lawyers and not enough clients. The result is lower quality supply (attorneys).

Lowering the bar is not the way to maintain a profession. Continued lowering the bar will result in attorneys being on the same level as used car salesmen.

The glut of attorney shows the glamor does not equal reality. The bar should do the same with lowing the bar for glamor, ignoring reality.

The debt of law school graduates is the result of opportunistic law schools combined with media glamor of easy money, esteem, and glamor. Don't suppor the media myth.

Many sectors see the lowering of quality of students, graduates, applicants for employment, new employees, etc. The quality of humans in California is declining. (Ask any teacher or employer.)

I believe the State Bar is trying to look sympathetic to those students, graduates, test takers and new attorneys by pandering to their needs.

The State Bar should not lower the bar. If there is movement, it should be up to discourage applicants to law school, decrease failures in school, failures in test taking, and failures in employment. Do not encourage failure. Raise the Bar.

Being politically correct is contrary to hallowed professions. Do not lower the bar.

I am surrounded by students age 18-25 and like most teachers, find their skill, ambition, motivation, ethic, knowledge, values, and responsibility to be in constant decline.

A collegue had to fail graduate students, knowing it would end the students career, as a painful decision between lowing the bar and maintaining the bar. Do not lower the bar.

I am dissappointed that so many students have been exploited by law schools accepting students money and positioning them for failure. Do not support their opportunistic greed. No not lower the bar for them to make money. Instead, discourage the exploitation by limiting the supply of new attorneys resulting in maintaining the profession instead of degrading the profession to that of used car salesmen.

Don't lower the bar.

Anna Niemann - HOLLINGSHEAD & ASSOCIATES

Since there is zero data to establish that the rigor or scope of the bar exam itself has altered significantly over the past two+ decades, the declining pass rate can only be attributed to inadequate candidate preparation.

Lowering the cut score does not address that situation in the slightest, but instead functions only to reduce performance expectations by degrading the goal.

After all, there is no guarantee or even objective evidence that those candidates whose scores fell below the cut are any more likely to become public interest or minority focused practitioners than those who passed. The phrase "soft racism of lowered expectations" springs to mind.

The burden is appropriately on the law schools and the individual students to achieve the established standard of performance, not on the State Bar to attempt to engineer some concept of parity.

Anonymous

The Great Recession caused a decrease in the number of students applying to law school. There was a large number of articles and commentary on the debt-load caused by education, and law school education in particular. As a result, there was a drop in law school applications (and perhaps in the caliber of law school applicants), which may have contributed to the decreasing bar passage rate.

The economy is turning around. I suspect and anticipate that more qualified candidates will wish to pursue law degrees and that law school applications will increase again.

Even if the cut score is dropped as only a temporary measure, the potential harm from admitting unqualified persons to the bar is not worth whatever benefit there may be from adding more lawyers.

Thomas Schneck - Law Offices of Thomas Schneck

There is no shortage of lawyers in California, or nationwide, yet we seem to be looking for ways to increase the number of lawyers. This does not make sense. What is needed are diverse career paths for law school graduates, such as in business, law enforcement or quasi-legal positions, such as contracts management, technology licensing, liaison with government agencies, regulatory work, etc. It seems to me that the real issue is creating good jobs for law-trained persons, not more lawyers.

James Lewis - Law Offices of Frank D. Penney

The cut score does not need to lowered. The falling pass rate is due to unprepared students taking the exam, and frankly some students are unqualified to sit for the exam. Unqualified students are those students who graduate from non-ABA accredited schools or online schools. The quality of the education is lacking and the institutions are admitting less intellectually capable students so they can cover their budgets. Unqualified students are permitted to graduate because the school needs the student loan money. Eliminating these institutions and the unqualified students they graduate is the best approach, or by giving incentives to these institutions to produce better candidates.

Unprepared students are those who do not understand the bar exam or what is necessary to pass it. The issue of a falling pass rate is best addressed by the Bar working cooperatively with accredited law schools to better prepare their students to pass the exam. There is a happy medium between maintaining the integrity and mission of individual law schools on the one hand, versus "teaching the bar exam" on the other. Frankly, law schools would do well to offer bar exam preparation courses in the last year of law school as an elective or even for a nominal fee.

If the objective is to admit more lawyers so certain segments of the population are better served, more lawyers who passed because of a lowered cut score is not the solution. Under served segments of the population (public interest, pro bono, non-profits, public defenders, prosecutors) could be made more attractive by incentives. Student loan debt forgiveness is an example. Serve as a lawyer for two years in one of these segments and we'll knock off some % of your debt is one route.

Last, the bar exam was recently modified to just two days. Lowering the cut score should not be discussed as a solution until the Bar has several sessions of the two-day bar exam under its belt, to both examine and adjust to.

I appreciate the opportunity to comment. Thank you.

Anonymous

I don't see any reason to lower the standards lawyers are held to. In my nearly 40 years of practice as a lawyer, I have encountered many incompetent lawyers. I see no reason to add to that pool.

Anonymous

If I could do it, why can't everyone else?

I recommend getting rid of schools that don't prepare students for the bar exam (this way we can keep a lid on new lawyers also).

James Husen - Law Office of Jim Husen

The bar symbolizes and more than symbolizes probably the sole means of protecting the public both now and in the past.

Lowering the bar sends a chilling message to the public and the profession.

If the profession had 3,000 hours of legal assistant work as psychologist do or 3,000 hours of internship as therapist do, then perhaps the bar would not be so important because there would be other means to safeguard to public and profession from those who don't have the emotional regulatory and fidelity to put in sufficient study to pass the bar.

Michael Mcshane - Michael P. McShane, Attorney at Law

It seems that the article was all about lowering the cut score. "Why" today's test-takers couldn't make the grade was never addressed.

Aren't you interested in knowing "why" these new candidates are incapable of making the lowest passing grade possible? What's the reason they can't "make the cut"? That's the real question. Isn't it important to know the answer before changing the rules in their favor? If it was important it certainly wasn't mentioned in the article. It was just "Our test takers can't make the grade. Should we lower the requirements and let them in regardless?"

I know. It's only a few points. What can it hurt, right? But the real question is one of fairness. How many hard-trying, ever-sacrificing, dedicated candidates have missed by those exact same points in the past, relatively speaking to when they took the exam? And how many were so discouraged and disheartened after taking the exam over and over that they finally decided to just chuck it all in?

If you dare lower the bar (and you will be "lowering the bar"), doesn't justness and fair play require you to go back through your records and admit those who would have passed under this newly revised lower score keeping system?

The next question is: Why do these deficient test-takers suddenly need to be admitted? Why now? That question too was never addressed in the article, which in truth was nearly devoid of facts. Is there a critical shortage of lawyers that I don't now about? Why is it so critical that we let them in?

If I remember correctly, when I passed the bar 36 years ago the passage rate was in the high twenties or low thirties. Look it up. You have my records. How is 43% low? Who has convinced you that 43% is low? That's really the question. I think it's quite high actually. You might want to think about making the test a little harder.

Here's something else to consider: These failing bar-takers might be following the same writing process on their exams as the person followed in writing the subject article, namely: "My conclusion is such and such. Wait. You're asking about the facts and their application to the issue (of law)? Does that even matter?"

My hat is off to those dedicated and concerned bar graders who agonize over reviewing and grading and perhaps even re-grading these exams. It's a grueling task and a thankless job. But these stalwart souls are our last defense against a diluted profession.

These students who are failing? Like every poor soul before them, they need to make the grade or continue taking the exam. Lowering the bar? How absurd. Just give them a participation trophy and nicely ask them if they'd please just retake the exam again next time.

Michael P. McShane
Attorney at Law

Anonymous

I do not agree with lowering the current score to 1414. The attorney market is already over saturated and lowering the score may lead to less competent and unreliable legal profession as a whole. I do not think the score is the problem but instead, I believe allowing non ABA accredited law schools that may not live up to the same standards and admit students that do not have the necessary qualifications to be an attorney.

Anonymous

The 1440 cut score should be maintained ONLY if the California Bar works to implement a consistent 1L course program across the state. One of the biggest issues for law students is they are receiving starkly different experiences in bar topic courses in their 1L year with many teachers getting in to the minutia of legal issues and some not even covering the breadth of what they should for an intro level course to a topic. This means that some students arrive at the end of 3L year and start preparing for the bar and are learning substantive amounts of material FOR THE FIRST TIME. Bar prep should be a review and enhancement building upon law school knowledge, not a first experience. By nature of the large number of topics on the bar, California students feel extremely overwhelmed if they did not receive a solid foundational study in these core topics. Instead law schools are encouraged to create steep curves to divide out students and they test on minutia that will never be addressed on the California bar as a means of "weeding" students out from the good and not so good students. This isn't productive. If anything, all California accredited law schools should be required to test in a California bar-style manner for all core subjects and those courses should be pass/fail - not graded so that students won't have to be tested on who remembered the most obscure part of a law and more on applying legal and critical thinking skills as they will be expected in practice and on the bar exam.

The California bar should work to implement a more consistent, bar-prep-esque approach to these core classes at all California accredited universities. This warrants keeping the cut score as is.

If this cannot be done, then the cut score should be lowered. Additionally, the California bar should consider hiring more graders so that California test takers get results sooner and can work through any issues that may arise as a result of failure. California test takers are one of the - if not the last - in the nation to get results. This is absurd.

For those who fail, they have lost substantial time waiting for results, many without gainful employment, who are then forced to take out additional private loans to maintain the high California cost of living to re-study and take the bar (not to mention that loan repayments begin shortly thereafter).

Many California law students feel at a loss that they've put in so much by way of tuition dollars in to institutions who barely prepared them for legal practice, let alone the bar exam, and feel it is mandatory to pour thousands of dollars more in to prep courses.

With a more solid foundation provided at the law school level, many students would feel more empowered to self study or take on more affordable study options (and likely yield higher success rates on the exam) rather than spending nearly 5,000 dollars and cramming with the hopes of passing the examination.

Anonymous

Lowering the test score passage rate and the qualifications of attorneys will allow more people to practice law but at the expense of the innocent public. The profession already suffers from some unscrupulous attorneys and any change will make the problem worse and harm good-standing members of the profession. The Court should decline to curry to politicians and certain political groups at the expense of the profession.

Anonymous

Why on earth would California want to lower standards for admission to the Bar?! Attorneys in California pride themselves on having one of the toughest Bar exams in the country. California does not need more attorneys who are less competent and have less aptitude. There are already too many attorneys in California. Since there are more attorneys than the job market can handle, and that has not improved access to justice, dumbing down the Bar exam is not the answer. Making the Bar examination easier to pass will result in less competent attorneys who could further endanger the public.

Anonymous

I believe that the cut score should remain as it stands. I failed my first time out and barely missed the required score. However, that is on me. The State should not have lower standards for new attorneys. Lowering the bar for passing means market dilution in an already saturated market of attorneys, permitting less qualified candidates to practice (risking irreversible harm to clients), and sends the message that if there's sufficient outcry then everyone will be a "winner." The fact is that the bar should not be a participation trophy. The current standard ensures a minimum level of candidate passes. Lowering that standard is unacceptable because that essentially accepts a lesser standard of attorney in the state.

Kenneth Anderson - Greenland USA

There is NOT a shortage of attorneys in CA! There MAY be a shortage of qualified attorneys and/or attorneys in certain practice areas and/or representing certain types of clients but, if so, none of these problems will be remedied by lowering the requirements for admission to the CA Bar. In fact, based upon what I encounter on a regular basis, including attorneys who are ignorant not only of the law but of basic rules of grammar and civility, a strong argument can be made that current admission standards are insufficiently rigorous to protect the public. Look, people only engage attorneys when they are in trouble or when they are seeking to avoid/prevent trouble. These clients need (and deserve) the very BEST the legal profession can offer them. Lowering admission standards because some individuals (who frankly may be better suited for other careers) are unable to pass the bar exam and obtain admission to practice is not the answer.

Robyn Tuerk

Has the State Bar of California lost its collective mind? Is it willing to lower standards for greater bar fees based on some financial crisis?

The answer to lower pass rates in any arena, let alone the State Bar, is not lowering standards. If pass rates are low then candidates simply have to work harder to pass. That's it. We cannot as a Bar lower standards to increase pass numbers and swell the ranks. That simply invites the degredation of our entire profession. This profession is not easy and should not be undertaken by those who cannot pass a rigorous exam. We are fiduciaries for the public and i vehemently disagree with any notion of reducing the barriers to entry that serve to keep out those who are not fit to undertake the responsibilities of this profession.

I am appalled that the Bar is so willing to consider lowering its standards.

Anonymous

I can't even believe this is a serious question. You have too many lawyers in the state anyway. That's why it's hard for the ones smart enough to pass the bar the first time to get a job to help pay for the student loans to finish law school in the first place. Why would you lower it? To let subpar lawyers in? If they can't pass the bar, then newsflash, they're not going to be good lawyers. That's the whole point! I've practicing for 16 years and I'm CONVINCED you have the bar low enough as it is, based on the sheer stupidity of some of the lawyers out there! You certainly don't need more lawyers in this state. Several thousand two times a year is plenty! If they're are bar passers out there without a job, you BETTER take care of them first and limit their competition. Good grief. I can't even imagine popular opinion amongst the bar members be any different than this; we need more SMART people practicing, and more room for the smart people in the economy.

There is NOTHING about the Bar Exam that doesn't do exactly what it's supposed to do: only allows people in that can actually think like lawyers.

If you want to know why admissions are declining, it's not the test, or lowering the bar, it's the quality of student. An entire generation of kids who got gold stars for participating. Hell no. Let's face facts, some people have it and some people don't. Period.

Anonymous

The problem to me is not underachieving students. it is the law schools. it is the steady rise in admissions and acceptances into law schools and the associated loans that these law students then take on, which then force them into untenable situations. I say keep the score where it is and force the law schools to act accordingly and NOT the other way around.

Lowering the cut score will allow law schools to keep making money off people who perhaps shouldn't have been admitted in the first place. Then, after their three year graduate education is completed, they are underprepared to actually take the bar because these law schools do not prioritize this. Lowering the cut score will benefit no one besides the institutions who dilute their admissions and acceptances for the sake of the almighty dollar.

It should also be mentioned that in lowering the cut rate, those who would have passed without this accommodation will have to suffer a diluted passage rate and compete for jobs with people who would otherwise not be lawyers in the first place.

It took me 2 tries to take the bar. The test is hard, but that's the point. It's a non-negotiatable benchmark that should speak for itself. By lowering the cut rate you dilute the value I bring to my company.

Austin Ward - Panish Shea & Boyle, LLP

According to the Bureau of Economic Analysis (BEA), California has 167,690 lawyers. That is FAR AND AWAY more than any other state in the country. As a practicing lawyer of only 3 years, I have already been astonished by the low caliber of attorneys I have seen. Texas comes in second with 87,957 lawyers. Despite having a population of 39,250,017, California still ranks 8/50 in lawyers per capita. We have too many lawyers that, many of which should not be practicing law to begin with.

By lowering the cut score from 1440 to 1414, the State Bar of California would be substantially increasing the volume of new lawyers licensed to practice in this State, but only those who devoted neither the time nor energy to pass the bar exam at the 1440 level. I noticed in my own law school class of 2014 and more so in the classes that followed me, a distinct lack of discipline and a sense of entitlement to practice law.

I do have some concerns about how the exam is scored, but not with the score itself. In some instances, I believe it is too easy to pass the California Bar Exam if you simply understand the structure/outline scorers are taught to look for in their 1-2 min. review of the essays. There are likely people who cannot afford the test prep courses and have provided competent essay responses to the test prompts, but are scored poorly due to the variation of structure from what expensive corporate test-prep companies teach.

If reform is warranted in the testing process, I would say the manner of grading the exams would be the first place to start. Lowering the passage rate is lazy and will ultimately lead to a greater influx of only the least competent new attorneys available. This would be a foolish move.

Pucci Klary - Law Offices of Klary E. Pucci

It is unfair to all the students that have studied hard and continue to study hard.
It will also greatly minimize the importance and value of our accreditation as attorneys.
Are medical schools lowering the board score requirements so that more doctors can practice medicine? NO!
Our accreditation should be taken just as seriously.

Anonymous

California has more lawyers than any other State in the Union except New York. Some Solo Practitioners make far less than many nurses and police officers, with much more time and treasure invested in education. Before you start to think about flooding the market with more attorneys to help low income people pay lower attorney's fees rates, do a study of what solo practitioners actually earn. I think you'll find that it isn't that much. At least 75% of a Solo's gross income goes to overhead. I know of Family Law firms that are paying new lawyers $20 per hour. So what kind of message are we sending to young, ethnic college kids that the gold pot at the end of the rainbow is to become a lawyer? How fair or how fraudulent is it to them when they pass the bar and find that the only job they can get is at the Family Justice Center in Concord helping domestic violence victims for $20 per hour?

Anonymous

I believe the exam should be restructured not lower the score. The exam does not test for a persons ability to be a successful lawyer. As it is, there are many attorneys I am shocked practice law. That means the current exam is not weeding out the right people. If you can prepare to pass the Bar , you will pass. Lowering the standards would kill the integrity of the field. It's bad enough that I believe some people should not hold a bar card.

Melissa Martorella - Geraci Law Firm

I don't think the issue is the cut score - I think it is (i) unclear standards for exam reviewers; (ii) schools admitting underqualified applicants; and (iii) outdated bar prep materials (I used Barbri and there was a lot that was not covered or barely covered).

As to (i), it is unclear why some essays get the scores they do. Better standards for graders would help with consistency and also preparation when reviewing past answers for passing answers. I remember reviewing past essays and some would have wildly different scores but similar content. Or similar scores and varying degrees of content. Perhaps better standards (and not allowing overworked examiners to grade them on the subway during their commute might be a good idea too).

As to (ii), there is NO reason anyone scoring lower than a 155 (I want to say 160 but I will be generous) on the LSAT should be admitted to law school. I don't agree with accepting the GRE as an alternative either. I have taken both exams and the LSAT tests skills that are far more relevant and applicable to law school, and the GRE is a glorified SAT - way too easy to consider for admission to any graduate program, let alone law school. I get that schools want to take advantage of free government money by admitting underqualified students so they can get that guaranteed student loan money, but in the end they are just hurting students who will have no real possibility at passing the bar exam or getting a job that will pay off those loans. Keep the UCs, USC, Stanford, Loyola, Pepperdine, and USD. All the other schools are unnecessary and bring the scores down by admitting students that have no shot at becoming an attorney.

As to (iii), the bar prep courses simply need to be updated. There were some topics (especially on MBE day) that were NEVER brought up in bar prep (and I completed ~95% of the Barbri course materials), and I had to use logical reasoning (again, LSAT is the way to go) to give my best shot at an answer. The same lectures are used year after year - even the jokes are the same! - and at some point the company needs to pay the money to get fresh materials, and the professors teaching the courses need to stop being lazy for that paycheck and make sure they're actually providing current material. And perhaps having CA professors teach ALL subjects would be helpful - that way we don't need to keep supplementing because the Property professor from NY neglected to discuss relevant topics for the CA bar.

In short, don't blame the cut score, fix the underlying issues that are apparent to anyone who has recently had to go through the entire process of applying to law school, attend law school, study for the bar exam, and pass the exam. We need better and more prepared exam takers, and better guidance for those evaluating the exams. Put those action items in place and I am sure you will see better results.

Linda Burden - Smith & Susson, LLP

The way to insure hopeful attorneys are well prepared for the everyday demands of practice is to prepare them better in law school not make it easier for them to pass the bar exam. I found a complete disconnect between law school and the bar exam in 1995, and my son found the same to be true in 2010 when he took the bar exam. We both passed the CA bar on our first attempts, but we both took a bar review course which much better prepared us to pass the bar than did our law school educations. That's a sad comment, but it's true. Law schools should look to the way they prepare their students for the practice of law not lobby to make it easier for their graduates to pass the CA bar.

Anonymous

By lowering the standard, thousands of unqualified attorneys will be admitted to the California State Bar. A thousands before have passed the current cut score by studying hard and applying themselves. Future members of the California State Bar, should apply the same dedication and hard work.

William Mayer

The focus must be on the content of the exam, not on the cut score. The content must test the ability of the applicant to practice law competently and ethically. If the content becomes so complicated, and it is increasingly complicated every day - no doubt, that the pass rate declines further, so be it. The emphasis must be objectively focused on competency and ethics, in my opinion. Thank you.

Anonymous

I am not that bright but passed the first time and was invited to be a grader of the Bar Exam. I believe the declining scores are a result of the pervasive time this upcoming generation spends on the internet. There are numerous massive studies that show a decline in testing, functioning etc. There is also a decline in the ability to have "sustained thought", which is still something necessary in many professions, including the legal profession. Time on the internet, including education on the internet is inherently distracting and can be addictive. If you see the movie "Screenagers" you will see some of the data. Many adults are also affected. There is decline in test scores across many school systems. Further, there has been an increase in the national suicide rate and a stunning increase in mass murders, coinciding almost directly with the increased use of internet enabled devices. There is no other reason. I work in the tech industry. Tech companies in the US I'm sure don't want this data out. It will only get worse with virtual reality. In the future, most of the really sophisticated work involving deep, sustained thought will be done by either those not exposed to internet enabled devices, or those view who are able to regulate themselves on it, or who have others who have assisted in regulating them on it.

Just one example, studies show that if you take a test online, you will do significantly worse on the same test, then if you took that same test on paper. People read more slowly online. The distraction is well documented. Some of the data shows brain changes, similar to those of an opium addict.

This is the canary in the coal mine and instead of lowering California's standards and risking less sustained thought by our profession, I would recommend a panel to look at how internet related distractions are gutting our education generally. I'm also hearing from those hiring young lawyers that they are not able to think through and independently complete complex projects (unlike what we older lawyers accomplished early in our careers). The internet makes us all more stupid - let's not make the law profession more stupid as a result.

Internet enabled devices have widened the achievement gap amongst the underserved. This is because on those communities, parents are less available and able, through time and resources, to monitor a reasonable and regulated use of the devices.

Many countries in Europe educate their citizens more about this, than the US. Tech companies have more lobbying power than the NRA, and they know how to use their power.

This would be a good opportunity for a study on how the internet has changed this next generation's ability to have sustained thought - as well as whether the effect is more on the underserved (there is data to show this), rather than sending lawyers out in our community who struggle with sustained thought.

Further, bar review courses, tests etc. should not be done online - same with law schools. Although its tempting to do everything online because it might save costs etc. - the learning is definitely not the same. This is a good time to look at the science of online use and learning leading up to the bar exam, vs. changing standards.

Anonymous

Why is it necessary to lower the standards so that the pad rate looks better. California is known to be the toughest bar exam and changing the cut rate so that more purple pad each exam would only result in less qualified aattorneys

Anonymous

Reducing the standards for our prestigious profession should not be an option.

Anonymous

Passing the Bar is not impossible but requires lots of hard work and dedication. Lowering the score is not the solution.

Boots Whitmer

For the sake of the public, the bar exam must be rigorous. In my opinion, it is too easy.

A distringuished friend of mine, who grades bar exams told me that the graders 'bend over backward to pass applicants, but that they could not in good conscience, pass those applicants who scored so poorly that they would be a menace to the public.

I attended an ABA accredited law school, but not one which was a top tier law school, although I have an ivy league undergraduate degree. Because I was working my way (full-time) through law school (full-time), I was not at the top of my class, although I did receive some recognition for my appellate advocacy skills. I studied hard for the bar exam and I attended one of the bar exam prep courses. I typed my exam on a manual typewriter because I did not want to be affected by the power outages that plagued those with electric typewriters. I passed the exam on the first try. I did not think it was as hard as people think it is and I thought it was fair.

I am of the opinion that those who did not pass EITHER did not study OR are simply unsuited for the practice of law. It takes a certain type of mind. Please do not enable either the lazy and irresponsible or the unsuitable by lowering the passing score. The public will thank you. The judges will thank you and the attorneys who have to work with unsuitably admitted attorneys or who have to clean up the messes they leave behind, will thank you. Please don't forget the price of malpractice insurance! Consider the skyrocketing rates due to the incompentence of so many attorneys who actually passed who drove up these rates. Don't make it any worse!!!

Anonymous

The solution to lower bar pass rates falls squarely on the shoulders of the law school industry/cartel. Kids who never had a realistic shot are being convinced that hundreds of thousands of dollars in loans is a worthwhile risk to take on, and then artificially lower the pass rate on the back end having already incurred such debt. The proposed solution of lowering the cut rate is madness - we already have too many attorneys in California and adding more who are less qualified won't do anything but drive down compensation on the lower end of the market and increase malpractice claims.

I believe in the importance of promoting diversity, but it is too late to do so in graduate school and in connection with licensing for professions that can do a great deal of harm to the public.

Steven Brumer - Fleischer & Ravreby

If the percentage of applicants that passes the exam is lower, the answer is not to "lower the bar". While this will provide the Bar with more dues-paying members, one would hope the Bar has the safety of the public in mind by keeping to the high standards necessary to practice law in the great state of California.

Why is a lower passage rate a problem? Those who study and are dedicated to the practice will pass, as hundreds of thousands already have. Attorneys are not an endangered species; we should be making it more difficult to practice in our profession; not easier. That which is easy to accomplish is not valued.

Adam Warshaw - The Law Offices of Adam S. Warshaw, APC

The only faction in favor of this change are the large firms in need of bodies to staff their associate pool. As fewer than 10% of these attorneys will ever find a permanent position at those firms, admitting more bodies to the Bar--especially less competitive ones--would benefit only the large firms while adding to our already overpopulated legion of younger attorneys scraping to get by. Far better solution is to ease the burden on out of state attorneys looking to practice here by entering into reciprocity agreements with states that have similar laws and strong bars already. The large firms could have their staffs and we would not be adding to the pool of unskilled, inexperienced attorneys.

Yair California Coastal Chaver - NA

It is crucial to first determine the reason for the declining pass rate. It would be a mistake to lower the cut score if the result is unqualified attorneys, and solely for the purpose of increasing the number of admitted attorneys. If the bar exam is a good determinant of good, successful, attorneys (which is questionable), then the score should not be lowered. The State Bar should try to understand the cause of the decline and attempt to address the cause, or causes, so that California can continue having competent attorneys.

Anonymous

I am an adjunct at an ABA-accredited school and have been for several years. The problem is not that the Bar exam is too hard or is getting harder. The problem is that the quality of law students has declined precipitously in the last few years (on average, that is; of course, there are still standouts, but fewer of them with each passing year). It is clear that the school where I teach lowered its admission standards to attract more students, and we are now seeing the results of that strategy: people who should never have gone to law school have gone to law school, typically incurring massive debt (because they did not qualify for academics-based scholarships), are not going to pass the Bar exam, and are not going to be competent attorneys.

I took the Bar exam in 2009, and although an incredibly stressful experience, the exam itself was not that hard, and with one or two exceptions, everyone I knew who I thought should pass did pass. Now I see the utter garbage being churned out by law students and am not at all surprised that they aren't passing. They are not equipped to be lawyers, and lowering the cut score will simply delay their inevitable transition to another career. Either way, they are going to have the law school debt, so I do not think taking that into account when determining the cut score makes any sense.

William Hansult

The State of California has been known to have the most difficult Bar Exam to pass in the United States. However, this year it became much easier by cutting the exam from 3 days to 2 days and drastically limiting a very important portion of the exam - the "performance test."

The purpose of the exam is to test whether the applicant has the requisite skills to adequately represent the public in courts of law. The purpose should not be to save a student from school debt because he/she failed the exam.

The exam has already been made much easier than it was, and now, it is recommended that the cut line be lowered too.

What possibly can be the result of that? The result certainly cannot be for the public's good in assuring that new attorney's have the qualifications to properly represent them.

California already has more attorneys per capita than any other State. In addition, California is a State which is the most desirable to live in. This is why so many graduates of ABA schools around the country come to California to take our exam.

The past more difficult exam and the higher cut line not only helped assure the competency of the applicants, but secondarily acted as a way to keep the attorney population down in an already over crowed market. Attorneys cannot make it financially when the market is flooded with them. The Sate Bar disciplinary arm is continually disbarring attorneys (or lesser measures), mostly due to the attorneys mishandling client money and other funds and the explanations these attorney give are strikingly similar - they are in very tough financial binds to make ends meet, so to keep their heads above water, they start cutting corners. When the attorneys start cutting corners, they hurt the public they are to be serving and they hurt the reputation of the profession.

The lowering of the test standards and of the cut line will of course have the effect of raising the pass rate and save some applicants from the student debt bind, but will most certainly exacerbate the larger problems described above.

I disagree with the recent change in making our Bar Exam easier and I disagree with lowering the cut score. It is a slippery slope of watering down our profession.

If on the other hand the State Bar has made such a determination that raising the bar pass rate is important to the State, the Bar and the Supreme Court, I would suggest that instead of lowering our test standards even further, that the schools accredited with providing the education be the source of modification to help raise the pass rate. Simply, the students not only need to know the law, but must know how to analyze and apply it if they are going to be competent attorneys. These matters they are suppose to learn in law school and to be tested on in the Bar Exam.

Stephen Anderson - gammage & burnham

Keep the current cut score. There are enough lawyers. More are not needed; fewer are needed. Increasing the number of lawyers who 1) cannot pay their debt, and 2) will increase the already high number of misconduct cases, is a bad idea. Whittier is closing its law school, and I hope more schools will close. The Bar needs to focus on ending the debt trap, not exposing more young people to that risk. Start telling the truth: law is not a good business for most people.

Peter Cross - San Diego County D.A.'s Office

This seems to be the modern trend in America; namely, how far can we justify lowering our standards? For me, if pass rates are declining in the bar exam, it is likely a comment on modern society. Certainly in my observations, too many young people today have grown up with a sense of entitlement rather than a sense of hard work and individual responsibility. Doing just enough to get by seems to be the mantra of the day, rather than doing everything it takes to ensure actual success. I certainly remember my time studying for the bar. No one paid my way through law school. I worked full time, went to night school and spent my free time studying, rather than playing, to ensure I could achieve my goal. As a result, I passed the bar exam on my first attempt, and wouldn't have complained if I did not. That would have been solely my failing and my responsibility. I don't care what a person's background is, if a person wants to succeed, they will eventually accomplish their goal if they are sufficiently inclined to the subject matter and they approach the task with enough dedication and perseverance. We should not lower a cut score just so more people can pass. That is absurd logic. The market place will take care of itself. If there's enough of a need, people will push for that goal and will work hard enough to succeed. The legal profession in California does not need to lower its standards. The people of this state, when they need to rely on the assistance of an attorney, have a right to expect the person will be as competent as the system can reasonably accomplish.

Anonymous

If the concern is to bring in more diverse attorneys and/or attorneys who would otherwise serve underrepresented groups, then it seems like there could be additional screening for the same. Just lowering the pass score doesn't seem like it would resolve the problem.

It's like if the California driving test is too hard and therefore too many people fail and have to retry to get their license. I wouldn't want the DMV to just make the test easier. High standards are in place for a reason.

We need to keep the integrity of the profession in mind. The attorneys that passed the bar and are licensed did not all pass on the first try. We had to work hard for it and expect future generations to do the same.

There are already many attorneys out there who end up disbarred or face disciplinary action in spite of already high standards. Why would we want to increase the possibility of mediocrity in the profession? There has to be a better way to diversify the profession than just lowering the pass score. It does not make good sense to follow through on lowering the cut rate.

Anonymous

I am generally not in favor of saying "you have to do this hard thing because I had to do this hard thing." However, lowering the bar score will hurt the value of bar membership for those already admitted. I welcome more attorneys, including more attorneys from underrepresented groups; the issue to me is not keeping the size of the bar down. The issue is that the bar memberships for those who already passed the bar will not be as valuable if California no longer has such a strong reputation for bar passage. It waters down the understood merits of bar membership.

Anonymous

Ladies and Gentlemen:

External and internal pressures infuse every day of our respective legal practices, and it takes lots of preparation, discipline, skill, situational awareness and time and resource management to balance said pressures and even reach the level of competent representation. Whatever your area of practice, and whether you're in-house, solo, or with a firm, it is a challenging job – and that's the way it should be, given the sacred trust every client places in our services. This career path involves difficult days, and the entrance standards to this career should be commensurate with the real-world experience awaiting successful entrants.

We are all witness to sub-par counsel/representation, and diluting the entrance standards will invariably exacerbate this problem.

I am in favor of three days, not two, for the California Bar Exam (I know, this change is already coming), and of maintaining the highest cut score possible. The Bar Exam is a challenging, pressure-packed experience with winners and losers – welcome to life, and to the practice of law.

Sincerely,

Member of the California Bar
Member of the Nevada Bar

Thomas Rutledge - Law Office of Thomas D. Rutledge

This exercise is unnecessary. There are plenty of lawyers in California and because aspiring lawyers cannot pass the bar is not the public's problem. Just as the public should not have incompetent doctors performing medical services by under qualified physicians, we should not have under qualified lawyers doing the same harm to the public.

Anonymous

The Bar exam is already easy enough we need competent attorneys not mroe money for the CA state bar to obtain in fees every year

Brenda Edwards - CA Legal Help You Can Afford with Brenda Edwards

I passed the California Bar exam on my first attempt but could not gain employment with a firm because I took the nontraditional route of maintaining my full-today me job as a special education teacher (I am married and have a son) while attending a part-time correspondence school (Taft Law School). If I am able to study for and pass the Bar exam on my first attempt while teaching full time and raising a toddler, the issue is not the cut score. The issue with law school debt is the ABA refusing to accredit correspondence schools even though they often perform better than brick-and-mortar law schools that are accredited. This forces many young future attorneys to apply to the much more expensive brick-and-mortar schools while sometimes having to sacrifice employment and benefits/health care. Why? Accredited online education is available and rigorous for innumerable occupations, and virtual moot courts and other technology make courtroom experience, and pardon me, moot. And access to law for everyone? There are many more like me who come from working class roots and correspondence law schools gave me the opportunity to access my legal education. Next, I am substantially certain I would have gained employment after I passed the California Bar if my score were released because it would show how well I did. However, California refuses to release these scores. So, attending a non-accredited law school with no score to show my comparison with other applicants left me jobless legally. The lack of disclosure discriminates against the poorer legal applicants who cannot afford a brick-and-mortar law school. The problem with California is not the cut score. It is 1) the refusal of ABA accreditation of non-brick-and-mortar schools and then 2) refusal of California to disclose Bar exam scores so those who do not attend/cannot afford to attend an expensive brick-and-mortar law school can show their value with that score. I was forced to open my own virtual law company but am still teaching full time due to hesitancy of clients to trust a virtual lawyer.

Anonymous

We do not need more lawyers. We do not need more unqualified lawyers. Keep the pass score where it is.

Anonymous

The cut score of the California bar exam should not be reduced under any circumstances. The California bar exam is notoriously difficult and for good reason. California already has an abundance of lawyers and it cannot handle adding unqualified attorneys to the market.

By lowering the score, California is unfairly catering to individuals with low performance or those who do not put in the necessary amount of time to study for the exam. Further, rather than blaming the bar exam for low pass rates, law school deans need to reconsider their criteria for admitting students (instead of seeing every potential admitee as more funding) and reviewing their academic curriculum to make necessary changes accordingly. If California succumbs to these unmotivated deans and students, it will reduce the integrity of the profession exponentially.

Due to the reasons above, the cut score to the California bar exam should not be reduced.

Anonymous

There is no shortage of attorneys in the state of California. California allows non-ABA accredited school graduates to take the bar exam; unlike other states. Thus, California must keep the current score in order to ensure that the ones who become attorneys are able to service the public's needs in the manner needed. It is not helpful for any client to be represented by someone who does not have the skill level, the communication skills or the research skills to handle their legal matter. We need to maintain our high requirements in order to weed out ones that do not have the skill set necessary for this profession.

Anonymous

In my opinion maintaining the integrity of our profession is of utmost importance. While I am not sure what the percentage or tie-in is for disciplinary actions as weighed against multiple time test takers, there appears an ever increasing amount of disciplinary actions against younger / more recent bar numbers than ever. Our profession has continued to be mocked in ever increasing numbers over the years, and it is the job of all those in the profession to act with integrity and professionalism at all times. Furthermore, there does not seem any dearth in the number of practicing attorneys in the state, whether in the metropolitan areas or those that seem to make the list of under-served. Lastly, I fail to see a correlation between amassing student loan debt and the ability to pass the bar - because an individual has racked up a significant student loan, does not seem reason to me to make entering into the profession any easier than for an individual with less debt. Student loan debt is a universal issue, but not countermanded by a lower cut score.

John Jocelyn

The main issue here is not that students cannot pass the bar exam with current cut scores-- this is only the final hurdle in a long process of becoming a lawyer. Focusing on this aspect alone completely ignores the role of law schools in admitting, passing, and graduating applicants who cannot meet the basic standards of our profession.

Rather than lowering the standards in this final test and allowing unqualified applicants to represent the public, we need to focus on the time before they ever sit for the exam. If a bar passage rate for an accredited school is abysmal, we need to reconsider that accreditation.

Anonymous

There are a lot of good reasons ostensibly behind the consideration of lowering the cut score. Trying to increase diversity among the legal profession, trying to ensure that the underprivileged are able to get good representation, trying to help burgeoning lawyers deal with increasingly crippling debt - these are all great goals. But simply making it easier to pass the bar is not the way to get this done.

The bar acts as a gatekeeper. It ensures that there is not simply a flood of lawyers in a state that already, frankly, has too many lawyers. Lowering the cut score will allow more lawyers in, but most of them will be less qualified. It may increase diversity, but that's only if you assume that there's a higher diversity in the range of applicants that would fall into the bucket between these two cut scores. And if that's true, rather than lowering the score, isn't the better approach figuring out how to help these students achieve the level that allows them to pass at the current threshold?

Having worked on a law firm hiring committee for 8 years, I promise you that opening the gate to allow more people in is also not going to help with their debt at all. Frankly, it will make already competitive positions even more competitive and you'll wind up with more lawyers who don't have jobs sufficient to cover their debts. If you want to address the loans/debt issue, focus on the schools and trying to get them to keep their outrageous - and outrageously growing - tuitions in check. Work with the state and private organizations to fund debt-forgiveness for lawyers who go into the public sector, helping to achieve the goal both of dealing with law school loans and getting more lawyers into areas where folks are desperate for pro bono or affordable legal help.

Granted, there are probably some people who are poor test takers, who are missing out on the cut score and it's our state's loss because they would otherwise be phenomenal lawyers. But it seems likely that this is a small percentage, greatly outweighed by the percentage of people in that same group who will turn out to be just mediocre attorneys. There are already far too many mediocre attorneys in this state - it's appalling the number of bad lawyers there are in practice as it is. This will not help things.

This is a plan that seems based on good intentions, but it's not the way to get there. Come up with a better plan. Do better.

Reginald Chun

The bar passage rate is not predictive of the future pool of law school applicants, the passage rate often fluctuates and is a moment in time and merely reflects the pool of students currently. The decline in the economy has increased law school applications, as if that were a good reason to study law. The low bar passage rate is accurate and illuminating in that it merely reflects a large number of students who are not prepared for graduate work or professional school. If you study and apply for the bar review courses, many will pass the bar. Historically many unsuccessful applicants pass the bar on the 2nd and 3rd time.

Anonymous

The test should not be modified to suit those taking the test, there has to be accountability and responsibility. The test is a passage to being an attorney; will we change the rules of professional responsibility next because people can't be ethical? people need to take responsibility for themselves; making the test easier will only lessen the integrity of the profession.

Anonymous

I AM A MEMBER OF BOTH THE NEW YORK AND CA BAR. I PASSED BOTH EXAMS ON MY FIRST ATTEMPT. I FIND THE IDEA OF LOWERING THE CA BAR PASS SCORE FROM 1440 TO 1414 DISTRESSING! THIS ANOTHER EXAMPLE OF WHAT IS WRONG WITH THE EDUCATIONAL SYSTEM IN THE UNITED STATES: DUMB DOWN THE TEST WHEN STUDENTS CANNOT PASS THE TEST IN CURRENT FORM. WHY DOESN'T THE CA BAR SIT DOWN WITH CA LAW SCHOOL DEANS AND FIGURE OUT WHY STUDENTS GRADUATING AFTER 3 YRS AT A LAW SCHOOL CANNOT PASS THE CA EXAM? STUDENTS ARE PAYING IN EXCESS OF $45000 PER YEAR AT MOST CA LAW SCHOOLS. WHY ARE ONLY 43% OF LAW SCHOOL GRADUATES ABLE TO PASS THE EXAM? THESE STUDENTS ARE NOT GETTING THE LEGAL EDUCATION AND TEST TAKING SKILLS AND THIS IS DISTURBING TO THIS ATTORNEY!

David Kaloyanides - David J.P. Kaloyanides, A Professional Law Corporation

Lowering a passing score on an exam will achieve one goal: increasing the number of people who pass the exam. It does not improve the qualifications of those who take the exam. It does not improve the skills and knowledge of those who pass the test. Lowering the passing score for the California Bar Examination will not help achieve the goal of protecting the public by ensuring lawyers are well-qualified. It will not serve the interests of society by making sure high quality legal representation is available to the residents of this State. Lowering the pass score might improve the statistical standing of law schools. But that should not be a goal of the State Bar. Making the Bar Examination easier to pass does not serve the public interest.

Lowering the passing score also does not solve any perceived problem with the exam itself. If there are issues with the exam, and there may be serious concerns with the exam--the type of questions, the subject matter, the skills tested--then the exam itself needs to be changed.

I have been practicing for nearly 25 years, having taken the California Bar examination in 1992 right out of law school--the THREE day exam--and passing it the first time. I am also a Certified Specialist in Criminal Law, certified by the California Board of Legal Specialization. This also required passing an examination after meeting numerous other qualifications regarding practical experience in the field.

Now, the California Bar Exam has been shortened to two days. And even more disturbing, the State Bar is considering lowering the pass score.

Changing the length of the exam and lowering the passing score is not the answer to the fundamental problem we face: the Bar Exam is a poor measure of an individual's qualifications to be a lawyer.

I do not believe that the State Bar should forego an examination. However, our legal education system is sorely lacking in practical skills training. Lawyers fresh out of law school often begin work at a firm or other organization right after taking the bar exam. Most of the time, they are ill equipped to do anything but basic legal research. The State Bar should consider requiring a practical course of study before law students can graduate from law school and sit for the bar exam. Requiring practical experience in the typical California courses would do far more to improve the quality of lawyers in the State than adjusting the bar exam by lowering the pass rate. Such an overhaul to the legal education system in California would be no small matter. But it would aid in achieving the true goal of the State Bar: to ensure the public has access to high quality legal representation in all areas of practice.

Lowering the passing score on the California Bar Exam--on the abbreviated version of the Bar Exam now in place--will serve no one.

Stephen Levine - Milligan,Beswick,Levine,&Knox LLP

There is absolutely no reason to "Dumb Down" The California State Bar Exam pass rate it has always been considered one of the two hardest exams in the United States but there is no fewer lawyers practicing in this State.All of the contrived reasons to lower our standards do not hold any truth in them. Keep the status quo change is not good

Catherine Lukehart - Self

There is a reason the Bar sets standards so high. Attorneys are tasked with creating solutions for the most serious personal, financial and employment problems of our clients. If handled poorly, the results can be devastating. The Bar exam is tough, but boiled down to its bare essence, the Bar tests one's ability to memorize, think critically and communicate in writing. I strongly suspect that the passage rate is declining for reasons attendant to a change in traditional methods of handwritten note-taking and memorization in favor of digital support, thereby accommodating shorter attention spans.

The qualities that define an effective advocate will never change. All attorneys, regardless of their role, must be able to speak and write persuasively. In addition, critical reasoning skills are necessary for ingenuity in representation. With the advent of search engines that find the "right" answer, I suspect that creating and understanding esoteric permutations of issues become less and less natural for students.

It will be law schools that draw scrutiny should the standards remain high with a decrease in bar passage. Perhaps law schools need to encourage traditional learning styles, restructure their testing frequency and reconsider their tuition structure. They may even consider offering a "mock bar exam" following the first and second year of instruction to reduce the anxiety of the unknown. Whatever the solution, lowering standards does nothing to ensure that necessary qualities are magnified, rather than diminished.

Anonymous

I am a current State Bar member who took the Bar Exam multiple times before I finally passed. The passing score should remain the same and under no circumstances should the test be made easier. I was a very difficult test that was a struggle to pass, but it should be. Attorneys are licensed professional that should be required to pass a difficult exam. Just as I would not want my doctor to have an easy licensing exam, lawyers should be required to prove themselves by passing a difficult Bar exam. Anything less hurts the profession, damages public perception, and in fesses the chances of the public hiring an unqualified counsel. We are members of an exclusive group, one that I worked extremely hard to be a part of, we should not lower our requirements or our expectations.

Anonymous

Lowering the score is not necessary and is a slap in the face for all attorneys who have sacrificed to pass at the current cutoff score. The problem is in legal education not in bar exam scoring. The market is already saturated with attorneys and making it easier to pass the bar will not fix the exorbitant cost of law school and the problems in the legal job market. Encourage providing services to underserved communities.

Michael Peterson - Michael D. Peterson Attorney at Law

This is not a profession where corners should be cut. The fact that the pass rate is declining is absolutely not a reason to make the exam easier. Not passing this exam taught me patience and perseverance. California attorneys are held to the highest standards and I am proud to say that I met that standard after FAILING the exam and retaking it.

NOT EVERYONE SHOULD BE A LAWYER. making it through one of the most difficult exams in the profession means a lot to those attorneys that have made it as well as their clients.

Please do not lower the cut score. We don't need more lawyers; we need more capable lawyers.

Anonymous

Dear State Bar,

As a graduate of UC Hastings ('04), and having passed the CA bar as of my first exam, I feel well suited to share my thoughts on the cut score approach. I am in favor of keeping the 1440 cut score so that the bigger issues at play are not further buried by a lower score line. I believe that the cut score could remain as it is and the passage rare increase if the standard law school curriculum would include helping students to mana he the stress of law school and the exam. I believe it is difficult for some very bright and dedicated law school grads to pass because of the crippling anxiety they experience in preparing for and taking the exam. The law school environment is anxiety provoking. I imagine that the pressure from school carries over to the exam, at least for first time takers. I was able to pass because I had a plan - I hired a tutor, ate a bowl of berries every day (after reading an article on berries supporting memory function), and ran five times a week on a treadmill. It was these surrounding factors that helped me. Not all students may have the insight to focus on wellness in school and during the exam - so why can't the curriculum include support in this area? Now that I am 13 years removed from graduation, with years of life experience, I am disturbed by how little care was put into the well-being of students.
If the bar wants to see more people pass, it's not an exercise in drawing lines in the sand, this side pass/this side fail, but of taking on a greater role in supporting student wellness.

Anonymous

Has the Committee considered the fact that there are too many unaccredited law schools in California? Therefore, those who are taking the Bar shouldn't have ever been admitted to law school in the first place, specifically those accepted at unaccredited schools. Maybe a study should be done on which students are failing. Also, many international lawyers take the exam. I know of one who never went to law school in the country she claimed she did.

Anonymous

Lowering the cut score is bad for the integrity of the profession. The only organizations that will benefit from this change are temp agencies, which are causing downward pressures on attorney wages in California. These agencies are causing a crisis in the legal profession in California, where huge numbers of admitted attorneys are not able to receive the practical apprenticeship training that is required of the profession. Increasing the labor supply will only further gut the profession.

Lowering the cut score will not solve any access to justice problems in California. To increase labor supply will cause wages to decline. Thus, increasing the number of attorneys will put more financial pressures on debt-strapped attorneys, which will make them unable or unwilling to take on more pro bono work. The theory that this will be a public good is a public relations contrivance -- a fantasy. To solve this problem, the State Bar should increase the number of labor hours dedicated to pro bono work, such as mandating pro bono hours instead of CLE credits, or by increasing public funding for legal aid.

Additionally, there are just too many changes underway with the California Bar Exam. Adding new subject matters, cutting a whole day, and now lowering the cut score... all of this adds up to substantial changes to the exam such that it's a fundamentally different test than the one people took as recently as 2015.

Anonymous

Declining pass rates are a result of greed among legal institutions - schools are hiking tuition rates to new heights and admitting an unprecedented number of [questionably qualified] students. Our focus should be on fostering qualified legal candidates and preparing them to serve and defend our population. Our focus should not be on lowering the cut score and consequently diluting the quality of California attorneys.

Jennifer Kalvestran

Unlike many states, California does not require those who sit for the exam to have attended an ABA-accredited law school. Maintaining the current cut score will ensure consistency of basic legal knowledge for those who take the exam.

Melvin Marcia

Rather than lowering the standards,at the same time lowering the prestige associated with the legal profession, more focus should be placed on law schools that continue to churn out students who are unable to pass a bar exam. Schools with low passage rates ought to be prevented from being accredited, should be forced to predominately display its passage rates on their website in order for prospective students to make better decisions. I wonder how long schools would be able to continue raising tuition costs if they cannot maintain accreditation.

The survey lists purported concerns for students with student debt but unable to find gainful employment; rather than lowering the standards which ultimate harms the job market, employers, and more importantly the public, more focus should be placed on discouraging students from attending sham schools charging an arm and leg for a worthless degree.

Lastly, the notion that diversity requires a lowering of the standards if offensive. Instead, the State Bar can work more closely with schools, provide students a better idea of what to expect in a bar exam and not wait until the summer after graduation, when Barbri et. al. make a killing while taking advantage of desperate students who were not properly prepared for passing the bar exam despite spending close to 200k on law school.

Eric Rowen - Greenberg Traurig LLP

I very much appreciate all of the arguments for lowering competency standards for new lawyers, including the burden of student loan debt repayment obligations, the need for more diversity among the legal ranks, and increasing access for underserved populations. However, there need to be other programs designed to address these issues that do not let unqualified applicants practice law. It does not help an underserved population to be given access to unqualified lawyers, who will charge for legal services that do not meet the needs of the underserved population. Indeed, the legal profession is undergoing the opposite crisis: young, competent lawyers who have passed the rigorous California bar are unemployed or under employed, because there are too many lawyers already. So, rather than expand the ranks of the legal profession with unqualified bar applicants, efforts should be made to employ those lawyers who passed the bar and otherwise cannot find jobs. One idea that has been tried in other circumstances is to encourage public service by forgiving student loan debt for years worked at legal aid and other providers to underserved populations. Regardless, it does not help to accomplish the social goals of those who would lower competency standards by doing so. Social goals should be achieved through means and mechanisms that are targeted at the specific issue. The integrity of the bar and the public's perception that lawyers are uniquely qualified is too important to be compromised.

Adam Ferber - Ferber Law Office/Ferber Bar Review

My name is Adam Ferber. Between 1992 and 2000 I was the Examinations Director for the State Bar. Before that I was a member of the Committee of Bar Examiners and, before that, a Bar Exam grader. I am in favor of maintaining the present pass line.

Between 2012 and 2016 I was the Assistant Director for Academic Support at Santa Clara University. Among other things, during that time, I carried a counseling case load of roughly 50 students per semester. I was able to observe, first hand, the effects of having to prepare for and take the Bar Exam on my students. It became my opinion that very few people in high stakes testing, including the Office of Admissions, the Committee of Bar Examiners and the Board of Governors have an adequate understanding of, and empathy for, Bar Exam applicants. For many many of them, who are often the first members of their families to graduate from college, or are carrying shocking amounts of student debt, with job prospects that have dimmed progressively over the years, the Exam is a very high wall to climb. They are deserving of as much support as can be given to them.

That said though, during my tenure as Exam Director, I became familiar with some of the psychometric principles that underlie the creation and scoring of the Exam. I came to believe, and continue to believe, that variations in pass rates from administration to administration are not attributable to the construction or scoring of the Exam, but rather to the abilities of examinees as a group. As a member of the faculty at Santa Clara Law, I became acquainted with the pressures placed upon law schools to lower admissions standards to avoid decreased admissions and decreased revenues. I also became aware of the skepticism in the law school community concerning the fairness of the Exam and the variety of inferences that the Exam itself was the unfair cause of diminishing pass rates. I don't believe that, other than studying the Exam itself, possible causes, particularly the culture and quality of law school instruction, have been sufficiently explored to justify the proposed lowering of the pass line.

I am in favor of maintaining the status quo until the cause of diminishing pass rates has been authoritatively confirmed. The National Conference of Bar Examiners has stood by the measurement integrity of the Multistate Bar Exam, the most statistically reliable measure of applicant performance. This is obviously in the NCBE's interest but, for the time being, it seems to me a viable and defensible assertion, and it necessarily implicates student ability and law school instruction as possible causes for the drop in rates. Disagreement about what, if anything, law schools can do differently is healthy and should be encouraged. My opinion is that law schools can do more from a student's very first day to make each student a better and more productive lawyer, including increasing the likelihood that he or she will be a first time passer.

If the purpose of lowering the pass line is simply to admit more lawyers to practice in California, I have no objections to any particular cut score. However, if a pass line change is not based on earnest inquiry into the causes of the recent and current pass rates, I favor maintaining the status quo until a decision can be based on objective, far reaching, and measurable study and consideration.

Adam S. Ferber

Anonymous

For over 50 years I have watched the Bar scores being lowereedand the difficulty of the Bar exam lessened in efforts of accommodate law students of lessor ability than years before. Sitting often in a judicial capacity I have not seen any increased number of bright young lawyers, but rather, the ones that are not being trained by firms seem to be barely able to justify a professional status or income. The bright are very bright or brighter, but the average or below seem diminished in skill and work ethic. Writing and communication skills seem on the down hill of skills (again with the exception of the very bight and those trained by firms etc. So there are not a lot of jobs with firms around, but that does not mean the Bar should lower its standards ,. We might have to increases clinics for the lower income population, but not lower the quality of the lawyers serving this demographic.

Bart Hightower - Office of the Attorney General

It would be helpful if the Supreme Court issued a statement explaining why they are considering reducing the Bar passage cut score. The survey and the public comment form lack sufficient context because we don't know the motivation behind this Supreme Court's consideration of this change in Bar passage procedure. As it stands, it appears that measure is being consider simply to increase the passage rate for the sake of an increase. If that is the case, then I oppose it. I don't see any value in increasing the passage rate simply to add more attorneys to the practice of law on California. On the other hand, if there are significant social factors motivating this process, then the Supreme Court would do everyone a service by stating what those factors are.

Anonymous

The integrity of the profession, and those who are practicing it, should not be compromised so that CA can advertise a higher pass rate or for it to relieve the burden of student loan debt. The practice of law should not exist as a "bail out." It's unbelievable how many unqualified attorneys are currently practicing, and to add more unqualified individuals to the practice so that there's a higher pass rate or to allow them to pay back their loans is reckless nonsense.

Anonymous

Unqualified lawyers can do a tremendous amount of damage to people and it is not fair to their future clients. It is common knowledge that California has the hardest bar in the country, we were informed of this fact while applying to law schools and in the first year of law school, so I think you role the dice when you make a choice to continue.

Anonymous

As a practicing attorney in this great state it is alarming that after already shortening the bar exam and thus making it easier to pass that it is even up for debate to further lower the standards to become licensed attorneys. All one needs to do is look at the reports of all of the misconduct that is even unintentional within the membership to realize that it would be a poor decision to further lower the bar to become licensed in this state. Licensed attorneys have a great responsibility to the people and organizations we represent and an attorney can negatively and permanently affect an individual's or organization's liability often without any recourse. Thus, allowing more potentially ill-prepared and under-qualified individuals admission to the bar would be extremely detrimental to the public and the protection of it, not to mention to the profession itself.

Moreover, it does not grant greater access to legal services for underserved individuals by opening the flood gate to simply make more lawyers. Even for highly qualified lawyers, law school is an extremely expensive undertaking where one comes out on the other side with massive debts (even with scholarships and grants) this makes it hard for one to even take a lesser paying job with the government or any low income assistance program as an attorney, even when one wants to do good in the world and help people. The type of access to an attorney's services as proposed would potentially compensate attorneys less than that, or not at all. Therefore, it is doubtful that one would be able to decline a job that would provide the financial security to pay off the colossal loans incurred for law school in order to accept a position where the attorney may even have to acquire a second job just to make ends meet.

According to the State Bar's website, as of August 9, 2017 there are already 189,723 active and licensed attorneys in this state. Based on my state bar license number this includes more than 100,000 attorneys who have been admitted in the last 15 years alone. Compare that to more than 100 years before that and there were only just over a total of 200,000 ever admitted practice in total. Also, the number of attorneys who have been disciplined since the year 2000 appears to have ballooned to unacceptable proportions compared to all of the time before then. These numbers all speak to the issue that should be discussed further, it is not the number of attorneys admitted to practice needing to be increased, but the quality and education of the membership that should be focused on.

Additionally, the Honorable Judge William F. Fahey's column published August 8, 2017 titled "The case against a lower bar pass score" is on point and impeccably summarizes why this proposal is without merit and should not be adopted.

The State Bar's website states: "The State Bar of California protects the public through licensing, regulation and discipline of attorneys, and supporting greater access to the legal system." This ill-conceived idea will endanger the public and irreparably tarnish the profession as a whole. It is my hope that those making this decision will see reason and protect everyone by rejecting any proposal which would lower the requirements for passing the bar exam. Lowering the bar does not protect the public.

Anonymous

CA has a glut of attorneys, some of whom are not practicing law with the integrity deserving of the profession. Keeping the bar exam at a high level will best serve the general populace and the profession. There is no need to make it easier simply because of a lower pass rate.

James Zito

Lowering the cut score may result in more attorneys but it does not ensure those attorneys will be able to provide quality legal services. Also, and maybe more importantly, lowering the cut score will be unfair to all the former exam takers that did not meet or exceed the higher cut score. They will want the new cut score to be applied retroactively and it could result in a flood of bar takers that had not passed but now want to be admitted under the new cut score. Passage rates were low when I took and passed the bar exam. What is causing the low passage rates? Are the tests too difficult?. Are the applicants less qualified? Are the law schools not doing a sufficient job educating and preparing their students for the bar exam? I took a bar review course. Are these courses lacking in any way? Keep the current cut score and solve the underlying issue(s) leading to the low passage rates..

Philip Yeager - Hansen Law Firm

The reason that the CA bar passage rate has dropped is because law schools have lowered their admissions standards. The more capable students are not willing to undertake the staggering amount of debt required for a legal education today. Lowering bar admission standards will only reward this increase in tuition by law schools, deteriorate the quality of lawyers in California, and not provide legal representation to under-served communities.

I went to law school from 2006-2009, and tuition rates have basically doubled since then. I would not have been able to afford law school if it was as expensive then as it is today. When I applied to law school, it was still very competitive and a decent LSAT score was required to go, unlike today. The view was that the costs to go to law school did not outweigh the career earning power. And while not perfect, the LSAT certainly tests discipline and the willingness to work, both of which are vital to bar passage and the practice of law.

As documented by many academics such as Professor Paul Campos, California law schools are dropping their standards in order to fill seats, while at the same time increasing tuition to even more astronomical levels. This is not good for the profession and the California Bar Exam is the stop-gap to protect against the "dumbing-down" of the profession.

Many will argue that the lack of new lawyers will prevent under-served communities from receiving legal services. But minting newer, less-capable lawyers still will not solve that problem because the amount of debt service payments prevent new attorneys from serving these communities. What will instead be created is an army of attorneys who are indentured servants. The right place for the State Bar to focus its efforts is to convince law schools to lower tuition to realistic levels so that new attorneys will be able to make the necessary debt service payments based on their earning power.

Anonymous

The public needs protection from unqualified attorneys

Erik

I believe the current cut score should be maintained. If there are fewer prospective attorneys passing the bar, it is due to either a lack of preparation, a lack of knowledge, or both.

The bar exam is the last barrier to entry into the legal profession. Assuming the bar exam actually succeeds in testing whether a person possesses the necessary qualities to become an attorney, the score should not be artificially lowered to allow lower scorers entry into the profession. If a bar taker does not pass the score as it is, they are not prepared enough to become an attorney.

I took the survey that was provided on this issue. The questions involved whether I was concerned with access to legal services to communities that may not otherwise be able to access legal services. Of course this is an important factor to an extent. There are programs where lawyers can volunteer their services to these communities, and acknowledging the fact that subpar legal services may be better than none at all, there are programs that allow law students to assist these communities as well. However, it is not an important factor for reducing the passing score. While there is the possibility that having more attorneys may expand access to legal services, it is not worth the risk of increasing the incidence of malpractice when there are other ways to provide services to these communities.

Another question asked whether I was concerned with having a legal community comprised of people from different backgrounds. Assuming this question was asking about diversity, of course I believe that diversity is important, and I believe that people of different backgrounds who have been historically discriminated against deserve equal treatment and, to the extent that is not enough, they deserve equal opportunity to overcome that institutional discrimination. However, the answer to those important issues is not to decrease the passing score of the bar exam. Equal opportunity should be afforded at the educational level, at our universities and law schools. However, after graduation, it must be assumed that this equal opportunity has already been provided. The bar exam is the last test of a person's qualifications to practice law. If the person is not yet prepared, the answer is not to make the test easier to pass. The answer is for that person to go back, prepare, and try again. An attorney is a person with a position of trust, and clients must be able to assume that an attorney has a certain level of competence. The ability of the public to trust that the average attorney is a competent attorney is more important than reducing the bar passing score.

The decreasing passing rate of the bar exam lends me to think that the issue is not with the exam, but a decrease in the quality of the legal education leading up to the exam. It is not the job of the State Bar to teach, nor is it the job of the State Bar to make the lives of applicants easier. The State Bar's job is to make sure that the people who are admitted to the practice of law know what the hell they are doing. Keep the score as it is, and let the decreasing passing rate serve as a clear indicator that while the cost of tuition rises every year, the quality of the average law school in the State of California is decreasing.

Michal Robinson - Robinson Employment Law

Instead of lowering the test standards for licensing attorneys in California, the reciprocity rules for allowing established and successful attorneys to move from other states to practice in California could be modified to allow more attorneys from other states to work in California. This would allow for more freedom of movement for attorneys throughout the United States and provide a larger qualified pool of attorneys, who are available to meet the needs of the citizens of California without lowering the test standards. I think if we lower the test standards, it may adversely effect the overall quality of legal representation in California. If the concern is ensuring we have enough attorneys in California, we should make an easier path of entry for established attorneys with records of excellent service from other jurisdictions. Thank you.

Nicole Pedone - City of National City

You need to consider that the lower passing rate could be due to less qualified applicants including those who are not going to accredited law schools or getting a law degree on line. I am member of both the New York and California bar and passed both on the first time. I studied hard both in an accredited law school and for each of these exams. DO NOT lower the standards- we will less qualified lawyers. I believe people are not preparing enough - you already got rid of a day of testing - do not make it easier!! I have been an attorney for almost 20 years and it will be extremely disappointing and insulting if you lower the standards. You have to question the quality of the applicants and what training and preparation they have had for the exam. I have unfortunately encountered many questionable lawyers in this state - keep the standards in tact. Thank you.

Anonymous

Has there been any study on WHY there is a "continuing trend of decline in recent years" for bar passage?

-Is the bar exam being graded more harshly in recent years than in the past?
-Are people who are just not qualified, nevertheless taking the exam, thereby adding to the decline in bar passage rate? For example, a person may have attended an unaccredited law school, graduated low in their class, takes the bar exam, but does not pass. Is that contributing to the decline?

If the cut rate is lowered, it would also create a two – tiered rating system for evaluating attorneys: those who passed the bar at the higher cut rate; and those who passed the bar after July 2017 at the lower cut rate. The question would become, are the post July 2017 bar passers equally qualified, or could only pass at the lower cut rate?

Kevin O'Brien

The bar exam pass rate is decreasing not because of tougher or unfair grading, it is because law student quality is decreasing. Those with the best prospects are choosing not to attend law school due to expense and job prospects. Schools also lower their selection quality by placing more emphasis on soft factors like diversity.

The students that are failing now would have failed in previous years, only now there are more of them. There is no reason to water-down the attorney pool with lesser talented individuals.

Daniel Watts - Galuppo & Blake

There are many incompetent lawyers in California who should no longer be practicing law. State Bar investigations take months to complete, and only rarely result in disbarment or suspension, even when the malfeasant attorney has a history of past unethical conduct. As it is, there are too many lawyers, and it is too hard to get rid of those who deserve it. We should not make it easier for unethical, incompetent people to become attorneys in the first place. Going from a 3-day exam to a 2-day exam was bad enough; lowering the passing score is a second bridge too far. If anything, the standard should be raised. The profession and the community will suffer from this cheapening of the license to practice law.

Anonymous

I am a licensed attornew in both CA and WA. There are too many attoreys. If anything school acceptance and bar exams should be set at a higher cut off. I have found it difficult to find employment here and have done a lot of volunteering.

Anonymous

California is one of the hardest bar exams to pass for a reason. The state does not need to be flooded with under-qualified attorneys. Simply because there are more law schools and more law students, does not mean there needs to be more lawyers, or that the bar should be easier to pass. If anything, it should be harder to pass, and more discriminating given the increase in people going to law school. The student loan debt issue is separate and apart from how easy or hard it should be to pass the bar. If anything there should be less ABA approved law schools. Being a lawyer is not an easy practice, and passing the bar should not be easy either. It works as a filter because it should.

Gary Ilmanen - L.O. OF G.R. ILMANEN

Raise the cut score to 1450. If there has been a decline in the pass rate, it is because the quality of the test-takers has declined. Lowering the cut score will merely allow undesirables to enter the profession.

Anonymous

Instead of basing the quota system of giving a majority of licenses to "first timer" "ABA" graduates each February and July, perhaps, you can base the quota system on a "school by school" basis all inclusive of the California Bar Committee Accredited schools.

For the State of California to have its own "Accredited" schools, it is unfortunate a majority of these students do not pass their "first time." I am probably not too far off in my assessment by indicating it is a majority of these students who are subsidizing the State Bar's fees in general... (when it comes to administering the exam) as a lot of these students pass beyond their "first time" as they continually pay the ever increasing exam fees each July and February administrations.

It is highly against public policy, in my opinion, as a human being, to cause some highly talented individuals to enter the "hamster wheel" of re-taking an exam which they intuitively know is not for lack of their competence.

An example for reform to even out the playing field within the industry while still looking out for public interest would look something like this:

A State Bar "official" goes and visits a California Accredited school (or by virtue of word-of-mouth through a "network of individuals") and sees to it at least the brightest, top performing students of this "California Accredited school" be granted a license their "first time." And/or, the students who show a vested interest, a natural talent, passion and actual competence for actually practicing law (i.e., by examining consistency in their law school exam scores and oral arguments in class discussion). Instead of giving preference to decorated individuals (i.e., ex-law enforcement, ex-military, and nepotism from these types of schools).

It is inconsistent, in my opinion, for a law student who only scored 60%'s, with a highest score of 84% on a law school exam, to pass his "first time" while much better performing law students are faced with re-taking their exam sometimes beyond 2 times. It is more dangerous, against the public's interest, to grant licenses to a "low performing law student" from a "California Accredited School."

If State Bar "officials" performed an actual quality-based assessment of bar applicants, all inclusive of the California Accredited law schools, then it would get rid of the problem of lack of diversity in the profession and also provide representation in society for underrepresented populations.

In short, law school exam scores, oral arguments in class discussions, and bar exam scores should show consistency in the overall individual NOT a "low performing law student" who somehow "passes his first time". This circumstance would never fly in a "first year law school exam," it should not fly in the actual bar exam, especially when expensive bar exam fees are involved.

Rebecca Zipp - San Diego District Attorney

We should not lower the bar. The nationwide trend in pass rates mirrors California's. This is likely due to a smaller pool of law school applicants. Law schools then accept less qualified applicants, who are less successful than their more qualified counterparts. Please don't lower the bar. It would be an embarrassment to the profession and the state, and unfair to the public.

If you really want to make a change, get rid of the schools lacking ABA accreditation.

Thomas Aplin - Law Offices of Thomas P. Aplin

I. I strongly believe that there are too many attorneys in California. When the number is too great, there will be more lawyer discipline, more abuse of the public, more negative stereotyping. California should strive to maintain the highest standards to maintain public confidence and to best serve the public. While debt load for law students not making the cut is a personal concern for the applicant, it's not a valid policy reason to relax standards. Diversity is great but not at the expense of quality. There is no valid reason to pursue an affirmative action policy at the State Bar. Minority students are not at any disadvantage and need no special protection at public expense.

Anonymous

Currently, the quality of attorneys has declined to an all time low. The Judiciary is culled from these attorneys. Thus, as the quality of attorneys declines, because we wish to consider qualifications other than merit (second career, too much stress causing an inability to study, issues unrelated to the profession but which are difficult to overcome - making test taking difficult, deadline aversion, socio-economic pressures, to name a few) the quality of the Judiciary likewise declines. In 30 years of practice, I have seen this, first hand. Of course, maintaining a high standard for the profession, which may result in lower percentages of people passing the bar, does not always mean we get the "best and brightest". However, society is entitled to at least have standards one understands and must achieve before being unleashed on the public. Additionally, just because someone took the risk, and incurred the expense, of attending law school does not mean that person must be admitted. I had 5 part time jobs in law school and when I did not pass the Bar the first time I accepted that I would not be able to afford to take it a third time. I was fortunate that I passed the second time. Yet, as a responsible adult I knew that sometimes what I aspire to may not be achieved. Society is owed more than reducing standards to allow people to get what they want. As long as there is no discrimination based on race, gender, national origin, religion, political party or sexual orientation I have no objection to maintaining standards which may result in a lower Bar passage rate. At the very least, if you decide (which I have a firm belief you will for political reasons not practical or ethical one) to reduce the "cut score" it should not be retroactive. Why just go to this last July and not go further back? How about those people who took the back earlier and did not retake it because they made the adult determination not to should we go back to the exam they took and if they hit the new "cut score" they get admitted?

Anonymous

Very impressive input and assessment process. Clients deserve quality representation and should be confident in knowing their options are not based on the necessity to appease the Deans of Law Schools. Is this truly about protecting our professionalism or based on the Law School Business? Study, prepare and put in the necessary effort to have the insight and understanding to pass the bar or go into another area of work. Are we seriously thinking of rewarding individuals with a license based on participation ? How disappointing!

Jasmina Boulanger

Lowering the cut score because of lower bar exam pass rates sounds like dumbing down the profession. Will this really be of service to clients?

There is also a perception that California has too many lawyers; fewer practitioners may not be a bad thing for the state. I

Anonymous

Changing the rules to compensate for people becoming less proficient is a short-sighted way to address a problem. Everyone knows that the CA Bar is a difficult test. This is why passing the CA Bar results in credibility for the passer. If we lower the barrier of entry for our profession, our profession will become less credible. Shouldn't a steady decrease in Bar passage rates cause us to look at problems within ourselves, our law school curriculums, our work ethics?

It is difficult for me to believe that we would be comfortable with the irony of lowering our own bar and saying, "Well, it's probably the test's fault."

Yabo Lin - Sidley Austin LLP

I think it is important to maintain high standards on legal requirements for passing the bar. Lowering the bar admission standards would just erode quality and compromise the quality of legal representation. That should be the paramount consideration.

Juan Salas - Watkins & Letofsky, LLP

At the age of 40 I decided to change careers and go back to school. I completed under grad almost two decades earlier and was accustom to taking notes with a notepad and could barely type using two fingers. I struggled to prepare for the LSAT as I owned a large Real Estate office and have a wife and three kids at home. Despite the challenges I entered law school in 2012 on a part time basis. I was shocked at how hard law school was, I was expected to take exams on a computer and all the students took notes on computers as well. The first year of law school I only took 3 classes per semester and struggled to get a C average. The second year I spent time learning to type, bought a reliable laptop, and began to outwork all my classmates, and competed in moot court. By my third year I was taking 6 classes or more per semester, was an editor on law review and competed in moot court for a second time.

I noticed that outworking my classmates was not too difficult, the younger students were generally lazy and the older one's , like myself, were not generally willing to do the extra work necessary to excel. I ended law school in the top 20%, and found the bar to be a very easy exam. Many of my classmates have not yet passed the bar, those who have all have the same story, they worked really hard during bar prep and were generally above average students. I came from a law school with a bar pass rate that is shameful, approximately 20%, but I still was able to get everything necessary to pass the bar by the simple process of working hard. I have never heard a first time bar passer say that the bar was hard, but all say that bar prep was brutal. By lowering the standards we are exposing the public to lazy lawyers who had every opportunity to pass the bar, but chose not to. I spend a lot of time in a profession where I often marvel at who the bar has already admitted into practice, I'm scared of what the profession will look like if the bar is lowered.

Should the consideration of students be greater than the protection of the public? Has anyone considered that the current crop of students are unwilling to do the work and that law schools have lowered their admission standards. I personally believe that the legal profession in California is incredibly diverse, but again should standards be lowered to improve diversity? Should the desire for minorities and women in our profession act as adequate rationale for lowering bar standards? Couldn't we just make college more accessible to minorities and women and keep the legal profession blind and equal? Rather then just concentrating on bar pass rates I recommend focusing on newly admitted students and see if this sheds light on why bar pass rates have fallen. Perhaps even a sampling of law school exam answers could be helpful in determining what is expected of the current students. State licensing boards regulate professions such that consumers are able to trust and rely on persons simply because of their license/bar card. We need to let consumers know that we are concerned with their welfare first and that if and when there aren't enough lawyers then maybe we can consider lowering standards to increase the numbers.

Robert Harding

I see no connection between "declining test scores" and a need to lower the cut score. As I understand it, the examination has evolved substantially over the years in an effort to increase diversity in the bar by acknowledging and reacting to differences in cultural background. I am fine with that. But I think there is condescension and well-intentioned racism inherent in the suggestion that the cut score should be towered in order to increase diversity further. This is a cousin of the ongoing debate surrounding affirmative action programs and policies.

As for increasing the availability of representation to under-served segments of the population there is no point in increasing the number of licensed lawyers if the quality of the representation does not remain at or above the current level. It is wrongheaded to consider lowering the cut score to increase "availability" at the cost of overall quality of representation, especially since the probability is that the underrepresented will tend to interact more with the beneficiaries of a lowered cut score. The bar has previously floated a professional level of licensure a notch below full membership in the state bar, I understood that was intended to bring about the same result. I do not know whether or to what extent that has been pursued, but it makes sense if the bulk of legal assistance required among the undeserved is relatively routine or non-complex matters.

Regarding the fact that our cut score is the second highest in the nation, I always thought that this was a function of the variety of paths available to eligibility to sit for the California exam. I don't know if the apprenticeship/study with lawyer or judge path or correspondence school are still available but when unaccredited law schools abound, as well as online law schools with minimal or no face-to-face contact with professors and students, it makes sense to leave the bar where it is. Being second highest in the nation is a good thing.

The emphasis on quality of education must start in the culture overall, the home and at the elementary level. When failures by one or all of those are manifested as lower academic skills the problem should not be addressed by lowering the standards for licensing examinations for the professions. How does that help the public? Lower bars for physicians? Dentists? Accountants? If not for them, why attorneys? Instead of instilling public confidence in lawyers, lowering the cut score would almost certainly be seen as a lowering of the overall skill and competency of (at a minimum) those who benefit from it by entering the state bar. Or, the bar examiners could choose to "protect public confidence" by not disclosing the lower cut score and its significance.That is obviously not consistent with the transparency and integrity we all strive for and expect of our association and our members..

Excessive student debt is a massive societal problem. I don't like what it says about the bar that it considers this to be one possible reason for lowering the cut score. That is not a function of the state bar. What this says is, okay, we will make it easier for you to make money to pay off that debt even though it is likely to also lower the overall quality of the bar and the representation its members provide. It is a cynical and hypocritical idea. It is unfortunate that so many young people are burdened by debt, but the costs of higher education could be lowered considerably if the multiple million and in some cases billion dollar endowments were used to reduce tuition rather than to tenured professors and administrators upwards of $200,000 to $300,000,or more, per year while shoving off the vast bulk of the direct student-teacher contact to graduate assistants and adjuncts. Even worse is that the real connection between student debt and declining bar exam scores is that in exchange for the outrageously expensive tuition they pay delivers such a poor intellectual product that we are having this discussion at all. That is the real disgrace,.

Leave the cut score alone and shift your efforts away from the effects and start working on the causes of the problem of declining scores. My two cents.

Anonymous

Over the years I have not been impressed with the quality of attorneys I deal with.

David Crow

This shouldn't be about "diversity" or getting more people licensed no matter you have to drop the scores to do so. It is about qualifications and maintaining standards. If ANYTHING you should be RAISINING the standards for lawyers, not LOWERING them. To take lowering the bar score to an extreme will you eventually propose eliminating the BAR exam completely so more people can obtain a a BAR license? Dropping scores is like elementary schools and high schools lowering test reqts and eliminating math classes as a graduation requirement because too many people refuse to apply themselves and actually study and pass the courses. Don't diminish what it means to pass the BAR in Cal. We should be PROUD it is a tough exam, not lower scores to allow more people to pass. There are also hundreds of thousands of people with student debt from undergrad schools, that is life. I had a huge amount of student debt and am paying it all back. If people don't want to borrow to go to law school don't borrow and don't go. If you do borrow then study and pass the BAR as it is so you can pay back your loans. You borrowed it, you owe it.

Anonymous

I don't believe lowering the standards is good for the profession. The exam tests both knowledge and ability to perform under pressure. It should not be easier to pass the exam.

Angela Rediger - Law Office of Angela F. Proffitt

As a California attorney, who is NOT inherently good at taking exams, I recognize the importance of PREPARATION for the California Bar Exam. I believe that those who take it TRULY, TRULY seriously will pass. I am VERY strongly against modifying the passing score, as it is a reaction to the recent lack of preparation on the part of the bar exam takers. We are not suffering from a dearth of attorneys in California, and I am COMPLETELY against lowering the standards--it is INCREDIBLY IMPORTANT to retain HIGH standards for the admittance of an attorney in California, and lowering the required score for admittance will not do that. Additionally, it is an affront to those attorneys who have already been admitted that they are now on a playing field with some who did not qualify based on the same standards.

THIS IS NOT ABOUT THOSE WHO REQUIRE MORE TIME/OTHER ACCOMMODATIONS FOR ALTERNATIVE LEARNING OR OTHER CHALLENGES, THOSE SHOULD CERTAINLY BE GIVEN ACCOMMODATIONS. But, the one thing we have is our standards, and if we let that slip, we have gone down a "slippery slope."

very best regards,
Angela Rediger.
SBN 210689.

Anonymous

California is known for its high cut score. The cut score demands excellence from attorneys in California. As a California attorney I feel as though it is necessary to keep the current score to ensure the quality of attorneys in this state.

James Nielsen - Nielsen Haley & Abbott LLP

The Bar is looking at this problem the wrong way entirely. The primary challenge is addressing diversity and decreasing passage rates. The answer is not making the test easier, because it really does reflect legal ability. Rather, the answer is making the test itself more accessible by challenging the law-school barriers to the right to take the test in the first place. That is, requiring three years of supposed training at accredited schools at huge expense of money and time operates as a barrier to many qualified people who could otherwise become good lawyers but cannot afford it. In my observation over many years of practice, law schools do very little to train lawyers for practice and operate as little more than a barrier to entry. They also make a lot of money for a privileged few. The prerequisites for taking the test are thus the problem that prevents people from access to the legal profession, especially poor and otherwise under-served people of all races who otherwise could do well.

Jennifer Clingo - Clingo Law Group

I strongly disagree with reducing the minimum bar score. Those with a strong law school background and study habits meet this hurdle and demonstrate a minimum level to practice law in California. The bar exam is just the basic level in demonstrating an ability to later practice law, including the ability to critically think and apply legal authorities, legal writing skills, and a basic knowledge of general legal principles without the aid of a code book or other resources. In the actual practice of law, potential lawyers are going to face much more difficult challenges and critical thinking than those presented in the bar exam.

Monyrith Sey - State of California

I do not agree with lowering the cut score based on the current information.

Without an objective measure to determine what an appropriate cut score should be, which in my opinion should be intended to reflect the minimum score an attorney needs to succeed in law practice, changing the cut score to raise the Bar passage rate without any other considerations is simply a bad idea.

The world, and California, needs attorneys who are skilled, competent, and ethical to uphold the honorable practice of law. Our reputation as capable attorneys is one of the pillars of our profession. If we simply lower our standards without determining if the lowered standards can still discern between competent and incompetent attorneys, we may open the profession to attacks on our credibility, which may discourage the public from seeking our services in the first place.

I am open to changing the cut score if objective factors warrant the change. However, I do advise against changing the cut score right now.

Anonymous

The primary purpose of California's bar exam - or any state's for that matter - should be to ensure a minimum competency level for practicing attorneys and not to fulfill some passage rate quota.

Anonymous

California has challenges with the competency and ethics of it's Bar. Lowering the cut rate of the State Bar will only exacerbate the problem and allow less than competent lawyers to practice in our State. I also find it incredible that some argue lowering the standards somehow benefits diverse candidates or would help less fortunate students pay off their loans. California probably has the most diverse Bar membership in the Country. I am a member of the Bar in another State and that State has a lower cut rate than California. It is reflected in the caliber of lawyers in that State. I also find it hard to believe that anyone thinks California has a shortage of lawyers and lowering standards for lawyers will somehow benefit the public. the problem in California is too many law schools charging hefty tuition and filling the Bar pipeline with unqualified applicants who fail. That is the law schools' problem and the Bar is the best way to protect the public from the abusive law schools and their unqualified graduates. I did not attend a top tier law school but passed the Bar on my first try. The reason was I studied hard.

Anonymous

There is no shortage of attorneys in California. It would seem that lowering the cut score to the bar exam would only work to allow more unqualified persons into the practice law. The lower pass rate is more likely a product of lenient admissions standards for modern law schools than it is an issue with the exam. The exorbitant price law schools can charge and the existence of more schools has resulted in more unqualified candidates entering law school (i.e., taking the exam). The proper response is not to lower the "bar" (excuse the pun).

David Swanson

While I recognize there are many factors to consider, I wanted to express my thoughts on a couple:

1. The assertion that under-served populations will be bettered by lowering the standards for admission to the BAR is flawed.

It is not a lack of admitted attorneys that keeps people from being well-represented- it is a lack of competitive/well-paying jobs that service those populations. There are many law school graduates, myself included, who pass the bar and then find themselves immediately disillusioned with the employment options. High-paying corporate jobs are already impacted and very competitive, the mid-range jobs are inundated with applicants for very few positions. Even the low-paying jobs at either government or non-profit posts are usually hard to come by, or are paying so little that paying off your student loans is laughable (many even advertise the questionably legal "interns/unpaid volunteer" positions). If we are serious about better serving these groups, it is not accomplished by having MORE lawyers with LESS competency, it is achieved by incentivizing good lawyers to take those jobs. There are many ways to further this: better loan forgiveness options, decreased dues for pro bono hours, requiring pro bono hours, establishing (more) funds/nonprofits that hire recent graduates to get experience while serving in those areas, etc.

2. Fix the underlying issue: too many law students

Given, I do not think the BAR exam really tests for law practice competency any better than the LSAT assesses law school readiness, but why lower the standard now? Tighten standards at the front-end of this process: the law schools. Too many students are going to law school who will never use their degree (if they even complete the program): many will be suckered into paying huge sums of money to unaccreddited schools, others will be lured into decent schools with purposefully padded post-graduate employment statistics, and some will thrive at an excellent school, pass the bar, ...and still be unable to find a job that is satisfying. Reign in on how many students are admitted. Regulate advertising/disclosures for the schools. Standardize school performance metrics or even better require that post-employment statistics be reported to CalBAR or the ABA rather than internally calculated.

How is it that recently the schools are unable to have students who meet the long established standard? The test has not gotten harder, in fact it has been shortened by a whole day already. Schools need to either be more selective about who they admit or raise the standards of the education they are giving students because something isn't working.

Anonymous

California and its citizens do not need to be exposed to possible unqualified attorneys.

Anonymous

I disagree with reducing the cut score of CA bar exam. I have passed the bar exam two years ago from an ABA Law school and I have not been able to find a job yet! I have applied for public interest jobs as well as government and even paralegal positions! It was interesting that the Attorney Survey on Bar Exam Pass Rate that I just took did not have any option for "unemployed"! I had to mark "other" for my current employment. I believe the real problem is when barred attorneys cannot find jobs and cannot pay their student loans. The only advantage of lowering the scores is for the law schools. They will keep making money as students will be lured to get into this field. The reality is that California is already oversaturated with lawyers, and barred attorneys cannot find jobs even with the current "high" score! The only thing you can achieve by making it easier for people to pass the bar is lowering the integrity of the field; soon after you'll find most of your uber drivers to be barred attorneys!

Anonymous

While diversity and access to qualified legal representation are two areas that are extremely important me, I do not believe that lowering the standard currently set by the California Bar would accomplish this goal. The same argument could be made that there would be more attorneys available to the public if the Bar did not prosecute ethical violations to vigorously.

Attorneys have fought hard to maintain their reputation against a public that does not always have high opinions of them. If nothing else, the public should know that we work very hard to get our license to practice law and we live by a strong set of ethical standards to maintain that license.

Anonymous

Maintaining the highest level of attorney competency should be of paramount importance and the cut score should not be a reflection of declining aptitude.

Anonymous

Lowering the score to increase the passing rate of an already shortened bar examination will do little else than to further erode the public's trust in our profession. The fact that California permits thousands of under-qualified individuals to sit for the examination is not a reason to lower the bar (pun intended) simply to provide better passing rates. The appropriate course of action would be to limit test takers to students from accredited ABA schools - which have traditionally produced greater numbers of first time bar passers.

Neither is the fact that students who fail the bar examination face difficult financial circumstances due to student loans a reason to lower the passing score. Had the Baby Boomer generation not sabotaged the very public institutions that they personally benefited from, today's generation of lawyers would not be facing the dire economic circumstances in which they find themselves. The answer to the financial issue faced by a failing bar taker is remediation of the economic harms done to our state universities by an older and more calloused generation - not a reduced passing score.

Furthermore there is no genuine public interest in lowering the score to increase the number of licensed attorneys. That interest is wielded largely by law firms complaining of a lack of young attorney upon whom they can heap work for little pay. The bar does a disservice to young presently licensed attorneys by increasing the numbers of newly licensed attorneys, thereby driving down the starting salaries of an entire generation. But, given that this will be a decision driven by graying hair more than common sense I haven doubt that our supreme court will come to the wrong decision.

Michael Coleman - Gavrilov & Brooks

The current cut score should, at the very least, stay the same. California is inundated with unqualified attorneys who have neither the skill nor the intellectual capacity to carry out their fiduciary duties. To the extent that the Bar is considering changing the cut score at all, the cut score should be higher, not lower. One-third of all takers should pass the bar. This would ensure that only the most qualified candidates are admitted to practice law, which, in turn, would benefit the clients they serve. For those who graduate from law school and carry heavy student loan debt, but who are not admitted to practice because they are unable to pass the bar, they still have the benefit of a J.D. The Bar should not be concerned with admitting applicants merely because they took on student loans. The profession demands that only the most qualified candidates be admitted to the bar. As it stands now, we have far too many attorneys who are not qualified, and who should never have been admitted.

Anonymous

Our education systems are not working very well. We are getting too many people with degrees from for profit colleges that just aren't very well educated. They haven't learned how to think critically. It would be better to have fewer more competent lawyers than more less competent ones. I am not able to see the entire writing on my screen. Please excuse any typos.

Anonymous

There are already far too many lawyers in California. If we lower the cut line there will be even more attorneys, many of whom are presumably struggling with the concepts and principles of the law already. So why lower the standard?

Martha Patterson - Geisler Patterson Law

I passed when the pass rate was 29%. There are too many lawyers and too much competition from non-lawyers as is. The Bar should spend its time regulating the non-lawyers, legal zoom and others like it. Keep the exam as is.

Anonymous

I do not agree with Option 2. While I do feel for graduates who have massive student loans (some from terrible schools) who need to pass the bar in order to earn enough money to pay said loans, I do not believe the solution is to lower the cut score. Graduates who fail may take the exam again. The issue of unaccredited schools and rising cost of education needs to be addressed before we lower the cut score.

Robert Filippi - None

In our very complex society, standards should not be lessened. It seems to me to warrant looking at the current structure of our education and society. I am not an expert Nor have I studied the cultural trend in education and society, where the emphasis on participation regardless of quality of that participation. Where as that may be very good for the very young, it fails to teach the older children and preteen and adolescence the value of Quality and excellence and what they do. It could very well be that that cultural trend Is a very large part of the ever increasing failure rate in the bar exam. I would have to question The advisability of encouraging that trend.

Jeffrey Sklan - L/O Jeffrey Sklan

The public is BEST served by having the most skilled, most disciplined, most intellectually prepared Bar. The general quality of recently admitted members (last ten, and five years in particular) has shown two unmistakable trends: 1. There is a huge gap between those who are ready to do serious work at a professional level and those who are not and, 2. Students are NOT getting the sort of education, except from mostly ABA schools , to make a significant contribution to the public at large, in real time. Computer skills are higher. Everything else has degraded. Specifically, language skills and proper usage, lack of context, lack of mentoring or having served an internship, and an overwhleming lack of manners. And this is at the beginning of these attorneys' careers. It seldom gets better.

As far as the survey question about whether it is appropriate for 'student debt' to be a factor in lowering the standards, I reject this premise out of hand. If the stated mission is the 'protection of the public' , then the standard, if anything, should be raised.

Is there an analog in the medical profession? No. Would a person be better served if the heart or brain surgeon was not subject to the highest and most rigorous training that she or he could have recieved in medical school. An extreme example? Perhaps. But valid.

Everyday, we help clients whose lives are affected by forces frequently beyond their control. For some of our clients, it is a life or death difference. Most lawyers do not face that ultimate pinnacle, but do deal with livelihoods, housing/ homelessness, and most importantly, matters concerning children / custody/ support issues. Our society has gotten more complicated. Our newly minted attorneys need to be more adroit than ever. Not unidimensional techies lacking rudimentary people skills or empathy.

An apprenticeship requirement must be a component of licensing, in my opinion, if the public is to, once again, value our contribution to society.

As a totally personal aside, and an admitted bias, I believe that one's highest calling is to serve his/her fellow man and community at large. I have devoted my whole life's work to this precept, and at huge financial cost (versus opportunities passed) to do so. It has been a great 38 years. I have no regrets, but for the shoddy practitioners I come across now on a daily basis, whose (apparent) sole reason for getting admitted is pecuniary.

Thank you,

Jeffrey Sklan JD, MBA 87742.

Schuyler Bassett - Wintersmith LLC

The Bar Exam is not that difficult. I passed and I'm not that smart. The secret? All you have to do is study.

Anonymous

The cut score should not be lowered. California needs competent attorneys and we should not lower our standards just because we have more incompetent people taking our exam. Lowering the score would mean more attorneys in an already saturated profession. But more importantly, it would mean attorneys of lower intelligence and knowledge. That is not fair to the public who depends on attorneys to know what they are doing. I could not imagine lowering the standards required to be a doctor, teacher, or even a bus driver just because too many people who did not know what they were doing took licensing exams.

Perhaps the change that needs to happen falls with the predatory law schools that admit students knowing that the likelihood of them passing bar and having successful legal careers is slim to none

Robert Bride

If the answer is that we must reduce our licensing standards, it must be a really dumb question.

If the candidates are unable to pass the examination, the best answer is that they should study harder, learn what they should master, and take the next examination.

If I needed brain surgery, I would not be comforted to learn that the relevant state, hospital, etc. had relaxed its credentialing standards in order to admit less well qualified neurosurgeons to be licensed or become staff members. I would want my doc to have succeeded in meeting the most rigorous and demanding credentialing process anywhere. It's my brain - or spine, or eye, or liver - and I don't want to be treated by someone who couldn't be licensed unless the Medical Board had reduced its standards to accommodate the desires of the otherwise unqualified. Particularly with reference to what were once called the learned professions, we should demand that the licensing authorities do everything reasonably possible to assure that a professional's client or patient be held to the highest standards of mastery of the subject matter of the field, and professional ethics.

Similarly, my legal challenge - whether a matter in litigation, dissolution, intellectual property dispute, or any other species - is extremely important to me, on an order of importance equal to my concern for my physical health. Sacrificing quality on the altar of enlisting more dues-payers or providing more lawyers to "service" clients is a poor bargain, and would suggest that we are happy to provide substandard service to the public in an effort to expand our ranks and increase our political clout.

Moreover, in recent years it has become more difficult for newly admitted attorneys to secure good positions, and this will continue as legal services are offered through systems such as ROSS (the IBM/Watson product). Lawyers will need to prove their worth by demonstrating a capacity for adding value, rather than by being more numerous thanks to eased admissions policies. One does not earn nor deserve the public's respect by flooding a crowded market with neophyte lawyers who are perceived as gaining admission to the bar based on relaxed standards. Option 2 places the interests of the prospective members of the bar over the interests of the public, and may serve to encourage marginally qualified aspirants to enroll in law school in the false expectation that they will not only be able to be licensed but actually compete successfully with better qualified lawyers.

Quality should trump quantity, every time.

Steven Kane - The Kane Law Firm

Lowering standards is not the answer to any real or perceived problem. So what if the exam is tough and grading standards are high? The Bar has an obligation to the public to license competent and qualified people, not just to make more lawyers. What do we do next year if the passage rate continues to drop? Do we lower the required score further until the exam is meaningless?

There is no lawyer shortage that I am aware of in California and no guarantee that bar candidates passing under a reduced standard will choose to serve poor clients.

I mentored and trained young lawyers for over 30 years. Their biggest deficiency in becoming fully competent lawyers was lack of ability to communicate effectively in English, both oral and written. It may be that many bar examinees know the answers to sufficient questions on the exam in order to pass, but cannot communicate those answers to the readers in order to get the required points. A friend was a reader for several years. She commented to me that some of the answers were almost unreadable. How did these candidates graduate from college and law school? Do we really want clients relying on them to handle cases? Perhaps the Bar could find ways to enhance examinees' communications skills so that they can pass the exam.

Furthermore, too many of the new lawyers that I encountered lacked a work ethic motivating them to put in the time to become proficient. The practice of law requires diligence and dedication and quite a few are simply not willing to "put in the hours." This attitude should not be rewarded by lowering standards.

I understand that there is a concern about providing legal services to underrepresented people. I was the Vice President of the San Diego Legal Aid Society for several years, so I understand that problem. However, there will be no gain if we supply the poor with unqualified or unprepared counsel.

Clearly, we are demeaning those bar candidates who are members of ethnic minorities by lowering standards so that more will pass. They can pass if they do the preparation!

The answer is to find new ways to assure that diligent candidates can be fully prepared to pass the exam at a high standard, not to lower that standard.

Christopher Pantel - Albright Yee & Schmit APC

Dear Madam or Sir:

I've litigated extensively in state and federal courts in California since acquiring a CA Bar No. in 2008, and I've been admitted in Virginia and Washington DC since 2002 and 2003, respectively.

As you are well aware, the legal job market is seriously over-saturated with attorneys. Consider the plunging hourly rate for document review attorneys, which is now barely above the rising minimum wage. This sorry state of affairs continues because the supply of new lawyers drastically exceeds the demand.

Flooding this already saturated market with even more attorneys with lower bar exam scores is to the advantage of nobody. It will decrease the quality of legal services in the state, and make it difficult for employers to assess the quality of new law school grads. Since bar scores for those who pass are unavailable to the public, prospective employers will be unable to determine what candidates are from the new, "assisted pass" cadre. These less desirable candidates will immediately go into competition with more qualified candidates merely because employers will be unable to tell them apart. That is unfair to people who achieve 1440 or above on the exam, and rewards lower achievers, or those who are less adept at the numerous skills required of successful litigators.

The driving factor of the low bar passage rate is not the 1440 bar exam score. It is, rather, the numerous unaccredited law schools producing unqualified graduates. Reform, if any, should be directed there, perhaps through more strict regulation and supervision of these unaccredited institutions.

The practice of law is unforgiving, challenging, and rewarding in many ways. It justly requires high standards of newly admitted lawyers, not lowered admission criteria. A lower bar exam score is anathema to the provision of effective legal services in this state and, ultimately, it will be the clients who suffer with ineffective counsel.

Respectfully,
Christopher R. Pantel
SBN 256569

Ramesses Surban - Surban Law Office

It appears that much of the impetus for the change under consideration comes from a chorus of California law school deans who recently "have been buffeted by declining enrollments." Olson, Elizabeth, California Supreme Court Moves to Make Bar Exam Easier to Pass, N.Y. Times, July 13, 2017, at B3. These voices only seem to have reached a crescendo now but were at only a mere lull when law schools faced healthy enrollment numbers. Does the Supreme Court of California via the State Bar have a responsibility to law schools concerned with declining enrollment? Even if it did, should it attempt to address this issue by lowering the standards by which applicants are measured?

Proponents of lowering the cut score appear to claim that doing so removes a barrier to entry into the legal profession and thus improves access to justice for underserved communities. This is akin to saying that we can solve our state's housing crisis by easing building codes to allow for the occupancy of substandard housing units. Yes, strict building codes contribute to the cost of housing, in the same way that a high cut score contributes to the cost of entering the legal profession for those forced to repeat the bar exam. But compliance with a building code is not the most significant factor in the cost of building a house and neither is multiple attempts at the bar exam the most significant factor in the cost of becoming an attorney.

Skyrocketing real estate values are at the heart of the affordable housing crisis. In the same way, the staggering cost of a legal education is the single most significant barrier facing those who seek to enter this profession. This cost, and the subsequent crippling debt that often follows, is what motivates attorneys to provide legal services based on a client's ability to pay, rather than a client's need for service. If the real goal is to encourage attorneys to provide legal services to the underserved, we would do well to focus our efforts on lowering the cost of law school rather than lowering our standards for membership to the bar. That the law school deans who favor a reduced cut score seem to fail to grasp this is ironic at best and tragic at worst.

Patrick Lanius - Lanius & Associtess

Lowering the bar because of the failure rate is no answer. The problem is with the test takers. You're lowering the standards to accommodate more people. Apparently 4% of the last batch according to the statistics since the Lord cut off rate raise is the pass rate from 43 to 47%. There is no reason to lower the standards. You will rue the day and regret the consequences of such which will be less intelligent attorneys. It's already nuts out there.

Christopher Bobo - Los Angeles City Attorney's Office

The California Bar Exam is not too difficult; rather, it is a reasonable effort to impose appropriate standards of knowledge and skill on those who wish to practice law. Even under the current system, some are admitted to practice whose knowledge and skills are questionable, as is evidenced by the always lengthy discipline reports. With 168,746 attorneys, the State of California has an abundant supply of attorneys.

Stephanie Schroeder

I applaud any effort to increase diversity in the profession, but lowering objective standards for admission is not the way to do it. The public deserves lawyers who meet rigorous standards. It makes more sense to focus on law schools - their admission policies should promote diversity and their curriculum should prepare students to succeed on the bar exam and in the profession. Schools that don't meet this standard should not be accredited. All schools should be required to publicly disclose their bar passage rate. And non-accredited schools should be required to disclose in writing to students the potential ramifications of attending a non-accredited institution, before they take their money!

James Macy - LAW OFFICES OF JAMES B. MACY

Unless I missed it somewhere in the presentation, there was no explanation of why the decline is occurring. Since the human element is presumably constant, the problem must lie with the schools, the content of the test or the scoring of the test. Without a plausible explanation as to the source of the decline it is nonsense to choose this or that arbitary 'solution'.

Anonymous

If the State Bar of California decides to lower the cut score to 1414, I also think the State Bar should re-evaluate the decision not to have any reciprocity with other states. I understand that California currently has one of the the highest cut scores in the nation (if not the highest). If this changes, and the cut score is lowered to be comparable with other states' cut scores, it seems that the State Bar of California should also explore allowing reciprocity agreements.

Abigail Evans - United States Attorney's Office

I do not believe that the cut score should be lowered. California has a large population, a high crime rate, a high incidence of fraudulent scams, an over-burdened and high-volume court system, a complicated regulatory and tax scheme, unique real property laws, and many other legal issues that its residents deal with. They deserve qualified, ethical attorneys to guide them through these issues. The cut score in California *should* be higher than in all other states except New York.

Perhaps the declining pass rate is a function of the explosion of sub-standard, unaccredited (and some accredited) law schools, churning out undereducated "graduates," solely for profit. It is unfortunate that those individuals have been ripped off, and are in serious debt without securing employment. But the answer to that is not to let underqualified people pass the bar, in order to get jobs. The answer to that is to close the subpar schools. Particularly in CA, where there are so many of them, and so many other choices of reputable, quality schools at all cost and selectivity levels.

There are already myriad abysmally underqualified and unethical attorneys practicing in California, who nonetheless managed to pass the bar. CA needs fewer such attorneys, not more of them.

Robin Harrison

Lowering the standards for admission to the bar is the LAST thing the bar should be doing. To my observation, both the technical competence and ethical rectitude or recent graduates has deteriorated over the years. We are held in adequate despite by the public already. Reducing the requirements will only continue the slide in our public esteem.

Amhy Rothman - The McNamara Law Firm

I think the bar challenges the correct skills at the correct level. If anything, the bar needs to be harder. I think there are too many attorneys who underestimate the power and importance of representing others, who are unprepared, ignorant of the law and should not be representing anyone. Clients have no idea how lazy some of these attorneys are who are representing them on life changing cases ultimately dismissed with prejudice not because the case was bad, but because the attorney didn't do their job. I think making the bar easier will only exacerbate the number of attorneys who practice like this.

Martin Weinstein - L/O James P. Maccora

There are too many lawyers in California already, and a fair percentage unqualified. Don't lower the bar on the Bar. We need fewer and better lawyers.

Anonymous

The cut score should be raised. There are far too many idiot attorneys in California. Also, far too many students are being encouraged to take on huge debt when they shoud never be allowed to consider law as a career. They are being defrauded by predatory law schools. If the cut score was higher, they would reaise they coud never become attorneys. Because of artifical intelligence, we need fewer attorneys, not more.

Erin-Leigh Dake - Fathom Law, PC

Protecting the public from unqualified attorneys should be the paramount consideration when determining whether to lower standards for admission to the Bar. I have been an attorney licensed to practice in California for nearly twenty years. While the vast majority of attorneys with whom I interact are highly qualified, some are not.

After nearly twenty years in practice, I recently called the California Bar's ethics help line to learn whether I could do anything to report an attorney whose conduct I believed was a danger to his clients only to be informed that unless a client complained, the Bar was not in a position to take action. Strict licensing requirements for attorneys constitute the only current mechanism at the Bar's disposal to protect the public from unqualified attorneys before dangerous and sometimes irreparable harm occurs. It is difficult to believe that lowering standards for admission is even being considered, especially given that California is unique in its willingness to license attorneys who have not attended an ABA accredited law school. As long as California is willing to admit individuals into the practice of law who have graduated from institutions without programs capable of meeting the ABA's accreditation requirements, having the most difficult bar exam in the US is both appropriate and necessary.

The bar exam is a test of both basic skill and the minimum level of personal discipline necessary to study for and pass the exam. "I was hoping to be represented by a lawyer with slightly less skill and personal discipline," said no client ever.

I conclude my comments with a final thought. I know very fine California attorneys who initially failed the Bar Exam only to pass on second and third attempts. Each would report that passing was the result of studying harder than they had on previous tries. We should not welcome into the profession those who lack the drive and discipline necessary to study harder and pass the exam as it exists today. Anyone who lacks the necessary drive and skill is ill suited to success at an attorney in a state with unparalleled complexity in its regulatory schemes and the volume of its interpretative case law.

Anonymous

The decline in passing scores is the result of market conditions. The test is not harder, but there are fewer, well qualified students who want to become lawyers. This is because it now makes little financial sense to study law. When the opportunities for lawyers improve, then the profession will attract better qualified law students, and the pass rate will increase. Frankly, right now it is "not smart" to go to law school in California. As a result, California is producing more law students who are "not smart." It helps no one to give these "not smart" law students a free pass.

Anonymous

Lowering the score to accommodate people who are unable to pass the exam is NOT a solution, instead, it would ignore the causes of the problem.

We must look at the quality of the education being provided; the subject matters and skills being taught in our schools (at all levels, not just law school); the quality and capabilities of professors to impart the knowledge and skills necessary to successfully and ethically practice law; the quality of the questions on the Bar Exam to ensure that they are appropriate to the testing of skills, knowledge and ethics required to practice law; and the appropriateness of school admission tests and admission standards to ensure that those being admitted are in fact ready for the rigors of law school.

Lowering the Bar Exam passing score without addressing the above and other relevant factors necessary to ensure those who are admitted to the Bar have the knowledge and ability to successfully practice law in an ethical manner is ludicrous, and a disservice to the public, the profession, and those who aspire to become a member of the profession.

It is not the job of the State Bar nor the purpose of the Bar Exam to ensure that those who take the exam pass it, nor that they find adequate employment to pay off their loans. The number one concern of both should be to ensure that those admitted to the Bar have the knowledge, skill and ethics to practice law on behalf of their clients and not harm the public.

Anonymous

I believe that the current cut score should remain unchanged until the impact of the format changes for the CBX starting July 2017 can be further evaluated: 2-day vs. 3-day exam; and MBE weight 50% vs. 35% of score. The changes to the format of the exam may have an impact on the pass rate that would eliminate the need to revised the cut score, or they may not. However, preemptive action prior to 2-3 years of result evaluation does not seem appropriate.

Randy Risner - Devaney Pate Morris & Cameron LLP

The lower pass rate for the Bar exam, in my opinion, is more a reflection of the admission qualifications and educational qualities of the state's law schools rather than the Bar exam being unreasonably difficult. To lower the cut score to allow more takers to pass is lowering the profession to the lowest common denominator. Law schools should create adequate admissions qualifications and provide instruction to students that prepares them for the Bar exam. The Bar exam ensures that only well qualified prospects can become California lawyers. The State Bar should maintain its standards rather than lowering them. Lower pass rates will ensure a higher degree of discipline and more unqualified attorneys in California.

Anonymous

RAISE the requirements to pass the bar. Do not lower the already low standards. We do not need more ill-equipped lawyers any more than we need poorly skilled surgeons!

Deborah Patterson - K

The legal profession should be viewed very much as the medical profession. Just because it is difficult to pass the California Bar Exam is not a reason to lower the standard. We need intelligent and bright people to practice law, and learning to study and pass a difficult exam is part of the process.

Jesus "Jesse" Marino - Law Offices of Jesse A. Marino, APC

The problem is not the bar exam. It is the wasted time in Law School.

All bar classes must be mandatory and with an adequate pass grade in law school. This should ensure that they know what they are doing on the Bar Exam.

Also, exams in law school should mirror Bar Exam. How about some cross over exams in Law School? Practicums should be part of the Law School curriculum as well.

In short - Law School should prepare you for the bar exam! Why do you need to spend another $5,000 plus after you have spent $150,000 plus in law school on an exam prep. It would stand to reason that the SCHOOL should prepare you for the EXAM!

Garrett Parks - Polsinelli LLP

Membership to the Bar of the State of California is a privilege and an honor. Adhering to the highest standards of admission is critical to maintain the integrity of the profession. Lower standards for admission sends the wrong message to the Bar, the community we serve, and to aspiring lawyers.

In addition, the legal profession is already contracting (and has been for a number of years). Flooding the market with additional, less qualified lawyers, will not serve the profession or the public interest.

Anonymous

There is a surfeit of lawyers in California. We should not be making it easier for less qualified applicants to pass the bar. I believe that the cut score should be raised to at least that of whichever state currently ranks number one in bar exam difficulty. I think the main reason why second-tier law schools are having trouble with their bar exam pass rates is that they are not getting applicants who are as academically skilled as those who would have applied in the past. Young college graduates are rejecting the law as a career option, and many of the best and brightest who might have become lawyers in the past are moving toward different occupations. What is left is a group of people who are unable to pass the bar exam. We do not help consumers by allowing less qualified persons become members of the bar. Admitting more lawyers will not provide access to people who presently cannot afford lawyers. Providing much greater subsidies to legal aid programs would provide needed legal representation for underserved populations, and would not require lowering bar admission standards, because there are already plenty of new admittees who are unable to find employment as lawyers.

Anonymous

The policy of diversity, although adopted with the best intentions, has produced graduates who are not qualified to go to law school. This is why the Bar pass rate is so low. However, the decision makers are too dishonest to acknowledge this so, in the long term, the only solution will be to lower the standards - once again! Hopeless situation because no one has the courage to say the truth.

Anonymous

As a member of my office's hiring committee, I have had the opportunity to travel throughout the state to meet law students, law school faculty, and law school career development staff. In my travels, I have seen many bright, articulate, and diverse students. That gives me hope that our profession will continue to grow and improve. Nevertheless, I attribute the bar passage decline on the overall caliber of students taking the exam. I have had conversations with law school staff who have admitted that since law school enrollments have been down throughout the state, they have had to lower their admissions standards. That is the problem. Law schools are running a business, and want to maintain a certain level of enrollment to ensure that profits are made, and to maintain their accreditation.

Placing under qualified "attorneys" into the work force is not the solution we should be striving for. It sets a terrible precedent. Would we want under qualified surgeons operating on our bodies just because medical school enrollment fell? You could say the same with pilots, or any other profession requiring a high level of skill and intelligence. We should not be lowering our admission standards to appease law schools frustrated with low passage rates.

Lindsay Sanders - Law Office of Lindsay H. Sanders

I see no reason to reduce the California Bar Exam cut score. Declining passage rates are not reason enough. There are many factors that can affect a passage rate and lowering a score merely to allow more people to be California licensed attorneys is not a solution to anything. This, frankly, is not even an issue that needs attention. I greatly agree with a recent daily journal article written by Judge William Fahey of Los Angeles County. He makes the following points:

1. There is no shortage of lawyers in California In fact, this appears to be the only issue that lowering the cut score would address -- allowing more people to be licensed attorneys

2. Various experiences with incompetent and ill-equipped attorneys.This issue addresses the larger and more valid concern which Judge Fahey also points out -- the growing recognition of the need and even requirement for more skills training and competence training in law school. In law school, I was taught to "think like a lawyer" and to analyze the law (case law and statutes), but all of my training and know-how came from on-the-job, true law firm experience. This practical experience is where I gained a lot of my education.

I studied hard, took the bar exam course and passed the bar the first time. Save for maybe one person, all of my classmates passed the first time. The California Bar allows unlimited attempts for those who do not pass. I strongly feel lowering the pass rate will lower the integrity of our profession. We take an oath to uphold the law, be officers of the court and act with integrity and competence. We should not be making it easier for individuals to join our profession. Much like how I want my physician to pass the required courses before putting my life in his hands, I would want my attorney to be fully competent as well. Please strongly consider that this bar cut score is a misguided solution to the wrong problem.

Camlinh Nguyen Rogers - Nguyen Rogers Law

California state is open to different types of law school that many people disagree with its operation. NO matter how the people thought, Cali licensed attorneys have proved that licensing by Cali bar is the evidence of knowledge and skills.

Current passing score proves the quantity of the attorneys licensed in California no matter what school they graduate. that they are hard researchers and discipline to success .Thus they will continue to research and promisingly perform the work at the high quality as required in any jurisdiction.

Additionally, the most important qualifications from licensed lawyers are their knowledge and skills to research, to write, to present, and to argue in court on BEHALF of the people they represent. Don't ignore the duties of giving advise and consult not only the law but also the mental state to others so they these people could walk through the difficult time of their life.

Does lower passing score maintain these standards of Cali Bar as in the past and current?
Does lower passing score maintain the reputation of Cali Bar licencing as in the past and current?
Does lower passing score make Cali Bar exam becoming "attorney license manufacture" due to different types of law school that the Bar allows to operate?
Does lower passing score maintain the trust that public gave to Cali Bar licensed attorneys as in the past and current?
Can Cali continue to prove to other states that its liberal and experience view to allow non-ABA accredited school operation is a prominent idea leading the legal field

If the answers to these questions are positive, lower passing score may be an alternative solution for more candidates to pass the Cali bar exam.

Besides, the currently passing rate is low simply because the number of candidate is high. Before lowing the passing score, the Supreme Court should additionally consider these factors:
1. If only ABA accredited law schools are allowed to operate in Cali, will the passing rate higher because the number of candidate is less?
and
2. will Cali law schools and bar exam become a trash can for the LSAT failures or non-accepted law school candidates to get their license?

Kevin Gross - Corporate Counsel

We should not lower California standards in order to accommodate low performing applicants. Many who fail attended unaccredited law schools and out of state schools that do not properly teach California law. Compared to other states we do not have too few lawyers in California, if anything we have too many lawyers by an measurement, and should reduce the headcount by raising the passing score. The student loan problem is wholly a result of (1) schools overcharging law students, in many cases to subsidize other programs (2) federal guarantees, which allow schools to raise tuition rates to enrich the administrators and teachers, and (3) out-of control tuition increases. These cross-subsidies should be prohibited and the state bar and state government should require taxpayer funded state universities to reduce tuition and expenses as appropriate. Schools that produce failing bar applicants should be required to cut class size 10% per year until they have proven they can admit quality applicants.

Walter Taylor

The bar exam has provided a consistently tough standard for attorneys to pass for all of my 39 years of practice. The difficulty of the bar exam promotes the integrity of the profession. As we know, law schools have had to reduce qualifications due to declining enrollment. The bar exam score should not follow declining enrollment to the bottom. It should continue to assist in separating out individuals who are not qualified to practice as attorneys and who are not qualified to advise and represent the public. Passing the bar exam and practicing as an attorney is not a right, it must be earned and can be earned equally by anyone willing to put in the necessary effort. Reducing the score does not produce better attorneys nor does it protect the public.

Anonymous

If increasing diversity is an aspect of the motivation for reducing the score, then the EXAM ITSELF should be investigated to determine what CHANGES TO THE EXAM might be more fair and have less negative impact on historically underrepresented groups/communities in the legal community. The assumption that it is the cut score that needs to change seems to suggest that underrepresented groups are not capable of earning a high enough score to pass. Even if we accept that this is due to structural issues with access to resources, education, etc., and hence not a judgement on the capacity of individuals from underrepresented groups, it still seems like lowering the cut score is a bandaid. Are there STRUCTURAL ISSUES with the TEST itself? Do the questions in the test assume knowledge that is more social, rather than legal academic, putting individuals from certain economic or social classes at disadvantage (for example, a question that assumes to knowledge about wine varieties)?. Do hypotheticals consistently use names like "Tyrone" or "Jose" as the hypothetical accused/alleged criminal? Cultural biases IN THE TEST itself should be examined, and changed, before we assume that reducing the cut score is the way to remedy this problem. It is also worth seriously considering whether making the test a TWO DAY TEST like most of the rest of the country might also improve performance, without reducing the cut score (although, reduction to two days will reduce the cut-score given there is less test to score, but the performance level of the cut score could be adjusted). Has reduction to two days been considered? Hard to compare CA to the rest of the country (lower pass rate than rest of the country), when we are comparing a THREE DAY TEST apple to a TWO DAY TEST orange.

Susan Basko

Dear Sirs and Madams:

When I took the California Bar exam, the pass rate was 38%. That seemed appropriate since it appeared to me that many of the people taking the exam did not seem qualified. I based this observation on their behaviors during the exam (appearing to have great difficulty, lots of erasing going on, etc) and their discussions during the lunchtime. Many of them were discussing answers they had written on the essays, and the things they were saying were utterly clueless. It was as if those speaking had never attended law school. Since I had no friends there and no one to talk with, I just listened. And winced. When it came out that the pass rate was 38%, I was not in the least bit surprised.

When I took the California Bar exam, I had taken the Illinois Bar exam just six months earlier. The Illinois Bar exam was very similar to the California Bar exam, except that on the essays we were given half as much time in Illinois. In Illinois, we had to keep a very quick, steady pace, which made it difficult. When I took the California Bar exam, we were given twice as much time to do most of ththe test segments. I found the test to be ridiculously easy. I finished most sections of the test with a half hour to an hour and a half to spare. I used my time to walk outside in the sunshine. Meanwhile, most of the other test takers were sighing, groaning, furiously erasing and rewriting, etc. I concluded that they simply were not qualified.

When the test results came out, it turned out that many of the test takers were from non-ABA schools and that most of those schools had a 0% pass rate. I would conclude that those schools are not adequately preparing the students to pass the Bar Exam, or to be lawyers. I think if California really wants to serve the public and serve potential law students, they should abolish all non-ABA law schools in the state. If a person cannot be admitted to any ABA law school, they probably cannot pass a Bar exam and they probably do not belong being a lawyer. Lowering the test pass score is simply compounding the problem of putting more unqualified people out as California lawyers. The situation is bad enough as it is.

Again, I want to say that from the perspective of someone who has taken the bar exam of another state, the California Bar exam is ridiculously easy because so incredibly much time is given for each segment of the test. The subject matter also was very basic and easy and things that I readily learned in my law school classes in Illinois. There was nothing complex or tricky about the test. One of the practical work sections had poorly written, confusing instructions, but it was doable. The rest of the exam was well-written, logical, very basic, and very easy to do. If people cannot do well on this test, they really do not belong being lawyers. They are not doing a service to anyone and are only causing trouble.

In addition, I strongly urge California to abolish all non-ABA law schools. The non-ABA schools are mostly a waste of time and money for those attending. Their existence makes the whole practice of law in California substandard.

Michael Paa - Cubic Corporation

This low passage rate is the result of fewer qualified applicants going to law school because of the cost of the education and the job uncertainty after taking out 150k+ in debt. Many new attorney jobs (doc review, basic legal research, etc.) are being automated and the legal landscape is going through a profound change, caused in part by a reaction to the 2008 recession.

With fewer candidates, law schools drop admissions standards in order to keep the classes full and tuition $$ coming in, which causes a less qualified demographic who eventually sits for the bar exam. This is an unfortunate but fundamental restructuring of the legal profession.

The solution is NOT to lower our standards for what is required to be an attorney - doing so will irreparably damage the profession's reputation. Instead, we must recognize that there will be fewer attorneys in the short term and focus on reducing the costs of getting a law degree. This will attract a more qualified candidate pool and provide an injection of much needed human capital into lower paying legal sectors.

Anonymous

The only consideration of the State Bar should be maintaining the integrity and quality of its members. Lowering test scores to admit what would be otherwise unqualified applicants does nothing good for the practice of law in CA. Furthermore, there is already a surplus of attorneys practicing in CA, there I la no need to bend the rules to encourage and allow even more individuals to practice law here when we already have more than necessary.

Anonymous

The only two criteria that affect my position on lowering the cut score are protecting the public and protecting the reputation of the bar.

It accomplishes nothing to lower the standard to produce a more diverse bar.
It accomplishes little to lower the standards to produce more attorneys to work for consumers--they will get substandard lawyers and there's no guarantee that any of the additional lawyers will work for consumers.

I'm puzzled by the discussion of the cut rates of other states. As the group recognized, California is unique in that it allows almost anyone to take the bar. One option for improving the pass rate would be eliminating unaccredited law schools. Many of them are of questionable value and many exploit students, giving them large debt but little worthwhile preparation to practice. (I'm not sure how well the "reading" students do, but I imagine that they are relatively few in number.)

It seems to me that the lower pass rate reflects the dogged (or admirable) retaking of the bar by those who don't pass the first, second or third time. I didn't see any statistics on that.

I do not perceive a lack of attorneys in the state.

I recently taught a law school course at a highly-ranked law school and was appalled at the quality (or lack thereof) in exams structured much like the essay questions of the bar. We used questions that had already been worked through in class, for an entire class or for two classes. There was video of each class available. It was an open book exam. The results were miserable. If these are the people who are not making it into the bar, that seems like a good thing.

The eye-opener was the anonymous questionnaire about the course. What grade did you expect? A, uniformly. How many hours did you spent each week on the class including the 2-hr class itself? 2-4 hrs. Astounding. And we were told that our grades effectively had to be reworked so that all but one person passed with at least a 2.7. We complied but will avoid hiring any new grads if we can help it.

- Government

How will lowering the score maintain quality and integrity? Apparently the assumption is California needs more lawyers?

You can increase passage and probably overall competency if the teaching of law school was different. Traditional casebooks are not helpful. Books like Gilbert's and Emmanuel's highlight the fact that the topics can be distilled to the essential concepts that "new" lawyers need to be familiar with -- which is what the Bar Exam tests. The irony is when someone becomes an attorney in California they will immediately turn to "lawyer" versions of those books, like CEB action guides, Witkin's, Rutter Group, and similar "cut-to-the-chase" resources.

And of course, statutes and regulations are a large source of "what the law is", but law school doesn't really tell you this.

Math and science classes are not taught by "hide the ball" lecture, so why should the law? Law students should be presented directly with the black letter law or the main legal approaches, and be sent home with "word problem" homework assignments to see if they can apply the law or concepts to fact patterns or scenarios. This is the way math, science, and even English grammar is taught. Law student diligence to perform relevant research can be evaluated by similar class projects or homework assignments.

Keep the score where it is. Change how the law is taught, then see what the pass rate is.

Anonymous

The pass rate is so low in California because the CA Bar allows students from non-accredited law schools to take the bar exam. The solution to a low passage rate isn't to lower standards to account for poor education (and allow more unqualified attorneys to practice); instead, the CA bar needs to discontinue the practice of letting unqualified students sit for the bar at all. This will discourage students from attending enormously expensive law schools that neither provide any employment opportunities nor create qualified lawyers.

Anonymous

The focus should not be on reducing the score so that more people may pass. I passed on my first time and my school, Western State College of Law has continually kept very high bar passage rates (83% my year). The focus should instead be on what are we teaching our students in law school? Why are they not able to pass the bar exam. Everyone knows the reason why WSU graduates have been performing better is that there are two optional classes recommended to 3L's, Basic Bar Studies and Solving Legal Problems.

In addition to the wonderful professors I had, I credit these two courses, (along with Barbri) as the reason for my bar passage. Our Basic Bar Studies (BBS) course focuses students on preparing all of their bar outlines and requires us to take sample bar exams continuously. We are also tested on our midterm and final on any one of the bar topics, similar to the exam. This forces students to begin memorizing and thinking about the Bar and their approaches.

In our Solving Legal Problems (SLP) course, we focus on performance exams. We are tested continuously on sample bar performance exams and given a grade similar to the Bar grade given. This gives students exposure to the different types of PT exams (persuasive, neutral, memo vs. brief, etc.). It also provides the students feedback so that they are going into the bar knowing what to expect.

I do not think we should make the cut score lower. Instead we should focus on how we are teaching our students to pass the bar.

Instead of having high law school fees as a consideration for lowering the cut score, why not consider talking to the actual schools about lowering their fees for students. Some students can afford to go law school, but for someone like myself, I had to earn an academic scholarship in order to afford law school. To me, the bar exam and my law school tuition are two separate items.

Is there a way to provide a free Barbri type of service to exam takers who are financially unable to afford Barbri?

Mark Dove

Lowering the cut score degrades the quality of the pool of attorneys practicing in California. Clearly there are people that have passed the bar exam so it is not an impossibility depriving Californians of legal representation.

One of the greatest problems facing our society is that there is the belief that everyone "deserves" to do what they want regardless of the work they put into achieving that goal. The low pass rate does not mean that the cut score should be lowered. It means that the law schools should evaluate their curriculum and students should evaluate their study habits. Perhaps the low pass rate is impacted by the increased number of students wanting to attend law school because it looks cool on TV or they think they'll be earning 6 figure salaries as a first year attorney. Perhaps there are some students that just don't have what it takes to be an attorney. I went to an out of state law school, worked full time, was an active member of the military reserve, was married, and had 2 young children before I graduated from law school. It took me 3 bites at the apple before I passed the bar exam. The first 2 times, I didn't try to have the cut score lowered. I performed a self analysis, identified my weaknesses, obtained the proper tutor, and passed the test.

The occupational field has been flooded in recent years with the proliferation of for-profit law schools. This drives down the salaries which makes it more difficult for attorneys to earn a living in California and forces some to move out of state to earn a living. Lowering the cut score will only add more attorneys to the pool which will drive salaries lower forcing more attorneys to seek employment in other states.

One of the considerations by the state bar is lowering the cut score because of how deeply in debt people go to attend law school and then cannot find adequate employment to pay off their student debt if they cannot pass the bar exam. This is a red herring. First, there are ways to pay for one's education without going into debt. I graduated law school with no student debt and never even filled out a FAFSA form. Second, the prospective law student ought to investigate the pass rate, and the job market before applying to law school and based on the low pass rate, have a plan to pay their debt in case they do not pass the bar.

Lowering the cut score will only reinforce the absence of personal accountability and blaming the system for an individual's failure to meet the required standards. Leave the cut score where it is.

Tiffany Robson - sole

I find it absolutely insulting as a licensed attorney for nearly 20 years that we are actually considering that idea of lowering standards moment not raising our communities reputation is not exactly outstanding as it is we have too many attorneys the ability to get hired is incredibly low and insulting to the graduate for all the years of hard work and study the ambition and the sacrifice but there so many people already passing the bar that confident licensed motivated attorneys can sometimes barely make a living in their field this is not a joke this is reality and the state of California and now it's being propose that we lower the pass rate wise so we can have more attorneys and less jobs more incompetent attorneys a further reduction of our reputation in the community I would say raise the bar literally raise the bar thin the herd people should work harder to achieve there should be a greater value put on our profession I am personally horrified that my profession my standards my hard work will be lowered in reputation and for what reason more money less people complaining I don't understand there is not a realistic or A valid a respectable reason to make it easier for someone to carry license to practice law in the state of California this society needs to check itself for even mentioning the possibility

Anonymous

The primary function of the State Bar of California should be the protection of consumers of legal services. The public needs the best, smartest lawyers possible. It is not the public's fault that there are too many law school graduates. It's not the state bar's fault, either. At a time when the market is saturated -- that is, more lawyers than the market can bear -- it would be foolhardy to exacerbate that problem by lowering standards. And it would be detrimental to the public.

Parish Heshmati - HALO Attorneys

Quality over Quantity

Anonymous

Law education is changing and there is an acknowledged trend that a number of law schools (those at the lower end of the spectrum) will close in the future. This may also impact the percentage of those taking and passing the California Bar. I do NOT believe however that lowering the score is any solution. The legal profession will have to weather changes but diluting the score is not helpful for anyone, including those who will gain admission at a lower standard. Generations of law students have passed the California Bar, even having to take the test repeatedly, why change it now?

Moses Yneges - The Accident Injury Law Center

The problem with the pass rate is not the bar itself, it's the bar review courses and the way they are setup. The bar review courses need to teach test takers how to know what their strengths are and identify their weaknesses so they can spend more time on improving their weaknesses. Also, no one should ever time themselves taking a practice test of any kind; practice tests are solely for the purpose of learning how to take the exam and to learn the information they will need to pass the exam. Timing oneself while studying is counter productive and only leads to anxiety about poor practice exam results under timed conditions.

Richard Joseph - Law Offices of Richard Joseph

I wonder. Have law school graduates just become dumber? Lazier? Or is there another answer that explains the low Bar Exam pass rate? Based on my anecdotal observations I conclude the Bar Exam is not too difficult, but rather the lofty goal of a system where most anyone can find a law school to accept them simply doesn't work when it comes to passing the Bar Exam. It's clear that the pass rate is dragged down by those who probably shouldn't have gone to law school in the first place if their career objective is to practice law.

The Bar Exam is tough. When I took it in February, 1986 the pass rate was about 27%. I didn't go to an elite school, but it was an ABA accredited school. I passed the first time because I studied like a freak when in school and when preparing for the Bar Exam. I knew I was competing with the best and brightest from schools, like UCLA, USC, Stanford, Boalt Hall. and Hastings. If someone can only get into a non-ABA accredited school then we have to be honest that the Bar Exam pass rate for those folks will be substantially below that of students from more selective programs. This has ALWAYS been the case in California. Graduates of ABA accredited schools simply perform better than those from less competitive programs.

As I see it, the pass rate is directly correlated to several factors: (1) The law school one attends; (2) the amount of work one puts into their studies; and (3) preparing for the Bar Exam. There is no question that graduates of non-ABA accredited schools have the worst pass rate. The idea of providing opportunities to most anyone to attend law school means that a whole lot of the students graduating from those programs simply are not as prepared or qualified to pass the Bar Exam as those who attend schools with high pass rates.

The one thing that will instantly improve the pass rate is to reduce the number of students admitted to non ABA accredited law schools every year. Maybe we should look into requiring students from non ABA accredited schools to pass a test after the first year of study before they can remain in that kind of non accredited program. That way we don't have large numbers graduating from less competitive programs who can't pass the bar and are stuck with hundreds of thousands of debt. It's a simple plain fact that students graduating from schools that have significantly lower admission standards pass the Bar Exam at far lower rates. It's to be expected. It makes sense.

Of course, we can keep lowering standards to the point where everyone is passing the Exam but the quality of the lawyers is significantly lower and will pose a danger to he public.

No one has a right to be a lawyer. And while diversity is an admirable goal, it can't come at the expense of lower standards, less qualified lawyers, and harm to the public. Another things is that the graduates of lesser quality programs still have a law degree which can only benefit them in other endeavors even if they can't pass the Bar Exam.

Finally, when are we going to get back to being alright with the fact that not everyone gets a "medal"?

Sandra Stanfield - D. Mercado and Associates

There are too many substandard law schools that will accept just about anyone willing to pay the tuition and too many graduates of these schools that will never be able to pass the Bar. . Rather than lower standards for admission, there should be a review of the passage rates for these schools. There are already too many attorneys with too few available jobs which results in depressing attorney salaries. Decreasing the cut off to allow a higher passage rate will further exacerbate 1) the availability of jobs and 2) depressed salaries.

- California, Office of the Attorney General

The problem lies in the unaccredited schools and state-only accredited schools that are accepting students with less-than-optimal qualifications, charging and collecting three-years of tuition and fees, and then sending ill-prepared students to sit for an exam that is intended to filter for those most qualified to practice law in our state. The pass rate for ABA accredited schools averages around 60%, which demonstrates how drastically the non-ABA schools negatively impact the average. The state needs to stop allowing schools like "The People's College of Law" and various online schools from preying on individuals whose ambition exceeds their ability.

Anonymous

The problem with decreasing pass rates is not that the exam is too difficult. The problem is that law schools are admitting unqualified individuals into law school. There are already too many admitted lawyers given the availability of legal positions. This issue should be addressed at the law school level--not at the bar exam level.

Anonymous

The issue here is not that the bar exam is too difficult. Instead, it is that there are too many law schools that are not adequately preparing their students to take and ultimately pass the bar exam.

Unaccredited schools, or those with consistently low bar passage rates, should be targeted if the goal is to ensure both higher passage rates and the reduction of post-law school debt burden. Many of these schools accept students who have a willingness to learn, but due to a number of factors (including low undergraduate GPA or low LSAT scores), cannot gain entry into a higher ranked or more reputable school. As a last resort, they enter into a system that is ripe for failure. Those schools are built as businesses, not as educational institutions.

There is no reason for unaccredited schools (unless new and likely to receive accreditation as UCI did in the past years) to exist. There is no reason that schools with consistently low bar passage rates should be allowed to advertise to students without a clear disclosure of those accurate statistics along with the offer letter. A lower score for the California targets only a symptom rather than targeting the overall disease.

Mariellen Ross - Attorney - solo

In order to maintain high standards in serving the needs of the public, it is vital that high standards be met by all candidates seeking to practice law in the State of California. Rather than lowering the standards to meet the candidates abilities, the public would be better served if the candidates shortcomings were defined and they were better prepared to attain those standards presently in place.
Mariellen Ross

Alex Ozols - Ozols Law Firm

I think that keeping the cut score at 1440 is extremely important to maintain the integrity of our profession. I am an attorney from San Diego who owns a well-established criminal law firm and I believe I can shed some light on this situation from my personal experience.

In California, unlike some other states, one can take the bar exam after they attended a non-accredited, sometimes online, institution. I have seen attorneys in court who have told me that they went to an unaccredited school, they failed the bar 3 or more times and now they finally became an attorney. These have now become the lawyers that more senior lawyers have sub-contracted out their work to in order to handle private criminal cases. This has become an epidemic in San Diego and we see it daily.

In regards to the exam in general, I studied for an entire year for the California bar exam. I took it seriously and I am proud to say I passed on the first time. In contrast, I see students each and every year who do not start studying until 1-2 months before, they are not taking the exam seriously and like one student told me before the last exam cycle "I was partying to hard after I graduated to really care". If there are people like this out there then they do not deserve to be lawyers. Being a lawyer in California is not something that is handed to you, it is something that is earned and I am so amazingly proud to say that I have earned that right.

Lets not make it easier for people who do not deserve that right. We have some of the smartest and brightest legal minds in the country, we don't have reciprocity with any other state and we have lawyers that are doing amazing things for our community.

If you work hard enough, if you study enough, you will pass the bar exam. Lets not make it easier for these new lawyers, lets make them work for it like we all did and let them earn it. In the end that will give us the best and the brightest and that is what we should all strive for as current lawyers in California.

Anonymous

The public told law schools they're charging too much via the decline in applications. Law schools started to lower their acceptance standards but not prices. Bar exam results consequently suffered. This is about law school greed, not the bar exam. The price of law school tuition is completely out of control. Well over 75% of law school graduates this year will not be able to pay back their loans. Law school professors and administrators are grossly overpaid for producing a faulty product. Lowering the cut score will only keep in place this complete mismatch in benefits and pay; ultimately the public will suffer if the bar lowers the cut score. We need to force law schools to lower their prices, and lowering the cut score will work against this goal.

Anonymous

The public will not be served by lowering the caliber of attorneys licensed to practice in California. There already are plenty of incompetent attorneys who were able to pass with the current cut score. By lowering the cut score, we may be increasing the number of licensed attorneys, but are they likely going to number among the incompetent practicioners? The argument that we need to increase the number of attorneys so that the underserved populations can now have access to legal representation is weak and inappropriate. The poor and underserved populations need legal representation, and the proposed response is to make it easier for less qualified individuals to pass the bar exam? If I were among the underserved populations, I'd say no thanks.

Anonymous

I believe a challenging exam makes a person appreciates becoming a lawyer. Most importantly, it weeds out those that will not put in the effort to pass.

Adrian Roscher - Law Office of Adrian F. Roscher

The response to declining pass rates should not be to lower standards. While the goals of encouraging diversity and encouraging more representation of the underprivileged are worthy, and while I can appreciate the dilemma of those who invested in a legal education only to fail the bar, those are NOT reasons to lower the standards - instead, perhaps the State Bar can do more to make sure State accredited law schools (if not all law schools in the state) do better in terms of preparing their students for the bar exam. And perhaps law schools throughout the state need to be more selective in terms of who they admit and who they graduate. I graduated from Stanford Law, but surely would not have passed the bar exam without having taken a private bar review course. That should not be necessary for any CA state certified law school graduate.

Anonymous

As lawyers, we owe our very best to the citizens of California, both in our individual practices and in the practice of law in general. Lowering the passing score for the bar sends a message to the California citizenry that we prefer take the easy way out and lower the bar for entry into the profession, rather than working to address systemic issues that would ensure the betterment of our profession.

In part, the multitude of sub-par law schools charging exorbitant tuition rates with dismal bar passage rates and ill prepared graduates who cannot find jobs has created this crisis. We should be looking at increasing accreditation requirements for law schools, including practical requirements such as bar passage rates, average debt rates and employment rates one year after graduation. Law school is not a business. A more rigorous approval process for law schools will result in a closure of these 'factory' law schools that are a disservice to both society and their students.

Lowering the bar passage rate will not lead to more lawyers serving the many low and moderate income clients who need assistance. With a mountain of debt, lawyers need jobs that pay a lot of money. Efforts to require, rather than suggest, that existing bar members perform pro bono hours would help. On top of this, perhaps lenders could use community investment credits or get some sort of tax break for loan forgiveness for those lawyers who make less than a certain amount and primarily serve moderate and low income clients.

Having a diverse bar is imperative. Why not focus on how best to increase the passage rate of diverse candidates? In my experience, bar exam preparation is key. I was fortunate: I paid about $5,000 for prep courses and spent two months full-time studying. If we are being honest, many diverse candidates can not afford extravagant prep courses or months off without pay. Fix this problem, along with the sub-par law school problem, and I suspect the bar passage rate for diverse bar candidates will go up.

As a black female attorney who as practiced at a law firm, and now practices in house, the last thing that anyone needs is more ill prepared lawyers.

Mari Zang

I'm an attorney who has struggled since day 1. I didn't know anyone in the profession, anything about law, or what I wanted to do with my degree. I worked very hard to stay in law school and then very hard to pass the California Bar. Since that time, nearly 10 years ago, I have struggled to get a job that pays enough to meet my student loan repayment demands. Even now I am still struggling just to make minimum payments on this enormous debt. But if I can pass the bar, with no prior exposure to law, struggling through law school, then I don't think the score should be lowered so others can pass. The exam felt appropriately difficult when I took it and I think it should stay as difficult. Law is not for everyone. And while I am one of the many who are struggling to pay off their student loan debt, I passed the exam. Which means, it won't help many who are so indebted to their law schools anyway. It may even force law schools to work harder to get their students to pass, or get them to stop accepting students they know have no hope of ever passing. I don't believe one test says everything about a person, but that's why you can take it again. It should be difficult to pass.

Anonymous

The review classes offered are intetionally predatory. They leave out information vital to passing. Simply look at the difference between barbri and pmbr multiple choice questions. They are completely different and of incomparable difficulty. Any student believing they are getting a complete review class is doomed to fail, and being swindled as well.

Margarita Velikanov - Government

As a licensed attorney and a two-time Bar taker, I appreciate this opportunity to public comment.

My main concern is with people who did not pass with the current score, but would have passed with the new 1414 cut score. In particular, those individuals who chose not to re-take the Bar, and those individuals who were required to do so. My fiance and I met in law school. We both took the exam the first time. I did not pass by 7 points. I applied for a bar loan worth $15,000, continued to be unemployed, and took the exam one more time, passing. Will there be any compensation for those efforts and the loan payments I am still currently paying on? Additionally, my fiance did not pass the first time, and opted to not re-take the Bar. He scored above 1414, but below the 1440 mark. Will he now be a licensed attorney? I believe these are issues that need to be addressed or at least considered prior to making a decision regarding the cut score. There are likely hundreds, if not thousands of individuals who fall into the same position of either myself or my fiance, who are currently not sitting for the exam. Once again, I appreciate this opportunity.

Thank you.

Anonymous

The schools must do a better job of preparing students for the Bar and of restoring the integrity of the profession. It is that, a profession, not a trade. It has become something derided by the public due to the rampant abuse by unqualified individuals who. Take advantage of those in need. Lowering standards will only make this worse.

Anonymous

It seems outrageous to me that the Bar would consider lowering standards simply because pass rates have declined a few points. This is hardly an emergency. The priority should be on maintaining and even increasing professional standards. Otherwise, the Bar puts at risk the public and the profession itself if the public believes the Bar is lowering its standards. That's an alarming proposition and all because of a small decline in pass rates? Perhaps the Bar should instead study the underlying reasons for the decline and address the source of the problem.

Sean O'Rourke

The Bar Exam is already being modified by making it a two day test, instead of a three day test. It appears that current passage and failure rates are within the historical range.

It does not appear that adequate statistics have been given to assess the issue. Overall bar exam pass rates tend to hover between 35% and 55%. The lowest pass rate occurred in February 1983 when 27.7% of takers passed. For the February 2007 exam, the overall passage rate was 37.5 which is not very different than the 35.3 passage rate for the February 2017 exam.

At a casual glance there appear to be two other significant issues: (1) the difference in passage rates between February and July bar examinations, and (2) the difference in passage rates between first time takers and repeat takers. At a casual glance of some of the statistics, it appears that there can be a 20% or greater difference in passage rate between first time takers and repeat takers.

Steven Kuhn - Judicate West

For the integrity of the bar, and to keep the profession such that the public is best served, I do not believe the cut score should be changed.

Guy Medford - Law Office of Guy Allen Medford

Raise the cut line. There are plenty, if not too many Lawyers practicing in the state. Because of this, graduates have more trouble finding legal employment. Because of this, Lawyers prosecute cases of less merit in efforts to maintain a stable of cases. Due to lawyers chasing less meritorious cases, the public perception is that every de minimis cause of action will net them valuable recovery promulgating undesirable litigation.

Andrew Patterson

The current low bar-passage rate is a function of the applicant pool decreasing in quality. The applicant pool is decreasing in quality because, after the bloodbath of the great recession, there are fewer good opportunities for young lawyers, and law schools continue to raise tuition rates even as lawyer outcomes worsen.

The result is that the most qualified candidates realize that law school is a bad investment and look elsewhere.

Bar passage is strongly predicted by incoming GPA and LSAT. Law schools, if they were acting responsibly, would cut incoming classes to avoid admitting students who, based on their incoming credentials, did not stand a good chance of passing the bar. Instead, law schools are mostly acting to protect revenue by admitting students who they know won't pass.

Instead, we should be closing down law schools that can't pass an adequate number of law students, and reducing class sizes in those law schools that remain.

Patrick Hill - Legal Assistance to the Elderly

Rather than make lowering the bar, the state bar should strive to have more competency and require a period of practical training under a supervising attorney/mentor or a series of mandatory courses in civil procedure for civil attorneys or criminal procedure for criminal attorneys. It is incredible the shoddy and below standard work done by recent member of bars that have solo practice.

Marc Mcculloch

California is not suffering a shortage of lawyers - even WITH one of the highest cut scores in the nation. (See https://lawschooltuitionbubble.wordpress.com/original-research-updated/lawyers-per-capita-by-state/) Lowering the cut score will further crowd an overcrowded field.

Lowering the cut score will literally "lower the bar" for all attorneys in the state of California - including those who studied, sacrificed, and struggled to make the current "cut."

If the cut score is to be lowered, then the State Bar should go all the way and allow reciprocity with other states so that employment opportunities can be broadened for current California attorneys.

Anonymous

The solution to a declining bar pass rate is not to lower the standard. The solution is for those who are taking the examination to become better able to meet the standard. The public, the clients, the Courts, and other attorneys are not well served when less-than-qualified candidates become new lawyers.

Robert Bullock - See above

The State Bar should not lower the standards as there are already too many attorneys in California already.

Further, lowering the standards will only allow more unqualified people to cause the public harm by failing to provide competent legal services and in my opinion, there are far too many of these people running around already.

Unfortunately, it is my observation that the State Bar currently fails to allocate enough resources and/or personnel to purge such incompetent practitioners from the membership. While I recognize that there are many complicated reasons as why this happens, it just seems from my point of view, that getting rid of bad lawyers is not as much of a priority as it should be.

Additionally, I'm not at all in favor of burdening those of us who follow the rules and spend the necessary funds and the required time to comply with all the numerous requirements of being a member in California - just to catch and prosecute a few more of the bad apples among us.

Lastly, if the Bar is really serious about improving the Bar Exam and the vetting process of new lawyers in this state, then perhaps the exam should focus on California Law instead of the usual "Bar Exam Law" that we all master in law school classes and bar preparation courses. Sure the concepts taught in school and in the prep classes are applicable to general theories of Torts, Property and Contract Law, but nothing on the exam is really applicable to the specific problems that a member might be faced with at the local Superior Court. Federal Evidence and Civ. Procedure are the only topics on the exam that are even close to what a new member might run into out in the wild.

Granted, it has been some time since I took the exam, but nothing that I have seen from subsequent Bar publications, or from talking with new members leads me to believe that the content of the test is much different now, then when I sat for it.

Personally, I continue to be taken aback by the lack of correlation between what is needed to pass the CA exam, versus, the knowledge that is need to actually go out and act as an effective advocate for someone in an actual conflict. Moreover, the lack of knowledge by some of the newer members to our profession is downright sad, because their clients are the ones who suffer the consequences and often times these clients come from the most at risk groups in society, because they cannot afford to hire an experienced member.

It is too bad that law does not offer the same mentoring structure that a medical career foes, where you are required to intern, be a resident, be a fellow etc.

Nowadays, people pass the exam and if they can't find a job with a firm (which is harder and harder to do) then they are forced to go hang their shingle as a sole practitioner in order to pay their educational debts. While this works for few, for many they have no idea what they don't know and the public suffers because of it.

Suffice it to say that a good part of my practice is spent cleaning up after the incompetence of other members (especially in Family Law matters).

Lastly, I think the Bar should do more to require schools to let potential applicants know that the current job market does not at all assure that an applicant will be able to land even a non-legal job that pays enough to pay off that applicant's educational debt, simply because they are successful at passing the test and obtaining a license.

While it was the same when I was in school twenty years ago, it just seems that the young people today don't have a grasp on how much of a burden an unpaid student loan can be when you are trying to start a career and that at some point, there is no way to get out from under it short of inheriting an estate, or winning the lottery.

Thank you for the opportunity to respond.

Robert Livingston Bullock #214990

Robert Livingston Bullock
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Philip Black

I am an attorney licensed in both New York and California. I took and passed the New York bar exam in July 2014, and the California bar exam in July 2015. My subjective experience was that the California exam was no more difficult than the New York exam.

In my opinion, the problem is not the bar exam. One problem is that applicants from unaccredited (or only California accredited) law schools are allowed to take the California bar exam. The raw pass data from the July 2016 examination (http://www.calbar.ca.gov/Portals/0/documents/admissions/Statistics/JULY2016STATS120716_R.pdf) shows that the passage rate for applicants from unaccredited schools is less than 13%. Applicants from unaccredited schools also make up 13% of overall applicants. Removing them raises the pass rate to 47.8%. The current proposal to lower the passing score would have raised the pass rate to 47%. Therefore, removing applicants from unaccredited schools has the same, or slightly greater, effect on the pass rate as lowering the passing score.

I suspect that any proposal to prevent applicants from unaccredited schools from taking the examination in the future will not gain much traction. But please consider that these unaccredited schools are often predatory and seem, on the whole, to be doing more harm than good. http://www.latimes.com/local/education/la-me-law-schools-20150726-story.html. Instead of lowering the standards for entry into the profession, perhaps we should raise the standards for law schools.

The bar examination is intended to set a minimum standard of competence for practicing attorneys, in order to protect the public and ensure the correct and efficient administration of justice. I respectfully submit that the California bar exam is working as intended.

Michael Wooten - Law Office of Michael Wooten

Unless the material and/or the exam is substantially more difficult than it has been in past years, I do not see the benefit of or logic to changing the cut score to allow less qualified test-takers to become attorneys.

The cut score should be based only on a demonstrated ability to understand and communicate the basic black letter law. It should not be based on a high or low passing percentage. The exam should be constructed as a fair and reasonable test of a taker's understanding of the basic principles of California law and the cut score determined at a level that would demonstrate minimum proficiency. This should be totally independent of how well a particular group of law students may do.

It would be interesting to see how the falling passing rate correlates to student aptitude scores like the LSAT over the same period . If aptitude scores are the same or rising, but the passing rate is falling, then it would appear that potentially good students are being ill-served by a large number of ineffective law schools. If aptitude scores are falling with the passing rate, then that is self-explanatory.

In any event, as long as the exam has remained consistent over the years, the culprit is not the bar exam or the score required to show minimum proficiency., and I do not support weakening it simply because the recent group of applicants is not either as smart or properly trained.

Anonymous

There are already a lot of unqualified lawyers who are practicing on a daily basis so lowering the score will only increase that number. Lower scores are not the answer and neither was shortening the number of exam days. The standards for law schools should be raised so we're taught actual practical skills and not outdated theory. If it becomes more difficult to get into law school then less people will use it as a fallback career and only those who truly want to be attorneys will go through with it. Law schools are just churning out graduates with a ton of debt who have to find ways to fend for themselves. Passing the bar will not reduce student loan debt because contrary to what's advertised, the number of jobs available have not increased. The field is over saturated and will remain over saturated until baby boomers start to retire.

Madhath Ali

Reducing the cut score to 1414 would undermine the integrity of the legal system and diminish the accomplishments of the attorneys who have thus far passed the bar exam at a cut score of 1440. In addition, California has a plethora of both accredited and unaccredited schools that offer legal educations varying vastly in quality. Not only does this generate droves of new J.D.s whose knowledge of the law is questionable, but this also produces thousands of students heading to the races in February and July. The bar exam is not the problem. The problem is the quality of the education that students receive. Lowering the bar and California's standards for legal practice may result in more attorneys admitted to practice law, but it does not mean that the quality of their legal practice or the integrity of the profession as a whole will be maintained. Please take this into consideration. We do not need to compromise quality for quantity.

Anonymous

Don't dumb it down. Come on. The public will suffer. There's no significant need to dumb it down.

Didn't you already dumb it down by making it a shorter test? Come on. Enough already.

Or, better yet, quit fooling around. Just sell law licenses for $25 for anyone over the age of 8. Half price if you are here illegally. And a 1000% surcharge for politicians.

There. Problem solved.

Anonymous

The answer is not lowering our standards, which is incredibly unfair to those that put in the time and diligence to pass under the current cut score and also puts the public at severe risk of having unqualified representation. If an individual cannot obtain a passing score, he or she should not be allowed to practice until a passing score is achieved. This is the only fair outcome, as we must treat all exam takers the same. Loan burdens should not be factored in to the discussion because each person took on those loans knowing what was required to pass the bar - would not be in the public's interest to lower the standards just so people who couldn't pass under long established standards can obtain a license that they didn't earn via the same requirements as everyone else.

Maryam Atighechi - atighechi law group

I am a 10 year practicing attorney who passed the bar the 2nd time- proud to say it.

If I had to pass at that score and I was able to through hard work and determination then everyone else should have to.

Plus, we have too many attorney's already.

BUT DO NOT MAKE THE EXAM HARDER IT IS ALREADY HARD.

Laura

I applaud the State Bar for recognizing there is a major problem when it comes to law school graduates not passing the California Bar Exam. No one can dispute that the passage rate numbers are low.

My question is, does California want more lawyers, or does California want the best lawyers? If we want more lawyers, please lower the cut score. If we want the best lawyers, please do not lower the cut score.

Alan David Taksar - ALAN DAVID TAKSAR, ATTORNEY AT LAW

I went to law school at night and began my practice as a C.P.A. at the same time. Both of them were hard work. I graduated law school and did not pass the Bar Exam. Ten years later I revisited the Bar Exam and passed. Nobody said this was going to be easy. Law school was hard (at least for me it was) and the Bar Exam was difficult as well. That is why it is such an accomplishment when you do pass. However, if you stay after it, it can be done. If you want an easier pass rate move to another state.

Anonymous

It is time the California Bar start supporting its existing members trying to make a living practicing law. Lowering standards and allowing more attorneys into an already overcrowded field is not helping us. The Bar has already made it easier to pass the exam simply by reducing the days of testing. The Bar has imposed complicated and costly continuing education requirements on existing members which most other states do not have. The professional rules continue to get tougher. How about the California Bar start supporting its members? I certainly don't feel supported by the Bar Association.

Anonymous

What we really need is to take a look at the practice of law in the UK and the practice of medicine in the US.

1. In the UK, each graduate is required to complete a pupillage or training contract with a law firm. Those training contracts are regulated so as to control the quality and quantity of lawyers in the market.

2. Similarly, medical graduates need to 'match' with a medical hospital to be able to complete residency. This also controls the quality and quantity of doctors in the market.

The beneficiaries of quality and quantity are everyone - they are able to charge higher fees and, as a result, provide better service.

The CA Bar should require that you need to pass the exam and also complete a 2 year training program with a registered law firm before you can begin to practice law as a solo.

Fresh graduates from law school know nothing about how to practice law and this will ensure that the market has only the best lawyers.

This will further strengthen the integrity of the profession as well.

Anonymous

I think it is insulting to those who do pass the Bar Exam to lower the cut score in order to increase pass rates. If the bar rates are falling, then law schools are failing to educate their students or students are not as prepared as in the past. Or as I suspect, many schools have lowered their admission and graduation standards. Lowering the bar exam standards is not the solution. And if this is some misguided attempt to increase minority attorneys, it is not only insulting to those minority attorneys who have passed the bar, but it assumes that minority students cannot pass the bar without standards being lowered.

If the Bar wishes to help raise the bar pass rate, maybe it should offer free bar review courses for students who cannot afford the cost of these courses, or maybe it should hold law schools more accountable for their admission and graduation standards.

BTW I went to Golden Gate, which by any stretch of the imagination is not a ranked school, I was the only member of my family ever to attend law school, or graduate college for that matter, and I managed to pass the bar on my first attempt as did many of my classmates.

Anonymous

California has one of the toughest bar exams in the country, and that reflects the worthy goal of limiting attorneys to those who are qualified. Would you lower the standards for doctors, for engineers, or for any other profession that demands excellence? Are we worried about a shortage of attorneys? Seriously?

Representation among minorities and serving diverse and lower income populations are worthy goals. But are these to be achieved by having less able practitioners?

Let's keep our standards high.

Anonymous

There are too many unqualified lawyers in California as it is. Don't make it easier to pass the bar. Law schools will have to adapt and better prepare students to be lawyers instead of teaching the useless mush they emphasize now at many schools.

J Miller

The Bar exam is already down to 2 days from 3. The CA state bar exam has always been considered the toughest, or one of the toughest, in the nation to pass. There is no reason to lower the passing score. It is not as though there are not enough attorneys in California to do all the legal work required at this time so there should be no effort made to soften the exam or lower the passing score. What is the reason behind this suggestion in the first place? Are test takers having their "feelings" hurt because they didn't pass and have student loan debt? The CA Bar Assoc should take on the cost to obtain the degree, not the level of competence needed to pass the exam, in that case.

Pier Caputo - Law office of Pier Paolo Caputo

The score is not the problem. The law schools appear to be the problem.
For example, I am dealing with 2 young individuals who had attended law schools.

The first one attended Whittier Law School. The law school had compiled the entire Civ Pro into a single semester !! it is unclear how would this much information be absorbed and taught in a single semester.
the second one attended Chapman L/S in orange county.. The essays / final exams cannot be provided to the student so that said student can obtain a feedback as to what they do wrong.

The concept of expeditious studies is the cause of lower pass rate. The test simply reflects the problem.

The quality of studies needs to be improved for BOTH lawyers and paralegals.

Anonymous

There is no need nor room for lawyers who can not score current cut score in a already crowded market place.

Anonymous

There is no scarcity of lawyers in CA so there should be no reason to lower the existing cut score.

Carl Reed

This issue has identified a problem that does not exist with ABA school graduates.

Understanding that the bar passage rate has been declining as a whole in recent years, there are many other options available to the bar for maintaining a qualified number of new attorneys in the state of California rather than lowering the current standard, which would be a shame if so done:

1) Rather than lowering the required bar score from 1440 to 1414 consider allowing reciprocity to attorneys that attended and graduated from California ABA law schools, but took and passed the bar elsewhere after 1 year of successful practice.

2) Consider reciprocity for attorneys from other states after successfully practicing law over 3 years.

3) Work in partnership with ABA accredited law schools to attract more and better qualified students.

4) Develop incentives for non-ABA schools to produce better qualified students at graduation. Arguably, this is the genesis of the entirety of the problem with the low bar passage rate to begin with.

5) When citing bar passage rate statistics for the entire state, put the statistics in proper perspective and only cite the ABA school bar passage rate. Including both the ABA and the non-ABA schools in a single bar passage rate is intentionally misleading to pretend California's bar is harder than other states, which it is empirically not. The 43% bar passage rate for July 2016 is without question misleading when factoring non-ABA graduates into the same equation.

Please do not lower the standard and put my profession and the general public at risk.

Anonymous

We see where lowering public education K-12 has gotten us, many graduating High School reading at a 4th grade level and similar Math level. Why do we want to dumb down Law Schools and the Bar Exam. Keep things where they are. California does not need an increase in the number of attorneys, especially dumb ones. Is dumbing down the Bar Exam in the public interest?

Anonymous

The higher score is critical to ensuring qualified and competent attorneys are licensed. While passing the bar exam is dependent, in part, on intangible skills like test taking abilities, I firmly believe it is a strong indicator of how diligent someone is. That, in turn, demonstrates the test taker's seriousness about and competence to becoming a lawyer that is ready to practice and improve our profession and the public's perception of lawyers.

Anonymous

I was going to say that there should be a third option - it should be raised. There are far too many attorneys already, making it unreasonably difficult to earn a living practicing law. Frankly, too many of them are complete dumbasses (technical term), to boot. In all seriousness, many lawyers simply lack the mental power to analyze the problems they come across, which has a negative impact on the profession and the legal system as a whole. I've never thought the California bar exam was all that hard. If someone can't pass it as it is, they don't belong in the profession.

Sandra Pena - Los Angeles County District Attorney's Office

The California Bar exam should ensure that those eligible to practice law are qualified. Lowering the cut score means that inidicuduals who do not study and or who do not have the skills to address legal issues in an educated and intelligent manner will be representing clients when they perhaps should not be. While diversity is important and we want law students to be successful attorneys we cannot sacrifice the integrity of the profession in order to meet those goals. The truth is that getting into and graduating from law school does not mean a person is qualified to be an attorney, that is why we have a bar exam. Lowering the cut score would be a disservice to the legal community but more importantly to the People of the State of California. I believe bat lowering the score will lead to an increase in claims of ineffective asssistance of counsel and will be a burden to the court system. I will also state that generally speaking, I have found that the best lawyers are those that passed the test on their first attempt tent to be better lawyers than those who had to take it multiple times. They approached the test with the same energy and dedication that they approach the practice of law. It shouldn't be an easy test.

Anonymous

This isn't a hard problem to solve: Stop the proliferation of non-ABA accredited schools and you will see the pass rate go back up. The solution is not to lower the requirements, the solution is to improve the quality of the candidates. It is very unclear to me how lowering the admission standards will benefit the public. Sure, there will be more attorneys, but will they be well-qualified? Leave the passing score where it is, and the knowledgeable, motivated, and well-qualified candidates will succeed. Additionally, if law schools are not generating candidates that can qualify for practice, perhaps the high cost of law school should be reassessed, as to those educational institutions are obviously not for fulfilling the purpose for which they are paid.

Bobak Nayebdadash

You are asking the wrong question.

The issue that is not being addressed is the shear amount of students and institutions. How many law school (accredited and not) have popped up over the last 20 years? Is there a need for this many attorneys? When many law grads are making $60K a year out of school when MBAs make $90+K there is obviously something wrong here.

Young people are being duped by law schools by insinuating great jobs and lifestyle while they charge incredibly high fees (and they continue to rise). The student is taken advantage of by getting student loans, the schools get their exorbitant fees paid all while the loan providers ensure they have more customers than ever! Its all about profit over education or societal need!

We should not dilute the profession because of these opportunistic school and student debt. We should look at those institutions to change or be penalized for making "higher education" solely about profits. Unfortunately, looking at the real problem means that students now trying to pass the bar run the risk of not passing and being left with huge debt. All student run that risk. We must instead have the frank, yet uncomfortable conversation of profiteering from the aspiring students. The schools and the student loan system is squarely to blame here but it should not come at the cost of lowering standards. That's not the answer.

The California State Bar must work in conjunction with the ABA to oversee and hold schools accountable for how they operate. They must be very involved and calculated about reigning in this run away train.

The only other point I'd like to make is that California, in general, is a highly desirable place to live and work, so it is completely understandable that we have some of the highest standards (pass scores) in the nation. Would I have gone to the University of Wisconsin - Madison, I would not even have to take any bar exam to be a lawyer. That makes some sense in that most people don't find Wisconsin particularly desirable compared to other states. Lowering standard will only lower the profession as a whole and does not address the problem created by moneyed interests.

Lisa Frost

California has always been known to have a very difficult Bar exam and lower pass rate compared to other states. However, CA also has a glut of attorneys and many are unemployed. The CA Bar requires an enormous amount of study time to pass. I for one attended a non ABA, CA accredited school as an older student, late 30's at the time and a single working parent. I graduated valedictorian of my class and passed the CA Bar the first try in 1999 because I studied very, very hard.

I see attorneys who are less than competent who also passed the Bar exam. I see attorneys getting high paying jobs simply because they went to an ABA law school.

There are too many attorneys already and this makes it difficult to get jobs in this field. I am lucky I have other degrees and skills that keep me working and getting a higher income then if I was a government attorney, sadly, as the job I have is much easier than if I was working as a government attorney.

Anonymous

1. There are already more than enough attorneys in California. Lowering the cut score would dilute the pool.

2. The problem of too much student debt should be addressed in other ways. Let's come up with some real solutions to significantly reduce overall debt and payments for those who go into public interest law, government service or serving low-income populations.

3. It took me two tries to pass the CA bar exam. The reason I passed the second time was I submitted my first exam's answers to a bar prep attorney who advised me on what I did wrong and how to adjust. While obviously my experience is personal and anecdotal, I believe that people who repeatedly fail do not adjust; they think if they just do the same thing harder, it will work. If they are repeatedly failing, obviously it doesn't. Lowering the cut score won't help very many of these people.

4. Related to 3 -- HOW one takes the bar exam is just as important as what's on it. Following instructions, time management and IRAC are crucial to achieving the cut score -- as they are for being an attorney. Lowering the cut score eases up the need to apply these aspects as diligently.

5. Lowering the cut score rewards law schools who lowered their own standards to keep their classrooms filled. It also rewards the ABA for accrediting schools that shouldn't have existed in the first place. During the three years I was in law school, the number of ABA-accredited schools rose from about 180 to about 200. That's too many schools, diluting the pool, in addition to the non-ABA schools that have proliferated in California.

6. The State Bar should have some pride that its test is considered the toughest in the nation. I know attorneys who pass are proud because of that fact. Lowering the cut score would take away this intangible factor.

Anonymous

To mitigate the burden on repeat takers, give repeat takers the option to forgo the need to re-take the MBE portion of the bar exam if they obtain a certain minimum score, with such exemption lasting one year (i.e., retakers can thus forego taking the next exam if additional time is needed to prepare). The qualifying minimum score can thus be applied on the retaker's next exam in computing 1440, if the retaker so elects. This will allow repeat takers to focus on the practical portion of the bar exam, which is as close to real world as one can get within a testing environment.

But if the repeat taker desires to retake the MBE portion on the belief it will improve passage on their next exam, such retaker is free to do so. This approach is similar to the examination approach for out state licensed lawyers taking this State's bar exam.

Sherry Dupont - General Counsel

I believe that having one of the hardest Bar Exams in the nation insures the continued quality of California attorneys. I am appalled at the tenor of the Survey you sent. As someone who identifies as an American Indian (half), I do not think that having a harder Bar Exam handicaps minority students or reduces the number of attorneys available to serve the poor. Your question insinuated that poor people need access to less than qualified attorneys so we should lower the score. Your questions were offensive. Having access to quality law school education with scholarships and financial aid readily available for those students who work hard and contribute to their classroom community is what is needed to increase bar exam pass rates. All too many financial aid advisors at top schools promote loans to quickly get the tuition paid without adequately explaining the consequences of such loans, trapping students already concerned about basic expenses with debilitating debt for years. Credit counseling should be part of any offer of any loan to any student, similar to what is required for HUD loans for low income families. Stipends to students who have to work while they are trying to study for the bar, as I had to do, should be part of the financial aid package awarded to students in need so they have the time they need to study and aren't exhausted by the time they arrive at the exam. Alumni associations can also help by establishing stipends as part of their scholarship programs.

Lowering the cut score won't solve the problem of too many students failing the Bar Exam, better access to and support for their education process will.

By the way, I find this odd as a practicing attorney for 27 years that this is just now coming up. When I took the Bar Exam the pass rate was even lower. Could it be that unaccredited law schools, preying on young students, plying them with student loan applications to rake in the bucks, and failing to give them the education they deserve and need to meet the challenges of the Bar Exam are the true special interest here? Just a thought.

Harold Thomas - Retired

The purpose of high standards is to license ethical and competent attorneys who can protect their clients and by extension the public interest.

If legal education is failing to prepare candidates the remedy is at the law school and the training programs associated with law schools. I worked very hard to prepare for the Bar exam. It was the hardest test in my life but I remember to this day the basic law I learned in preparing for the exam.

This is a very large and diverse state (almost a nation state) and we should be proud to keep and maintain high standards which protect the quality of the work we have engaged in on behalf of our clients. I was a prosecutor for almost 16 years and before that a public lawyer with the state. I was proud to see that the poor along with the wealthy had competent counsel in the criminal courts. Reducing standards will reduce the quality of representation for those who have life and liberty at issue. s/ Harold M. Thomas

Timothy Martin

Bar pass rates are dropping because the legal acumen of the applicants is slipping, not because the exam is getting harder. The solution is not to make the exam easier to accommodate substandard applicants. The solution is to continue failing the substandard applicants to prevent them from destroying themselves by becoming dangerously incompetent lawyers who ruin their own lives and the lives of their clients. If this makes some law schools go out of business, so be it. We serve the public, not the law school industry.

Anonymous

Since pass rates have been declining, some people apparently think the solution is to make tthe test easier. This is the WRONG solution. It cheapens the profession and endangers the public.

The correct approach is to ask why law school graduates have such difficulty passing the bar exam. Several recent California governors have had to take the bar exam several times. Jerry Brown did not pass the first time he took the bar exam, even though he graduated from the Yale Law School, one of tthe nation's finest.

In my opinion, the problem is that law school does not teach students how to pass the bar exam. Instead, they have to spend two or three thousand dollars on a bar review course. I could never have passed without a good bar review course, and I graduated magna cum laude.

Linda Vogel - Law Office of Linda J. Vogel

I received a very poorly drafted survey from the State Bar that seems to assume that lowering standards will increase (1) diversity and (2) access to legal services, presumably for lower income clients. The first assumption appears to be insulting; the second simply unfounded by any credible evidence. There are better ways to increase access.

As a former California Attorney General, a former appellate judicial attorney, a current court-appointed appellate attorney, and someone with extensive pro bono experience, I am already appalled at the low quality of some of the attorneys I have encountered.

Lowering standards will do no one any favor.

I am semi-retired, doing some court appointed appeals to subsidize my pro bono practice, so have no economic interest in the bar passage rate. I do have a strong interest in public protection.

Anonymous

If at all, the cut score should be increased and not decreased. The integrity of the legal system is already at jeopardy with a barrage of unqualified and abusive attorneys who have no respect for the profession and have decided to become attorneys thinking its a fast way to make easy money. The standards should remain the same or increased. The system is already overwhelmed with attorneys who's personal interests outweigh the integrity of the practice and who do not have any respect for this great profession.

Matthew Selvagn - Self-Employed

We have to ask ourselves "why" we are concerned about a lower pass rate in an of itself. It's just a number. Why is it so bad that only 43% of test takers pass? We have to look at who is passing and who is failing and decide if we like those results. So who is this group os test takers who scored between 1440 and the proposed cut score of 1414? Do we want those people to become lawyers?

Consider that California is the only large state to allow graduates of non-ABA accredited schools take the bar. It is also a state with a higher than average percentage of foreign takers and out of state takers. This means the applicant pool is less qualified than other states, so we need a bar exam that ensures that only qualified people pass.

If you look only at the pass rates for graduates of ABA accredited law schools the statistics seem much more in line with other states. I believe they are higher than 60%.

So maybe one solution is keep the cut score at 1440 but only allow ABA graduates to take the exam. This would dramatically improve pass rates.

Anonymous

I have been practicing law for 23 years and the practice requires, inter alia, an intelligent mind, diligence, and tenacity. As the scope of the California Bar exam covers a dizzying amount of information, students must commit a large amount of time and energy to learning and applying that information. As a result, whether deliberate or not, the exam does measure diligence, tenacity, and the intelligent application of facts to law. Applicants who do not have these attributes should not be practicing law.

Moreover, there are already too many attorneys and not enough jobs in California . The problem begins with too many law students. If the high pass bar rate is an attempt to limit the number of attorneys in California, it should implement such a mechanism prior to admission to law school, rather than allow unqualified students to incur massive loans for a profession they simply do not possess the necessary attributes to succeed.

Anonymous

We all took the exam and passed with that cut score. No reason to lower the standards.

We need to maintain the quality of attorneys high for the public' protection.

I Strongly oppose these options.

Anonymous

Frankly, I cannot understand why we are even discussing this. Why would anyone consider reducing the cut score for an exam we all had to pass. The thought simply validates the fact that we are dummying down America. This damages the integrity of the profession and does nothing but continue to give lawyers a bad name.

Paul Garcia - Law Office of Paul Garcia

1) There are many JDs who did not pass in the pasprevious bar exams. We will get a flood of attorneys which will hurt the profession. Moreover, most of the non-pass rates come from non-accredited law schools. Therefore, lower standards will diminish the quality of legal education. Being a lawyer is public service in and of itself. It is the most stressful job because it contains liability and conflict as part of the job. Having to struggle for legal work against a myriad of other attorneys is justvtoo much.

Anonymous

We already have an oversaturated market in CA, and lowering the pass score does nothing to help incoming lawyers, and certainly doesn't serve the public. The way to increase pass rates are to require applicants to come from ABA-approved schools, require schools to have practical classes (clinics, internships, etc), and strengthen the candidates themselves. Lowering the standards is not the way to help clients or lawyers.

Wedderburn Michelle

Please DO NOT slower the passing score.

Anonymous

Despite falling rate of passing, it feels like there is an "overpopulation" of attorneys in the state. If anything, my area of practice is flooded with lawyers, many of who are barely qualified. Lower the passing score will reduce the quality of attorneys and will increase competition among those of us who try to provide quality representation.

Anonymous

We need to raise the pass rate to 1540, not lower it.

Any proposal that would result in more attorneys in California would be a travesty. We already have enough. The attorney job market is already saturated.
Moreover, California businesses are getting killed by attorneys filing frivolous lawsuits (particularly in Labor/Employment). Cost of doing business in California is already too high. We are losing jobs to other states due to our oversupply of attorneys.

If the Bar is worried about the number of law school grads that are unable to pass the bar, blame it on the law schools for having low standards for admission. Also, the Bar needs to raise the standards for the mini-bar to weed out those students who have no chance of passing the bar exam so they have the opportunity to cut their losses and pursue another profession.

I urge the Bar to not lower the cut score, but consider raising it to 1540.

Anonymous

Unfortunately the legal profession has turned into a business. The lack of professionalism is rampant. Attorneys will do and say anything to generate fees. Part of this is attributed to the fact that there are too many attorneys looking for work. While it is understandable to remember that the practice of law involves the operation of a business, too much emphasis is placed on the word business. Part of this mindset is attributed to law schools which emphasize this fact. Ethics are secondary to money making. Many of today's new attorneys lack the depth of life experience and don't understand what the word work means. In my opinion the quality of the modern attorney had diminished. Law schools which find declining enrollment now admit individuals who would not be considered as students in the past. The low bar passage rates reflect this fact. From the time I took and passed the bar, 40 years ago, the bar regiment has been loosened. Despite this fact bar scores have declined.

In my opinion, lowering bar scores will not remedy the situation. Cranking out even more attorneys is not the solution. Fitting empty law school seats with less than qualified applicants will not solve the problem.

Mark Oknyansky - The Reeves Law Group

I would keep the cut score the same. I believe the problem is the expanding areas of testing. Perhaps it is best to simplify the test, not merely lower the cut score.

Anonymous

We should keep the standards of practice high in California and make it rigorous for only the qualified to pass the Bar Exam. Personally, I have encountered too many attorneys who have passed the bar but are NOT good attorneys.

Kathleen Hunt - Unique Law

I am a former teacher, now an attorney. My experience in education, as well as in the law, forms the basis for my strong opinion that the cut score should not be lowered. If the exam is a useful indicator of whether a candidate is competent, then lowering the cut score is tantamount to deliberately admitting incompetent candidates. If the exam is NOT a useful indicator of whether a candidate is competent, then the cut score is itself irrelevant and the entire exam should be re-vamped.

Diversity in the profession is important. That doesn't mean lowering standards; it means increasing the effort to find, recruit, and SUPPORT a wider range of law students. Similarly, it's been suggested that candidates who don't pass face overwhelming financial consequences. The solution to that is to provide more support (ideally, before the exam) to help more people pass.

If it's a bad exam, improve it. Add more practical skills to the law school graduation requirements, or broaden the cultural foundation of the questions and hypotheticals in the exam, or do whatever else will make the exam a valuable and worthwhile assessment tool. It will not be a better exam with a lower cut score, and students will not become better potential lawyers with a lower cut score.

Charles Meyer

It is imperative that we continue to protect our bar, not only from experienced attorneys who practice in other states, but also from law students who cannot achieve the current score required to pass the bar exam.

We are professionals that tackle incredibly complex issues for business and individuals throughout the state. By allowing lesser level of attorney to practice law in California we only further a dilute a declining profession.

The state bar is here to protect attorneys, not law schools. We need to eliminate numerous law schools in this state, and throughout the country that produce subpar attorneys.

Please do not pander to law schools that only see dollar signs. Please keep the high standard of the state bar. If a student cannot get it together and pass, they do not belong in the practice of law.

Signed Charles T. Meyer
Licensed to practice in Washington 2007, California 2009, Oregon 2012, Nevada 2010.

Anonymous

What is so bad about the declining pass rate? Do you not see that there are WAY too many attorneys in California already and that there are not enough jobs around? Lowering the standard would make the job market worse for everybody. There are already lots of minorities in the legal profession, and I am one of them. The change will discriminate against the current members of the Bar that are struggling. I could not find a legal job in California, so I left. Increasing the supply will not create the demand. Your decisions ought not to be based on some PC nonsense. That is patronizing.

Vitaly Gashpar - RockTape

Assuming the materials on the bar exam didn't get harder, the score should not change. When I took the bar in CA in 2009, the pass rate for first time takers from accredited schools was around 84%, that's comparable with the national averages. What brings the score into the 40s are the test takers from Unaccredited schools and out of state experienced attorneys taking the partial exam. I would say the California State Bar should focus more on standards for unaccredited schools, making sure the students who graduate are better prepared.

Anonymous

There are already too many lawyers in CA. There are too many lawyers in the Bya Area.
Stopp allowing people who went to non-ABA-accredditted law schools to take the CA Bar.

Anonymous

Bar passage rate in July 2016 - 43%.
Bar passage rate in July 1986 - 44%.

Why is this a crisis now?

Matthew Pierce

Lowering the passing score will only create more bad lawyers, of which there are already too many. The bar exam needs to be hard to weed out people who aren't willing to put in the time and effort to pass it. I failed the bar the first time I took it because I didn't put in the effort. I passed the second time because I put in the effort. I have many friends from law school, from many different ethnic backgrounds, who had the same experience I did.

The survey I just completed indicated that the cut score is determined, in part, by a need to create an ethnically diversity among California lawyers, and a desire to provide legal services to impoverished communities. The bar exam doesn't take into account the race of the examinee, or their willingness to serve the poor if they pass. It is insulting to minorities and the poor to consider these factors when determining the cut score. Lowering the cut score does nothing but dilute the quality of lawyers in California, which helps no one.

Anonymous

Rather than lowering the standard to become an attorney, perhaps law schools should consider how they are presenting the material as well as scoring. Are they adjusting the gradebook so that students have a higher score than what truly was earned? Additionally, why lower the standard? If students are not passing, they need to work harder. There is an alarming trend to "dumb down" what is needed in education so that students feel better about themselves and the institutions look good. There is a reason the examination is difficult - students need to aspire to do better.

Anonymous

When I went to law school I noticed nearly every student browsing the web, checking Facebook notifications or email while professors were talking. If the students who can't achieve the score of 1440 shut off these distractions while studying for the bar exam, we may not have this issue. I don't think it's a good precedent to change the rules to accommodate failing students. Real life won't adapt like that, and this exam is meant to serve society.

Anonymous

Whether or not a long-term "solution" is needed seems a difficult question. The Bar Exam never has been a perfect measure of determining if a person is well qualified to practice but - given the need for a broad objective measure - it probably is as good as we can get. But it's hard to believe there is a shortage of lawyers in California.

I do disagree with dropping the score while this is being studied. Dropping and then potentially raising seems very bad practice.

Anonymous

I don't think it is a test scoring problem. In fact, the test should probably be harder to pass than it is.

I have my theory why the pass rate keeps dropping:

1) Top law schools are not teaching black-letter law. If they did, they would probably have 100% pass rates. Those schools are saved by the fact that their brilliant students are able to learn the law on their own during a bar review class, and pass the bar.

2) People have different talents. Some who are not suited to thinking like a lawyer and likely did very poorly on the LSAT should not be lawyers. Nonetheless, they are being admitted into non-selective law schools, allowed to graduate with mediocre work, and in the end are not able to coherently answer basic legal questions on the bar exam. Pass rates from those schools bring the average down and make the pass rate look worse than it really is.

Keep the test tough to protect the public. Nothing wrong with California having a highly competent and respected legal profession. The bar is not that hard, if you are dedicated and know your stuff.

Anonymous

The Bar should not lower the score to accommodate those who cannot pass the exam. Thousands of other students from different backgrounds have been able to pass in the past - the Bar should not lower its standards simply because these students cannot meet them.

J. Craig Williams - WLC | The Williams Law Corporation

A better solution would be to eliminate non-accredited law schools. Your survey is improperly biased because it only considers two options and fails to inform the public that the pass rate for the candidates from accredited schools is much higher and in line with the pass rates in other states, which you're using as a basis for comparison.

Your study, questions and publicity all are formulated to improperly influence the outcome. You need to start over and present the entire scenario by including the factor of the percentage difference in the pass rates between bar exam takers from accredited and non-accredited schools. If that information were disclosed and presented as a third option (eliminate non-accredited schools), the predictable result would be a recommendation to eliminate non-accredited schools.

You've re-framed the issue to get the result you wanted. Shame on you. Fake news. Sad.

Anonymous

I am unaware of any information or study demonstrating that California is exeriencing a shortage of attorneys. If anything, California seems to be a saturated market outside of rural communities since non-ABA accredited and self-study law students are allowed to sit for the exam. If the Bar Exam represents some level of quality control, we should maintain the integrity of our profession by holding the same standards of entry as a minimum effort. Otherwise, we will have a surplus of attorneys in the State, some of which who are potentially less qualified. Meanwhile, the appropriate level demand for these services will continue to be lacking. Ultimately, lawyers need to be able to make a living. Unless and until there are more prospective jobs out there for the candidates who otherwise would not pass, the 1440 cut score should remain in place.

Anonymous

Please keep the current cut score at 1440. I believe that it is imperative to maintain the public's confidence in our current educational and testing requirements. Thank you. I appreciate the opportunity to provide input.

Anonymous

I think the cut off score is fine as it is. I believe lower scores are not a function of problems with the Bar Exam, but is the result of the following economic factors resulting in less qualified applicants:
1. Increase in costs of going to law school
2. More lucrative economic opportunities in tech instead of in being an attorney. Tech draws superior applicants away from law.

Dumbing down the Bar is not the answer and poses increased risks to the public. The quality of the exam is already being diminished by the increased weight of the Multi-state to 50% and the decreased weight of Performance tests (33% to approximately 17%).

Anonymous

As an attorney who recently took and passed the Bar Exam, I disagree that lowering the cut score to 1414 is an appropriate solution to the low bar pass rates. While I realize that the bar pass rates are relatively low, I believe that maintaining the integrity and quality of the profession is vital. While lowering the cut score to 1414 would increase the bar pass rates, it would do a great disservice to the general public by increasing the number of unqualified attorneys practicing law. I would suggest investing time and resources into improving the quality of the education rather than lowering the standards to accommodate individuals who are more than likely unqualified to practice law to the detriment of those who they will ultimately represent.

Anonymous

While it might make sense to lower the score to increase the number of attorneys - I see no need to do so. There are high standards for practicing law - passing the bar is the biggest hurdle - we need to keep high standards. The only real concern is that passing the bar does not ensure that anyone will be a good, ethical attorney.

We have so many attorneys...no need to lower the score.

Anonymous

While sympathetic to falling pass rates, that is not a reason to lower our standards. Rather, that may reflect a deterioration of legal education, the quality of students attending, or both. California does not have a shortage of attorneys; it may have a short of attorneys in particular practice areas, which does impact underserved communities and constituencies. But lowering bar passage rates is not guarantee that doing so will increase legal services to those communities and constituents. Given the number of disciplinary proceedings, bar passage should be higher if anything. California should reduce the amount of time it takes to get bar results - waiting for 4 months is too long and likely negatively impacts new law school graduates and their ability to obtain jobs. But if the bar wants to lower the score, where does that end? If 1414 is too high still, will we consider lowering it further? Why not just abolish the bar exam altogether, as it negatively impacts poor test takers. Ultimately, any bright line will cause some to pass and some to fail. Shifting that line because not enough people are passing fails to address the either why they are failing or how lowering our standards will improve legal services for Californians.

Larry Suciu - Law Offices of Larry W. Suciu, PLC

If the pass rate for the bar exam is going down, the answer is not to lower the passing grade for the exam, it is to do something about the quality of the education of the applicants taking the exam. My understanding is that the existing cut score has been in use for a long time and even though it is high relative to other states it has been the standard that all persons seeking admission to the California bar have had to meet for many years.. Is it appropriate to lower the bar for admission that all existing California lawyers have had to meet to accommodate people who can't meet that same standard? I think not. Leave the cut score where it is and bring the applicant's educational level up to meet it.

Lisa Patrick - Law Office of LISA MITTS PATRICK

I am a 30 year practicing attorney. I passed the bar the first time. I was in the top 12% of my graduating class. I am a solo practice attorney. I have in recent years especially, struggled to find work and pay off my (ever extending) student debts. (These were all listed as factors on the opinion sheet asking for things we should consider in our rating of our reasons for our response to the proposed changes.)

I cannot imagine making it easier for an attorney to pass the bar exam for any of those reasons listed, or any reason. To supplement my income I tutor law students these days. I find that they are often terrible writers (for a profession that is about the spoken and written word) and have virtually no concept of what is or will be required of them when they pass the bar or become that attorney. Their entire dedication to both learning and the importance of learning is weak. I suspect most of them take that with them all the way to the bar exam, even if they do study a little harder right before it.

When they are not doing so well, or otherwise realize that that--being an attorney--is truly what they want to do, it seems like only THEN do they gear up, they work hard, they struggle, they write and they rewrite and they learn and they relearn (with my guidance, or on their own.) THIS is what the law student who wants to be an attorney must and should do....strive for excellence (even if they hardly come close), and take the exam over and over if need be until they truly understand what it is they are writing and the questions they are answering. Only then can they become actually worthy for their jobs in this still prestigious profession. To make it easier just because someone struggles, (which I get) will only dilute the quality of the profession in the long run. We don't make enough money these days--I get that too--to really justify making it as hard as it is to get into the profession, but we can't just literally dumb it down without a fight.

As long as our grading system, especially for the subjective portion--essays and performance exam-- is regarded as fair (and I have no comment on that), then there's no legitimate benefit to lowering the numbers, to simply increase the pass rate. I vote against making that kind of change.

Anonymous

Why is the pass rate declining? More graduates from non ABA schools? Otherwise less qualified candidates? Has the test been more difficult in the years in which there have been declines? If the motive to lower the cut score is to enable less qualified persons to be admitted to the Bar, please do not lower the score. Having less qualified persons would not be a service to the people of California.

From what I recall from past test years, graduates of ABA schools passed the reputably "tough" bar exam in high numbers. Is that the current situation? If so, should the State Bar seek to use its influence to improve the quality of education in the non-ABA schools rather than lower standards for admission to the Bar?

Anonymous

Why should we lower the requirements to become a California lawyer just because people are not passing? That alone is an insufficient justification for lowering standards. If we think masting the Bar exam is unnecessary to practice in our state, than change the exam itself to make it more relevant. Just because some who lack basic legal abilities can't pass the exam doesn't mean the public should suffer their future incompetencies.

Narek Zohrabyan - USPTO

Wait, so not only the exam has been cut down to two days instead of three, but now the proposal is to lower the passing score. Why on earth would this be necessary given the over supply of attorneys in CA? The cut off score should instead be set higher to compensate for the loss of a test day, not the other way around.

Marguerite Malloy - ACERA

Consideration should be given to: (1) designing a test that more accurately reflects what attorneys need to know/apply and do in the practice of law; (2) redesign bar exam prep courses; (3) better align what is taught and required to be mastered in law school to what is covered on the bar exam; and (4) re-analyze the bar exam passage rates to remove (control for) the scores of those who take the test and have never attended law school, and graduates from unaccredited law schools.

The bar exam passing score is not the problem.

Anonymous

I do not believe that the bass pass rate is a reflection of an attorney's competency and ethics

Brett Moore

The focus of solving the bar passage rate problem should be reducing the number of test takers, not lowering the current cut score. The number of unaccredited, or poorly accredited schools which are providing inadequate legal training while burdening students with significant debt is the true source of the problem. These schools prey upon students by offering them an unrealistic expectation of career prospects and a sub-par education. Year after year the bar results show that students from these schools perform poorly on the exam. Eliminating these test takers would immediately improve the bar passage rate.

Chris Carr - Cal Poly, San Luis Obispo

We need to uphold standards and maintain the integrity of the bar and legal profession, not lower them. Simple as that. If you do the work during law school and study hard for the bar, it is not that difficult of an exam to pass.

Nobody every said that going to law school and passing the bar was easy. Please hold the line.

If bar passage rates are going down, then it is the law schools that need to step up and do a better job in their admissions and in their educating and teaching of law students. The answer is not to lower the bar and expectations.

Michael L

They should not lower the cut score. This is outrageous!

Clinton Bailey

I'm against a one time lottery for lawyers. I'm for reducing the cut score to 1425-30 for all bar applicants until the desired level of active attorneys is achieved. My recollection is that a significant number of test failures are within ten to fifteen points. If this is still true then I believe my suggestion is a fairer remedy.

Kyle Smith - Bay Area Bicycle Law

The legal profession is one in which we as attorneys are trusted to represent the interests of others; this is no easy task. We must maintain high standards of entry into this profession to protect the interests of the public.

Given that those form unaccredited law schools may sit for the California Bar Exam (a rarity nationally) it is all the more incumbent upon the California Bar to serve as a gate keeper. Law school applications are down because lawyer salaries are down and the cost of education is up astronomically. This has a created an economic disincentive to enter a saturated labor market. Law schools have a more difficult time preparing students for the bar exam because they have lowered their admission standards. This is morally reprehensible of law schools to prioritize their revenue on the backs of students' debt. The California Bar would be complicit in this morally reprehensible pattern were they to lower bar standards simply because law schools have lowered theirs.

If you cannot dedicate the time required to focus, study, and take the bar exam, then you cannot dedicate the time required to focus, study, and provide adequate representation. If other states want to have lower standards, that is fine, it may make sense to do so when you have a market scarcity of lawyers. That is not the reality in California.

Keep it 1440.
~Kyle R. Smith

Michael Apicella

Why is a low bar passage rate a problem? Who is it a problem for? The public? Those who employ lawyers? Or, is it only a financial problem for law schools and the State Bar?

Regarding the public, it's no secret that there is no shortage of less than competent lawyers. Thus, why lower the standard, making it easier for less qualified people to become licensed? If anything, the passing score threshold should be increased, including making the bar exam questions harder.

I passed the bar exam, and frankly, it was not as hard as all the rumors. Yes, it takes work to learn the test-taking skill, including memorizing much black letter law for the multiple choice section. Still, as many reasonable lawyers have agreed, the bar exam is still highly deficient to properly screen those who do not have the skill and knowledge to be competent lawyers.

Regarding legal employers, as is also ubiquitously known, there is no shortage of lawyer applicants. Just the opposite. Employers are inundated with applicants, many of whom are ill qualified. Part of this problem could be cured from increasing the skills and knowledge necessary to pass the bar exam.

Regarding law schools and the State Bar, what is their true agenda in making the bar exam easier to pass? Perhaps increasing their paying member ranks (students and lawyers)?

If the bar exam becomes easier to pass, then perhaps the thinking goes: more people will attend law school. Hence, more tuition funds coming into law schools.

It seems law schools want to return to the "good ol days." For instance, back to the early 2000's when everyone and their brother was applying for law school. Apparently, ignoring lessons of the past, including massive student debt, many of those who never passed the bar, or even graduated!

Surely, this new policy, if enacted, would be an economic boon for law schools. Yet, what may be good for a law school's bottom line, is not good for the legal profession. I.e., more subpar lawyers.

Same goes for the State Bar. Is part of the agenda to increase dues paying members?

Given the high number of unqualified lawyers in CA, it's hard to argue (at least credibly) that the State Bar should lower the bar for admission (no pun).

We don't need more slipshod lawyers, we need fewer. Apart from the wishes of perhaps some greedy law school personnel, who just want to fatten their bottom line, the people of CA need to regain trust that their legal needs will be adequately served by a lawyer who is qualified. Lowering the bar is not the answer. hopefully the CA State Bar will act reasonably and intelligently on this issue. Given the rampant greed of our culture, especially by those in positions of power, breath not being held.

Anonymous

I think that the prestige of the profession in California is important. I do not think that the bar exam is impossible to pass. It requires the same dedication and endurance that an attorney must practice throughout his/her career. Getting through a potential mental block that the idea of passing the bar creates is something that practicing attorneys do over and over again.

Gregory Orton

Lowering the cut score presumes that the reason the pass rate has been in decline is because the test is too difficult and is thus preventing otherwise qualified persons from practicing law in California. If we drop the cut score are we also lowering the standards for the institutions that educate these test takers? Perhaps there is just more to know these days then there was 30 years ago. I own a 1965 Mustang and I can make just about every repair the car periodically requires. I have no idea how my new car works, none! Do we change the state certification test score for auto mechanics because too many fail, even though they fail because the knowledge required to service today's cars is 10 times what it was in 1965? Or, is it true what my M.D. told me the other day that how he and his partner were taught 30 years ago to treat most illnesses is still true day?

Make it easier to pass the bar and you make it easier to practice law in California. I'm not sure how this is a good thing. If you can't pass the bar in California move to Missouri. I believe that at least in part, California has the most qualified attorneys because it has the lowest bar pass rate, D.C. excepted.

Would you be in favor of lowering the standards for board certification of your M.D.? Or, do you want the best?

Anonymous

I disagree with lowering the cut score without doing additional research into WHY the California bar passage rate is so low. In order to support lowering the cut score, I need to be sure that we are solving a problem rather than treating a symptom.

I suspect, and I believe that research would confirm, that there is a strong correlation between the historically low passage rate in recent years and a number of unaccredited and low-ranking accredited law schools that have been admitting increasingly large numbers of unqualified applicants over the past decade in order to maximize their profits. If regulators were able to shut down unaccredited institutions, or if the state bar took action to revoke school accreditation for under-performing law schools, I doubt the passage rate would be anywhere near as abysmal.

The cut rate is not the problem at hand. Please take steps to address the root of the problem: the testing pool and the schools that unethically profit from graduating scores of unqualified students.

Anonymous

I am a professional mediator and arbitrator. I encounter hundreds of lawyers in my practice. The level of skill and professionalism among a remarkably high percentage of younger lawyers is abysmal. I encounter lawyers who have difficulty reading, writing and speaking English. I encounter lawyers who have no ability to understand basic legal principles and who have no judgment about the risks to which their clients are exposed. Perhaps those who do not speak English as a first language provide a valuable service in the sense that they serve certain ethnic communities who might otherwise not have legal representation, but regardless of this fact, their overall communication skills are sub-par. The work product of many of these lawyers reflects little thought and effort. I often wonder how these individuals were accepted to law school, how they graduated and how they were able to pass the Bar Exam. Perhaps the cut score should be raised but under no circumstances should it be lowered.

Anonymous

I agree that legal services should expand to underserved communities and that diversity in the law is vital. I do not believe that the bar is focusing on the correct problem. Nettie candidates successfully passed the bar and cannot get employment. They are also stuck with debts that they cannot repay. The focus should be on improving law school curriculums to achieve a higher pass rate and ensuring that students are actually getting an education which will get them employment.

Anonymous

State of California has an over-saturated legal market. The 3-day bar exam was one way of limiting the number of individuals who were qualified enough to actually become practicing attorneys. The difficulty of California's bar exam, in conjunction with the 3-day examination process, were some of the main reasons California did not offer reciprocal bar admission to attorneys from outside of the state.

The fact that the exam has been cut down to 2 days is already a huge concession. As a licensed CA attorney I can attest to the difficulty of making it to, and through the third day of the exam. The proposal to lower the passing score, is one more way to further open the door to less than qualified attorneys to take an oath to uphold laws they have a difficult time grasping.

The integrity of the practice of law should not be compromised just so more people, who are likely not qualified, can call themselves attorneys. It is concerning that the state is now pushing for individuals who have a hard time with the black letter law to become attorneys. Admission of less than qualified attorneys will lower the standards in our profession while adding to an already over-saturated market.

Joseph Stark - Joseph L. Stark & Associates

California is second only to New York having over 167,000 practicing attorneys. Every one of those 167,000 attorneys was somehow able to achieve a passing score on the California Bar Exam (though for the life of me, I wonder how some did so). When passage rates start declining, it is not time to lower the bar but time to look at the system educating those students and other factors to ascertain why they are so poorly prepared. Might it be that a generation of entitled young people think it is beneath them to study for 18 hours a day for weeks before the bar exam? Might it be the advent of video games and Game of Thrones? Might it be that admission standards are too low in our law schools because they are admitting functional illiterates, or that we are too preoccupied with politically correct and patently useless courses?

Any number of factors could easily account for some or all of the declining pass rates. However, that does not justify debasing the entire profession by giving everyone a participation trophy. Some people pass. Others don't. Some people will make good lawyers -- some won't. While I don't necessarily consider the California Bar Examination to be the optimal predictor of quality or success in the profession, it has long stood as, at minimum, a metric that affirms a minimum necessary knowledge and skill to practice law. Cheapening that achievement for everyone who has gone before by lowering the standards, solely to make more people feel better about themselves doesn't make a lot of sense.

Eric Edwards - Olympia Law, P.C.

The California Bar is a notoriously difficult endeavor and rightfully so. The profession should be mindful of unqualified attorneys joining the ranks. The declining pass rate likely reflects the amount of unqualified persons graduating from for-profit law schools. The primary purpose of these institutions is to generate profit and not qualified bar applicants. The declining passage rate likely reflects this very fact.

Lowering the cut score would encourage these institutions and lead to less qualified attorneys. This ultimately undermines and dilutes the profession as a whole. Additionally, lowering the cut score is an insult to those attorneys who studied hours on end to achieve a passing result. Please do not discredit their hard work and dedication.

The California Bar Exam should remain among the most difficult in the nation. Only those worthy of representing the interests of their fellow citizens should be afforded that right and responsibility.

Anonymous

The low pass rate of unaccredited schools that charge high tuition has always been a concern.

The practice of law is difficult, so lowing the score to provide entry does not assure success.

And lowering the score does not create more law jobs.

I would prefer if more of these bright people would pursue engineering, medical services or software fields where there is more demand.

James Clark - Moore, Schulman & Moore, APC

Maintaining the integrity of the legal profession and protecting consumers from unqualified attorneys are the two most important points to be made. On the attorney survey, it was not well constructed in that it did not allow the responding attorney to explain certain responses. For example, it spoke to the diversity of attorneys of different backgrounds. Is that a laudable goal? Yes. Should the standards be lowered to meet that goal? No. Same thing in terms of increasing access to legal services for under-served populations. Where California ranks in terms of its cut score is irrelevant. We are California and we have our own standards. I would prefer if California had the highest cut score rather than the second highest. The burden of debt is real. But, going in, there was never any guarantee that any of us would pass the bar exam. We decided it was worth the risk and went forward. Prospective law school students should more carefully assess the risk before they go to law school. That is not insensitive to say but, rather, reflective of reality. Not everyone succeeds at what he or she attempts. The law is no different.

Rodney Benson

We should never lower are standards of excellence. Those who are willing to sacrifice to reach our standards will be rewarded for what they have earned and California will be a better place for not giving in to special interests when it comes to the quality of those representing our citizens in the third branch of our great society.

Mark Baer - Mark B. Baer, Inc., A Professional Law Corporation

Does a difficult passage rate maintain the integrity of the profession? If it did, the public's perception of attorneys wouldn't be as poor as it is, in my opinion.

Does a difficult passage rate protect the interest of the public from potentially unqualified attorneys? I guess that depends upon what you consider unqualified. The field certainly has a huge issue with mental health and substance abuse problems, which has nothing to do with where the lawyers and judges went to law school or whether or not they had the lowest passing score on the Bar exam. Does unqualified have anything to do with the public's perception?

Does a difficult passage rate reduce diversity of attorneys from different backgrounds? It sure does, which is a very serious problem, in my opinion. However, at the same time, we really don't need a glut of new attorneys when jobs in the field are shrinking. There's a reason why more academically qualified applicants aren't applying to law school.

Does a difficult passage rate decrease access to legal services for underserved populations? Not so sure because lawyers have too much student loan debt to repay and there's a great deal of overhead. Furthermore, the government is reducing debt forgiveness programs and funding for organizations that provide such access to justice.

The fact that the cut score in California is the second highest in the nation - California still has the 8th highest per capita number of attorneys in the entire country. (https://lawschooltuitionbubble.wordpress.com/original-research-updated/lawyers-per-capita-by-state/)

Declining bar exam pass rates in California - because more academically qualified applicants know better based upon the state of the economy and how the profession has changed.

The burden of student loan debt for law-school graduates unable to find gainful employment after failing the bar exam - There's no guarantee that you will leave law school and pass the Bar exam. If you can't pass it in California, you can either take the Bar in another state or find alternate employment. None of us were guaranteed that we'd pass the Bar exam when we took it.

Alejandra Klein

Good morning,
I am an Argentinian national, having received my US Citizenship in 2009. I took the bar a total of 3 times consecutively in July 2002, February 2003 and July 2003. I arrived in US in July 2000 to complete an LLM at University of San Diego. English is my second language. The master and the bar were the first environments where I had to "compete" with other american students in English. I am of medium intelligence.

I did not take all the Barbri courses because the cost was prohibitive. I clerked for a couple of firms before taking the bar.

It is unfair and ridiculous that you are even considering lowering the passing score. If I could pass the bar in another language, having barely taken any of the prep courses, anybody else can.
I am very sorry law schools do not prepare students to have high competencies in lawyering skills. It is crazy you are giving in to the lower standards of current generations. Law schools and passing grades DO NOT prepare you to be a good attorney. Diligence, observation, communication skills and common sense do. You are basically enforcing the No Child Left Behind to an Institution that throughout the years has been the standard of excellence.

I am proud to be a member of the California Bar. It has been one of my lifetime achievements to pass the bar. For us, existing bar members, the higher level of the California Bar gives us a seal of excellence that you would be stripping away by your lowering passing grade.

It is really unfortunate.

Please do not hesitate in contacting me.

Very best,

Alejandra Klein

Anonymous

The bar exam is anxiety-inducing and, in a lot of ways, unlike the actual practice of law. However, I think maintaining high standards is important in California. All attorneys need to have a general understanding of all areas of law. Law schools need to mandate the bar-tested courses. There are too many law schools and too many for-profit, non-accredited schools. The bar is not the problem, the law schools and the entire system is the problem. $60,000/year to become a lawyer is a problem. Attorneys need to study hard and keep working to improve. If I could make any change - I would offer the test MORE OFTEN. The waiting and inability to become an attorney for another 6 months is the biggest problem.

Mark Mitchell

I have been practicing since 2006. I, unfortunately, passed the Bar Exam on my 5th try, and had to take the 3-Day exam. I believe that being forced to continue my study to better understand the law, and how to apply the law, has made me a better attorney. The bar exam has already been reduced from three days to two, and I do not believe that the cut score also be lowered.

I understand that the Bar wants "diversity" in the practice, and has even admitted an undocumented person to the Bar. However, as we practice law in English and have members from other cultures, it is imperative that an applicant be required to have the requisite understanding of the English language, and understand the culture behind our legal system.

Schools, including colleges and law schools, have been lowering standards for years, and it is this lowering of standards which has resulted in lower pass rates. Don't continue this downward spiral in the interest of improving pass rates. We all will do better of the cut score is maintained at a higher rate and make applicants expend whatever energy and effort needed to "make the cut."

DO NOT CHANGE STANDARDS TO INCREASE THE PASS RATE, INCREASE THE NUMBER OF QUALITY ATTORNEYS....

Kenderton Lynch - Krafchak & Lynch

I appreciate the opportunity to comment on this issue.

I read both attachments with interest. It is clear that the Bar Passage Rate is and has been declining over the last several years and I think it is appropriate to consider the reasons for the decline. I also agree that testing should eliminate Type I errors and consider the problematic issue of Type II errors. However, I am not convinced that an accurate testing metric can be developed for Type II errors. The fundamental and practical truth is that some who experience Type II errors do not test well.

I am bothered by a criteria that potentially allows those who are minimally competent to practice law. The focus of our profession should not be on those who are "minimally" competent. The lowest threshold should be those who are in fact competent. The public is entitled to and deserves to be represented by competent attorneys. Consider the Health Care example, would you prefer a surgeon who is minimally competent over a surgeon who is in fact competent. ? I think the answer to the question is obvious.

So how do you address low passage rates ? I am not sure either attachment factored in preparedness to take the examination. Perhaps what we are seeing in low passage rates is the failure to engage in proper preparation for the examination. Frankly, proper preparation commences with the beginning of the law school education. Proper preparation is developed by proper study techniques over the course of one's law school education. The question is whether law students are really dedicating themselves to be competent attorneys. I believe the low passage rates suggest they are not.

Alison Bermant - Alison Bermant, Attorney at Law

I think the declining Bar Exam passage rates are due to generalized laziness and sense of entitlement of the younger generation of individuals now taking the Bar Exam. I had to work harder to pass the Bar than I had to work for anything else I have ever worked for in my life. I consistently studied and applied myself while I watched several individuals in my class not working as hard as I was and the result was they did not pass the Bar Exam. My friends I studied with who were focused and driven and gave up their personal lives in order to be prepared all passed on the first try like I did. To make it easier for individuals who don't want to put in the effort to study and be focused to become members of this profession will have negative resounding effects on the law and the people who rely on lawyers. The Board of Medical Examiners isn't considering making becoming a surgeon easier so their can be lazier doctors so why should the Committee on Bar Examiners make it easier to become a lawyer. Maybe the individuals attempting to become licensed lawyers in the state of California should work harder to earn their passage of this test the same way everyone else before them has done.

Carl Paganelli - State of California, Dept. of Industrial Relations

Lowering the cut score will do nothing to improve the quality of lawyers in California or their fitness to practice .

The real problem is bar takers who have not properly prepared for the exam. Why aren't they taking bar prep classes? Ignorance, finances, hubris?

Lowering the score will only disadvantage the clients of the lawyers who would (and should) not have passed the bar exam. These incapable attorneys won't be able to zealously or effectively represent their clients, especially when they're pitted against lawyers who passed the bar exam under the existing, higher standards.

There are a host of problems with legal education in California, but lowering the cut score will not fix any of them.

Anonymous

Please do not degrade the profession any further. We need a more intelligent population, and should not cater to those who choose not to study hard. The exam SHOULD be hard, as it has always been.

Anonymous

The proposal to lower the cut score to 1414 is quite literally a proposal to lower the bar, and should not be entertained. There are enough attorneys in California, as is. The unemployment rate for new attorneys entering the job force is high, forcing many to resort to low-paying and, at times, unrelated jobs just to pay their exorbitant student loans. Allowing additional, less qualified, attorneys to enter the workforce will only exacerbate this problem.

Scott Tepper - Garfield & Tepper

Unqualified lawyers do a disservice to their clients, the Bar and the courts. It is a mistake to reduce the cut score as that will allow unqualified laywers to practice law in California. The unaccredited law schools should all be forced out of business.

Anonymous

If you lower the cut score, you might as well make the exam easier so whoever is the taker is the passer.

To maintain the quality of the professional, the best way is to improve the quality of the law schools, not lower the score. It is understandable that CA Bar would like to get more bar due to pay the executives and managements exorbitant salaries, admitting more less-qualified persons to the professional is never a good idea. Similarly, admitting undocumented persons to practice law in California is a discouragement to those law-abiding members.

Anonymous

By lowering the cut score, schools that are providing a subpar education or admitting unqualified applicants, will be able to continue these practices. Moreover, California is not lacking in qualified attorneys. Lowering the cut score would likely result in an already inundated profession being further flooded with members who would not represent our profession well.

Ognian Gavrilov - Gavrilov & Brooks

The admission standards need to be raised not lowered. I fail to see the wisdom of exposing the general public to more substandard attorneys than we already have.

Anonymous

While it is concerning that bar pass rates are in decline, it should not be the State Bar's burden to lower its standards to increase passage rates. The decline in bar passage may be an indication that legal education and bar prep programs are in decline.

Richard Sigler

Please don't lower standards for admission to the bar. Although academic and other standards are declining wholesale in this country, at least a few professions must maintain their standards for the benefit of the public. Don't worry, eventually it'll be dragged down by the slackers as they become the teachers of the next generation of slackers. This is already seen in high schools and colleges. The most recent generation of slackers are now teachers and they're allowing their lower standards to become the new normal.

Stephen Spiegel - einstein and spiegel

I have been a practicing attorney since being admitted in 1977. I have been in private practice (myself and a partner) and have maintained a one address street practice for that entire period of time. I have practiced in the areas of civil litigation, family law, probate and trust administration, and litigation and drafting estate plans. I have sat as Judge pro tem in family law, civil and small claims, volunteered as a PVP counsel in probate and an Arbitrator for the L A county Bar Attorney-Client fee disputes. I know , from friends and family , that the bar exams since 1977 have become increasingly more comprehensive and difficult. At the same time I am aware that the legal system and counseling of clients have also become increasingly more complicated requiring/demanding more from us as attorneys. I strongly believe that California , while having one of the most complex legal systems to navigate, also needs attorneys that can handle complex and challenging cases, ergo the need for a bar exam that is exacting in its purpose, that being, the admittance of highly qualified individuals.The practice of law is less demanding than becoming a licensed therapist (1,000's of hour of internship) or a doctor (requiring residency) . Passing the bar allows the new attorney to put up a shingle and charge significant money to "practice". All of us attorneys have been there and know how valid are the arguments that law school is expensive and most are desirous of becoming good and effective attorneys and counselors and that the requirements should be lessened. The bar exam is the only obstacle awaiting the taker before he is let loose on society. To arbitrarily lower the requirements is not the best method of obtaining good attorneys. For the law schools to give focus in the later years to towards the demands of the bar would serve society in a more positive way.

Anonymous

I have been in practice for over 20 years and I can say that locally (Orange County), the current quality of new attorneys is well below even sub-par. In Orange County, I see virtually all of the government attorney jobs going to new attorneys from Whittier Law School and Chapman (to a smaller degree), with Western State University placed about third in government new attorney jobs. How these new attorneys pass the Bar and then get hired anywhere is a question that must be answered. Their work is always D or F quality, they lack any ethical standards, and they lack real world experience prior to law school.

If you lower the cut score, what I am seeing will only be made worse. Arguments that 1) the low Bar pass rate will leave the poor underserved is false. I have seen the damage caused to the poor by underqualified attorneys -- it is a crime. 2) Students will not be able to pay off their student loans. This should NEVER be considered a factor in determining who will become an attorney. I cannot believe someone actually proposed this as a factor to consider. 3) Law schools will close, demand for attorneys will increase and will not be filled, etc. Again, false arguments.

Passing the Bar already indicates that someone is "minimally" qualified as an attorney. If someone cannot pass 1440, allowing them to become an attorney will cause harm to the public being served. Did anyone ever conduct a study to determine WHY the Bar pass rate is 40ish percent? I suspect it is because garbage law schools are letting completely unqualified persons enter school. This has been the case for years. That first year really generates a ton of money for the school. Unfortunately, the schools have lowered their test standards (we need some standards for testing) and the students continue in the school. I know of a person who went to one of these law schools and was a solid A-B student. The person has over $200,000 in student loans and the person has taken the Bar 4 times to date. The person does not understand the law and cannot apply law to facts. Obviously, the A's and B's have lost all relation to passing the Bar. That further supports my position that the schools are creating the low pass rates.

How about lowering the standards for Doctors? We have standards for a reason.

Again, set standards for law school exams, review the LSAT to make sure it is accurately measuring the skills necessary to not only pass law school and the Bar, but also how the person will interact with society and actually be a benefit to society and the Bar, perhaps add something to the LSAT in the form of a video. The video would go over LSAT pass rates, different types of law schools and really hit the financial costs and loans involved. Explain how many other occupations will provide greater return on investment, especially if the person is considering the

lower end school or lacks real world experience in any given field.

George Straggas - Straggas Law Group APC

The people graduating from the nations colleges are among the brightest ever. I am personally very proud of the quality of the staff we have been able to employ in our firm, and of our newly admitted associate. Lowering the cut score will not cure the problem. Given the high quality of the young people sitting for the test, the fault must lie with our law schools. We need to find out why these candidates are not able to test to their obviously high skill level.

The public deserves to have highly qualified professionals serving in the legal profession. Our young people are fully capable intellectually of passing at the 1440 cut score. Moreover, given the huge debt that these students are incurring, they deserve a legal education from our accredited law schools that prepares them fully for the Bar Exam. We need to study our law schools and the manner in which they are presenting the material. They are not doing clearly not providing an adequate legal education.

Olga Karasik - KARASIK LAW GROUP

In addition to keeping the current score I think it is important to implement requirement of practical training before admission to the Bar. It could be internship with the private practice attorneys, courts, district attorney of prosecutor office or public defender's office.

I have been practicing law for over 25 years and I find newly-minted attorneys not prepared to practice law after they pass the Bar. When new attorneys are not able to find employment in the law firms, they open their own practice completely unprepared and mostly hurt the public.

On another hand, I have been employing in my law firm college and law school student on a part-time basis as assistants for many years. After spending few years working in a law firm I found my students much more prepared to practice.

Many of my former assistants who became lawyers told me that they learned more working in our office than they did in their classrooms. And consequentially, they had no problems passing California Bar.

Anonymous

Focusing on the bar passage rate begs the question of whether we need more people passing in the first place.

As a member of the public, it does not appear to me that California actually *needs* more attorneys. A quick glance at the yellow pages should answer that question conclusively.

As an attorney who has at various points in my 25-year career has looked to hire new attorneys, I have never been faced with an absence of applicants. Sometimes an absence of qualified applicants, but never an actual shortage of people.

Increasing the number of new attorneys does nothing if those attorneys are not able to find meaningful employment.

The bar would be far better served to examine the current cost of a legal education vs. potential rewards. That ratio has declined significantly over the past 20 years. The decline in the bar passage rate may simply be a function of greater numbers of qualified undergraduates choosing different career paths than in the past and not going to law school/taking the bar in the first place.

Sd W

Only allow law students/attorneys from ABA approved law schools to take the bar exam...like the rest of the country.

Albert Golbert - Golbert & Associates

I spent the summer of 1957 studying for and taking the State Bar of California's Examination for admittance to Bar. I learned from the BAR/BRI study program, that many of my contemporaries had studied at non-accredited law schools and that such schools provided something less than
a stellar educational experience. I later learned that the pass rate of that year's bar exam was 37-38%, and that a good many complaints were received by the Examiners concerning the difficulty of the exam itself, or of the grading of the exam, or both. I thought the exam to be difficult, but fair, and that from some of the postmortems at the breaks (noon and late afternoon), a good many of my contemporaries had misread the problem
being addressed and its nature and substantive area of the law being tested.

When I was admitted, the bar numbers were in the upper 20,000s. Today they are much more than 10 times that number. The difficulty of the Bar Exam has not caused the number of admittees to diminish.

There is another phenomenon at work here. Sixty years ago, the best and the brightest--especially those who were put off by the sight of blood-sought opportunities in the law and made it their career. Today, intellectual challenges and attractions siphon off many of the best and brightest to
opportunities in business and finance, computer science and artificial intelligence, and other opportunities in science, engineering and space, from astro-physics to NASA and space research and investigation. The field of law no longer has the same attraction for the youth of today that it had for their forbears. These facts pose an interesting question for the Bar Examiners and, ultimately, the Supreme Court of California.

Is the purpose of the Bar Exam to maintain the quality of its practitioners? Or, is it to maintain the quantity of its practitioners?

If the former, the quality should be maintained and holding new admittees to the higher standard is not unreasonable. The current pass rate is not extraordinarily low by historic standards even if it has dipped a bit over recent years.

If it is the quantity of lawyers available to the public believing some, at least, will serve the under served or work for pro-bono organizations serving this sector of the populace, that is another matter, but admitting as attorneys those who are, arguably, minimally fit for the role does not guarantee that they will serve the under served or the needy, or to the extent they do, how well served will such clients be?

Service to the community has been the "lite motif" of a great many of my peers in the profession, and most do take the time and make the effort to serve and assist in causes they find worthy, and do so without compensation or anticipation of reward. This, I submit, better serves the public than by lowering the standards for admission to our profession as, in the end, it may well result in the lowering the standards of the profession itself.

Respectfully submitted this 10th day of August, 2017.

Anonymous

We need to keep the quality of legal service in California high; preferably the highest in the nation.

Mandy Fates - Solo

It is far more important that the quality of attorneys be high than that the legal market be flooded with less competent lawyers. California already is an enormous number of attorneys, let's only allow highly qualified, ethical candidates pass the bar.

Maureen Sundstrom - Self employed

While increasing diversity among attorneys available to the public, and providing legal representation to underrepresented groups are of utmost importance, lowering the quality of attorneys suggests that less intelligent people would be likely likely to belong to a group that we are seeking to gain diversity in, and that less intelligent people are more likely to represent groups that are currently underrepresented. Both suggestions are obserd and insulting.

Anita Van Tilburg

I passed the California bar exam on my first try in February 2011. I did not take a general bar review course, nor did I take any more "bar courses" during law school than absolutely required. I did take a very helpful outside class on the performance part of the exam. Other than that, I used materials found on the web or purchased from eBay or Amazon, which cost under $200 total.

The problem is not whether the Cal bar exam is too difficult -- because it's not The problem is the people who are taking it. They don't know how to research, study, and learn outside of a classroom and/or are not sufficiently organized or disciplined to follow through without a professor standing over them. These are all things that make for a successful attorney.

Kathryn Derossitt - Self

There are too many lawyers in CA. Dumbing down the requirement so fly by night law schools can continue to make money off student loans is unconscionable. The cut off score had worked fine a long time. Students don't need to be babied and coddled. They need to wisely self select the appropriate career. Just because some third rats law school exists to admit low intelligence individuals does not mean the CA Bar should lower the standards of competence.

Ayana Washco - Contract Attorney

This change would take away the integrity associated with having a CA Bar. The test is difficult to pass as it should be, lowering the cut score would allow attorney's who should not be practicing in our state which is already over-saturated with attorneys.

Annette Kulik - Law Offices Allan P. Loewe

I was admitted to the California Bar in 1980. I have been and continue to be an active litigation attorney. I also continue to be extremely disappointed with the caliber of attorneys in California. The work ethic, morality, professionalism, civility, and loyalty to clients is slowly disappearing.

The legal profession was once a very honorable profession. Now I hesitate telling people what I do until they get to know me because of their consistent negative experiences with attorneys.

We have a glut of attorneys in California. In fact, the attorneys per capita has placed a great economic burden on our profession with cut-throat competition. I sincerely do not believe we need to encourage more attorneys. To the contrary, we need to encourage BETTER attorneys.

I have found a wonderful diversity of attorneys in our profession. I don't believe that we need to lower the standards to maintain this diversity. The encouragement and support for diversity should properly take place at the High School, College, and Law School levels; preparing the student for the legal profession and the Bar.

The increase in suspensions and disciplinary actions against our attorneys further reflects that we need to be more strict with qualifications and ethics demands.

Thank you for considering my comments.

Annette R. Kulik, California Bar #94461 [an oldie but a goodie - hahaha]

Annie Freitas

I believe crushing student debt is important for those who fail the bar exam and cannot obtain gainful employment after law school. However, I think it is equally, if not more important for those who DID take and pass the bar exam to not have to compete for gainful employment in an already crowded market. Additionally, I have worked with many lawyers and there are plenty in the state who are underqualified and dealing with very serious issues involving high stakes such as loss of liberty. Further, people have the option to take the exam over and over again until they pass. Wasn't lowering the exam period to 2 days enough of an offset?

Anonymous

If anything, the score should be raised. As a practicing lawyer, I frequently see issues of competency with counsel I deal with, even at the current cut rates.

Anonymous

CA does not need more lawyers. CA needs better lawyers. Lowering the bar admission score is no way to achieve that goal.

Anonymous

Do not cut the score. A cut will harm the public with incompetent attorneys who can't pass a test.

Anonymous

California must maintain its current score and make it extremely difficult to pass the bar for many reasons: 1. California needs to make sure that it has only the most highly qualified individuals practicing law in the state; 2. Having too many attorneys passing the bar creates for a surplus in the market of attorneys (many of which will remain unemployed in California).

By making the Bar easier to pass here, it will create an influx of attorneys coming into the state to practice (from out of state), it would allow for less qualified applicants to practice law in the State, and will cause a surplus of attorneys without jobs. The bar exam here needs to be the toughest in the country and in my opinion, needs to be even tougher. By creating a difficult bar exam, it will allow attorneys who do not pass here to practice in other states by passing an easier bar exam and will allow only the highest qualified exam takers to obtain their license in this great state of California.

Not only do i believe the current cut score of 1440 should be kept, i believe that the cut score should increase to a higher number (1450+). This profession is a very serious profession with a lot of responsibilities and the state needs only the most qualified to be admitted to the Bar.

Joseph Ford

Why are we making it easier to get licensed to practice law? If someone is not able to pass the bar exam at the current score, then why do we want them to be licensed to practice law in California? We should strive for the highest standards in our attorneys.

Anonymous

The problem isn't the bar exam, it is the training, education, and quality of students taking the test. Not everyone is cut out to be an attorney in California.

The California bar exam is known as the hardest bar exam in the country, and it is an achievement to pass it. To lower the cut score, and in essence, make it easier to pass, is a slap in the face to those of us who persevered, prevailed, and passed at the higher cut score.

If people are not passing the same test that has been in effect all these years, why should we make it easier just because of that? Why license less qualified individuals? I was fortunate enough to pass on the first attempt, but for those who paid to take bar prep courses multiple times, and paid to take the bar exam multiple times before passing at the current cut score, lowering the cut score diminishes their efforts and expenses.

Michael Kennedy - Kasdan LippSmith Weber Turner

Admission standards for our profession should be high. The fact that California has the highest cut score in the country is irrelevant; we also have the most attorneys. Our pofession, and ultimatley the public in using lawyers' services, is not better served by "dumbing down" admission requirements. Yes, student loan debt is a crisis (both statewide and in my family budget), but the law student who borrows for law school and then cannot pass the Bar exam has assumed the risk of that outcome. Lowering the cut score may well be protect that student from such an outcome, to the detriment of that public. IN a law school education a student learnds about how the law balances conflicting interests; those lessons are reinforced every day in the practice of law. Shall we protect the law student who has debt but cannot meet the qualifications by lowering standards, or should be protect the public by keeping standards high? The latter. The law student volunteered for her or his situation, and assumed the risk that they would not be able to pass the bar exam. The public made no such assumption of the risk. Substandard lawyering not only hurts the unsuspecting client, it gums up the courts and increases the costs of litigation; I'm sure we all have "war stories" of meandering marathion depositions, nonsensical discovery we had to respond to, etc etc etc. Let's keep our high standards.

Anonymous

I believe the bar exam cut off score should remain the same to 1440. The fact that the bar exam passage rate in California has decline each year has nothing to do with the exam itself. I believe California should look into law school admission practice. A lot of ABA school and CBA school admit several students to attend law school knowing that these students will have a difficult time to pass the bar. I also believe the individual who are taking the bar exam and not passing are not applying themselves to be able to pass the bar exam. The cut off score has nothing to do with the declining passage rate in California.

Anonymous

You shouldn't coddle persons who are not able to pass the bar, especially with the large amount of lawyers already within the profession in the State of California. The cut score was provided to exactly do its job, which is to cut persons who are not able to pass the qualifying test. These persons are not ready for the profession and will shuttle in more inept attorneys who do not have the requisite aptitude to succeed in the profession. The only good reason to modify the current score is if there were a scarcity of attorneys. There is not. Instead there are a lot of attorneys who compete and lower their income standards just to gain employment as a legal professional. That is a major problem that needs to be solved.

Martin Alperen - Law Office of Martin J. Alperen

I know this is not necessarily a good legal argument, but I worked so hard to pass this exam I am uncomfortable making it easier to pass. It is such an accomplishment - why diminish it.

Luke Reynolds

The current score has a proven track record of protecting the public and profession. It is a distinction and honor to be a member of the CA bar in large part because of the current cut score. Lowering it will only serve to sacrifice the quality of the reputation of the CA license. A better response to concerns about the low pass rate would be to focus attention on the quality of certain law schools in preparing students for the exam/profession.

Armen Gregorian - Gregorian Law

Do not lower the standards just to increase passage rates. Instead, work with law schools to better prepare students for the bar exam, and the practice of law. There should be a better balance in law schools between theory and practical applications.

Arnold Arthur Rugama - Law Office of A. Arthur Rugama

The sole purpose for the existence of the state bar is to ensure that only qualified and ethical attorneys are admitted to the practice of law. For historical reasons, the state bar has very little, or nothing to do, with the study of law and the preparation of bar exam candidates; the ABA appointed itself to be the sole arbiter and regulator of schools of law. However, law schools have lowered their admission standards in the last decade and have admitted too many students who would have not otherwise been admitted in times past. Some of these law students cannot even spell. Their writing skills are below high school level for many of them, especially those attending low tier law schools. Therefore, the decline in bar pass rates is NOT the fault of the CA bar exam. If it were the fault of the CA bar examiners, then, Stanford, Harvard, Yale and other schools of similar caliber would have seen their pass rate suffer as well. Instead, the bar pass rate for most (except for Hastings and a couple of others) top schools has remained relatively the same.

The CA State Bar is not a difficult exam when compared with the tests from other states. CA only tests a limited number of subjects (about 12 subjects) in comparison to Fl or NY or many other states. CA does not tests in family law, bankruptcy, and other subjects. Now that the exam has been shortened to only two days, the bar examiners do not have the luxury to test on more subjects.

The issue is not that the current score of 1440 is a high cut. The CA bar examiners are the best qualified and most professional graders of any of the 50 states. The bar questions go through an intensive scrutiny process to avoid vagueness and ambiguity. The examiners meet numerous times to calibrate their grading standards. Some exams are graded twice (the second time by different graders) to ensure that no one is unfairly failed. There is NOTHING wrong with the CA bar exam nor with its graders. I graded bar exams for almost 10 years and I know the high standards the CA bar examiners have.

The problem lies squarely with the law schools who have put profit and protection of its faculty over the interest of its own students and the public. These law schools have put their own self interest over the interest of the general public. The ABA is the enabler of these law schools in admitting students that are simply not qualified to be in law school let alone pass an easy test like the CA bar exam albeit with a high cut score. And yet the deans of these law schools have the audacity to complain and ask the CA State Bar to aid and abet them in lowering the score so that the CA Bar can ratify their decision to admit unqualified candidates to their schools. This should NOT happen.

Diversity should not even be part of the equation for the CA State Bar. I myself am a Hispanic attorney, born in the USA but raised in Latin America where I graduated from high school. When I returned to the USA I had to take English as a second language and to this day I have a slight accent.

The answer should be a brutal and honest discussion between the ABA, the law schools who are crying wolf and the CA State Bar where the state bar can tell the ABA and the law schools that they need to shape up or go out of business. Perhaps there are too many law schools given the current demand. I remember about 40 years ago many top schools of dentistry closed (Temple University for example closed its school of dentistry) because of lack of student demand.

The CA State Bar should not be complicit in the dilution of the standards that the ABA and its cohorts have created. The buck stops with the CA State Bar. Resist any change to cut the score! The CA bar exam is not a difficult exam.

Anonymous

Nobody has a right to practice law, it is a privilege to be earned through a combination of innate intelligence, education, discipline and dedication. As noted by many commenters, there is no shortage of attorneys in California but I would add to that; there is an abundance of unqualified, undisciplined and unscrupulous attorneys who never should have been admitted to practice law. In my corporate law position I deal regularly with unqualified lawyers who are costing their clients more in time, money and emotion than they are helping those clients. More attorneys as a result of lower standards will not reduce this problem. Instead, I believe the solution lies with our law schools. They should be the first line "gate-keepers" through higher admissions standards and better, tougher education with a goal of better preparing their graduates for the practice of law.

David Lewis - Law Office of David Lewis

My background is that I came to the United States as an immigrant from the UK, having qualified there as a barrister. I passed the Bar examination on my first attempt and have been in private practice ever since then.

Contrary to the practice of most states, California does not require graduation from an accredited law school as a precondition to taking the bar exam. Had it done so, I would have been required to (re)attend law school, which would have been time consuming, pointless and expensive.

I am therefore forever grateful to this State and the Bar for their inclusionary attitude to those seeking to practice law here. By not restricting bar applicants to graduates from accredited law schools, the Bar endorses and actively supports the notion that dreams can come true in California for all, and not just for the privileged few.

But the Bar has a responsibility too, which is to protect the public from incompetent counsel. If all are to be permitted to enter the starting gate,then the hurdles must be correspondingly higher. It is for this reason that we have a high “cut rate”.

Those who seek to sacrifice the public welfare on the altar of diversity, or whatever the proponent’s political point of view may be, would do well to read the essay just published by Judge Fahey on this issue. Shame on those who would seek to replace the voice of reason and experience with that of emotion and prejudice.

Anonymous

The 3-day long exam is extensive and challenging for very good reasons: protection of the public and integrity of the profession. While some bad apples manage to still pass the gauntlet, there would be far more of them with a reduced passing score.

Brian Pastore - Pastore Law

If the State Bar truly cares about protecting the integrity of the profession, then it should do everything within its power to prioritize attorney *competence* above all other concerns.

The economic collapse of 2008 not only created an unworkable market for new attorneys saddled with a suddenly insurmountable amount of debt, but it also put countless law firms into the position where they could no longer invest in the training of new associates. As a result, new lawyers are increasingly taking far less money for 1st year positions where they will receive absolutely no training, 2nd to 8th year lawyers are entering courtrooms with remarkably little knowledge for how to properly conduct themselves, and college graduates are increasingly recognizing law school as a "bad investment," resulting in declining applications and -- in all likelihood -- an inferior pool of students who are sitting for the bar.

Lowering the passing threshold for these law students and flooding an unstable market with more attorneys who could not enter under the existing system will do nothing to encourage law firms to train or to increase salaries, it will do nothing to improve the caliber of attorneys who appear before our courts, it will do nothing to reduce the predatory lending system that has plagued so many law school programs and paralyzed young attorneys with debt, and it will certainly do nothing to improve society's opinion of attorneys -- as untrained and economically desperate attorneys will inevitably be forced to engage in business and legal practices that only reduce the public's confidence in the profession.

Put simply, if the State of California makes it easier for under-qualified attorneys to enter into an already weak market, the public's confidence in attorneys will not improve... and it probably would not be doing any favors for the profession as a whole.

Anonymous

This should NOT be modified to maintain the integrity and quality of California attorneys. If the exam is going to allow people that don't graduate from law school or go to accredited law schools, they need to prove they know the law! It's difficult in CA for a reason, so that only qualified ppl are admitted. If that is changed, not only will jobs become more competitive for current Attorney's that may have failed previously, but CA will be filled with crappy lawyers. CA needs to maintain its standards and prestige for only accepting the most qualified, regardless of race, etc. CA is filled with people that have money and will continue to help the communities that can't afford it because they want to and are able to. But those ppl deserve good representation as well. If you take out Rob's of loans for law school, then you should know you have to study hard as hell to pass that exam and take it seriously. The lawyers CA needs will continue to do so.

James Sivesind - James Sivesind

This rule worked for me and should be retained.

Anonymous

I passed the Bar Exam more than 25 years ago. I was a trial court research attorney in County proximate to LA County for 15 years. The rest of my legal career I have been in small or solo practice. I have seen the quality of legal work decline, in terms of substance as well as procedure. Lowering the cut rate for the Bar Exam, even by a few points, would logically contribute further to decline. Decline in attorneys' competence ultimately harms clients, whether paying or pro bono. Anything which could contribute to attorneys' competence should be a deal breaker.

Joel Allan - Stockwell, Harwris, Woolverton & Helphrey

Is there such a lack of attorneys in this state that we need to allow more to be sworn in?

Anonymous

The Bar Exam should be HARDER to pass, not easier. As it stands, I am constantly amazed by the lack of skill demonstrated by opposing counsel on a routine basis. The bar should be higher, not lower. The protection of the public and reputation of attorneys in CA requires high or higher standards than we currently have. Thank you.

John Stump - self-employed

Dear Honorable Committee,

The current examination and qualifications standards should be more rigorously examined to eliminate unethical bias.

I am particularly concerned that the current examination is unethically biased to favor one culture or language. California law has a foundation based on a preexisting system of laws before the United States conquest of the majority of California. Those laws and rights were preserved and carried forward by the Treaties , their amendments, and subsequent agreements and compacts with the conquered governments and indigenous peoples. The pre treaty and compact laws foundations must be part of the examination processes and may eliminate some of the bias in the current examination. The California Elections Code provides guidance on the use of languages other than english.

I believe that there should be some consideration of returning to a Barrister and Solicitor sytem. Perhaps the exam should qualify persons as Solicitors that there after could be admitted to a limited time apprentice period to qualify as Barristers. There are many techniques and practical methods to achieve this combination of limited legal representation to provide the best quality legal services to the greatest number of persons.

In no case, should standards be lowered . Lowering standards will predictably decrease the quality of services to public and may increase the frequency of ethical responsibilities.

In no case should the current admittance process, by the Judiciary, be changed. Any changes should preserve and support the basic separation of powers within our system of government.

All the best,
John Stump, City Heights, California
SBN 147227

Daniel Lifschitz - Pierce Law Group LLP

The lowered cut score is a solution in search of a problem. Please consider the following:

There is no shortage of attorneys in California -- rather, there is a pronounced oversupply, stemming from prior industry wisdom that law is a recession-proof field and that law schools are surefire money-makers for universities. This resulted in the ABA accrediting too many schools, too many individuals taking shelter from economic recession in law school, and -- finally -- too many attorneys being ultimately injected into the market, all competing for the same work. And while this has had the effect of driving down wages for many attorneys, it has not resulted in corresponding drops in the amount attorneys are willing to charge to the public for their services.

The latter observation is attributable to one of the biggest problems with the current legal industry: It is simply too expensive to become an attorney. Even the worst non-accredited law school costs a healthy six figures to attend, and as a result, most graduates turn up their noses at any jobs or lines of work that don't help them quickly pay off their student loans. This pushes lawyers into traditionally moneyed fields like corporate work while ignoring more humanitarian work serving underprivileged communities.

This brings us back to the question of what a lowered cut score is intended to solve. It won't make law school more affordable, and so won't result in more attorneys able to address the real problem facing the legal industry (access to justice). It simply results in more attorneys with worse qualifications competing for the same work. It drives down wages, drives down qualify of work product, and leaves access to justice largely untouched. The only winners are law schools seeking to boost enrollment.

In sum, a lowered cut score does nothing to address the real problems facing the legal field and exacerbates existing problems. It is being pushed for by universities who are unhappy with market corrections lowering the number of qualified applicants pursuing law degrees and seeks to replace them with (by today's standards) unqualified ones. There is nothing problematic or untoward about low-performing law schools being shuttered or forced to consolidate to account for these changes. What *is* problematic is watering down the quality of legal representation in California when nobody other than profiteers are asking for it. The state bar should be focused on providing lower-cost avenues to obtaining legal degrees or being able to provide basic legal services to the underprivileged, not compounding the dilution of our legal market.

Richard Paris - California Law and Mediation, Inc.

The whole point is to license only those truly qualified

The point is not to provide as many attorneys as you reasonably can in order to meet all possible demand, though that certainly is a relevant consideration.

Attorney standards should never be lowered as it would diminish the quality of the profession and the integrity of membership in the bar and the protection of the public.

There certainly can be bar support for the paralegal profession and licensed document assistants to try and reach all with legal need who may require reduced fee services.
I also would recommend loosening of the rigor around non-attorneys advising and consulting consumers about the law.

I am trying to be reasonable and compromise between upholding the highest standards and reaching all those in need.

K. Downing

Two basic issues are presented; (1) California has a significant surplus of marginally competent attorneys AT THE PRESENT PASS REQUIREMENT, lowering that requirement is highly unlikely to raise professional standards; the fact that our pass rates are lower may suggest that the entry standards in many of our law schools are set very low. (2) As attorneys, we should not even consider this proposal based on our personal prejudices and self interest. The State Bar should undertake a study to determine if their is a nexus between professional integrity/ competence and the pass score of successful applicants; If the Bar can establish a connection, than we might assume that lowering that standard would be detrimental.

Judge Fahey makes a good point; What we need are practicums to train young attorneys to handle court appearances and process the documents required of litigants.

Benjamin Soffer - The Soffer Law Firm PC

The most important function of the bar exam should be to pass only the most qualified candidates in order to maintain a very high standard of law practice in California. Considerations such as increasing diversity and access to legal services are laudable, but should not override the goals of increasing the integrity of the profession (which is very low in the public's eye) and doing the utmost to ensure that lawyers are qualified to practice.

Stephen Weiss - l/o of stephen weiss

For far too long, we've been experiencing the dumbing down of America. Colleges and universities are dropping important classes, such as in math, rhetoric, etal. because students have no interest in them. People today, mainly fairly young, but not totally exclusive to the age bracket of 14-34, have trouble constructing a sentence, using grammar properly or spelling, just to name a few areas. They need safe rooms at school, because they're afraid some bogeyman is going to come and hurt them physically or just hurt their feelings. Their idea of a complete sentence is WTF, OMG, LOL, etc. This is what our country has come to.

Now, the State Bar has come to that level, the dumbing down of the profession. Why just cut the passing rate by 26 points? Why not let anyone be a lawyer? We're already allowing illegal aliens, who presumably have loyalties to their country of origin, and yet swear loyalty to this country which they illegally entered, to practice in California.

I remember a buddy of mine, who went to De Paul Law School in Chicago, was so in awe of joining the legal profession, that he stopped going to parties, because he thought he might have one beer too many, and that would be held against him when he applied to the Illinois Bar Association.

I, myself, took the bar exam several times, coming fairly close twice before I finally passed. Failing made me try that much harder in my studying because I wanted to pass more than almost anything else in my life. Have I been a perfect lawyer, I can humbly say that I've made mistakes. But how many more or worse mistakes would be made just to bring the passing rate up an additional four percent. If people really want to practice law in this state, they should have to work just as hard as I did, SEVERAL TIMES, to accomplish their goal.

Sincerely,

Stephen Weiss,
Attorney-at-Law

Anonymous

The CA bar exam, and current cut sheet requiring a score of 1440 to pass, is an examination of minimal competency. Many people fail the bar exam because it is difficult. This is no reason to change the standards for admission. A 1440 is certainly not too challenging for most people to obtain if they put in the time and effort. After all, there are thousands of incompetent lawyers who all met the score requirement of 1440. Reducing the score would simply allow even more incompetent lawyers into the bar.

The exam was already decreased from 3 days to 2. This greatly reduced the challenge of the exam, which used to be a test of endurance. By reducing the test by 1/3 of the duration, the test is that much easier from an endurance and stamina standpoint.

No doubt that the test is hard, and it should be that way. Perfectly normal for someone to fail the exam once or even more times. If one fails the exam, then they are likely not qualified to be an officer of the court in CA. Perhaps that person needs to devote more time to studying and preparation.

Personally, I went to an ABA school and have plenty of friends who passed the bar with me who are unable to find jobs as lawyers. These are hard working people that put in the time to get at least a 1440 on the exam. Why should more people be allowed into the bar when these hard working people can't even find jobs.

Reducing the bar exam standards who have a devastating effect on the field. It is simple why passing rates have trended down in recent years. A few years ago, law school application and enrollment was down based on the economy and legal job market. This led to schools reducing their admission standards in order to fill classes. That means that people who would have been rejected from law school were now admitted to fill seats. Those same people go on to struggle on the bar exam, as they were likely not qualified to be in law school in the first place. While you may think it is unfair for those people to be admitted to law school when they don't have a good chance at passing the bar exam, it is totally fair and here's why. Nobody was forced into law school. Being a lawyer is something that one chooses to undertake. Those people knew the risks of going to law school. There are countless resources for studying for the bar exam. With technological growth, there are new resources available every year that were not available to those before. If anything, the youth should be getting smarter and having better success with the tests.

Let's maintain the integrity of the profession and keep the score of 1440. Only those who put the time and work in to reach this score should be admitted. I am privileged and blessed to be a lawyer, but let me tell you, I had to work harder for that than anything else in my life. Why should it be any easier for future lawyers.

Anonymous

Integrity of the profession and providing qualified professionals is of the utmost importance.

Unlike other states, California has a large degree of non-ABA and California-only law schools - these schools lack the ABA approved curriculum. Greater scrutiny should be required in a state with a lower barrier to entry to attempt the exam. Closer scrutiny should be paid to which school's graduates are failing the exam not the overall figures.

Not all who enter law school are able to or should be entitled to practice. The same can be said of all professions with licensing or credentials.

Anonymous

Correctly identifying legal issues associated with a problem is the most important part of legal work. Then using analytic thinking and good research defining the issues correctly and identifying the accompanying legality regarding those issues is the second step in good lawyering. Ability to empathize with a client, understand their confusion, fear, anger or doubt is of enormous importance. Willingness to go the extra mile no matter what sets a good attorney apart from simply an acceptable attorney. Parts of the exam address correctly the identifying of issues and their priority in analyzing a case. Other parts of the exam are simply there to see if the applicant has read all the fine print,

Anonymous

There does not appear to be any marked difference in the bar passage rates for California law schools with historically high bar passage rates. The issue appears to be more with students graduating from schools with lower bar passage rates. Lowering the test score doesn't seem to be addressing the underlying problems: (1) should these graduates be going to law school in the first place; and (2) why isn't their law school preparing them for the bar exam. I sympathize with students graduating with mountains of debt, but lowering the standards of the profession isn't the correct solution.

A better solution might be to be more transparent about what will be on the test or reduce the number of subjects tested. I took the bar exam in July 2008. We were tested on executive power (constitutional law), even though the bar preparation course said we wouldn't test in that area. You could feel the panic in the room as test takers started that essay question. The practice MCLE questions were also markedly different than the ones on the exam. Maybe the three-day bar exam is better too.

Julie Ringquist - Law Offices of Julie A. Ringquist

California attorneys should be highly qualified to help the people they represent. Law Schools should be increasing their standards and educating people that can pass the rigorous test, the Bar should not be lowering standards to those of law schools not doing their job.

Anonymous

The survey questions seem to imply that with a lower cut score and higher pass rate there will be more attorneys to serve our disadvantaged communities. There isn't any evidence to support that. If we as a community want to place a value on serving those who can't afford or don't have access to meaningful legal representation, then we need to adopt a culture and system for training attorneys to do so. The survey also asked a question related to the cut score and law school debt. There should be more oversight over schools who accept students who are not really qualified to attend law school and over lending institutions who lend unrealistic sums to young people. I have been a public sector lawyer for over 20 years, by choice. As a result, it has taken me a long time to pay off my law school loans, and I fully appreciate the stress and hardship associated with large debt. However, I don' t believe that we should lower the standards for who can become a practicing attorney merely because there are students with large debt. I would have appreciated information which suggested that lowering the cut score does not appreciably change the quality of those who would now be eligible to practice law, and that the new proposed cut score was valid and reliable.

Nedra Fraley - Fraley & Fraley

We are producing more attorneys than we can employ already. I was a Certified Bankruptcy Specialist before I retired and my husband still is one. We have seen so much substandard attorney work in our field that it is appalling. The judges are frustrated. What really needs to be done in California is to make it harder to get into law school - and maybe eliminate the bottom layer of law schools.

Debt from law school is also appalling. We've interviewed many young lawyers who cannot accept a wage that is about equal to what we make because it will not allow them to pay their school debt. It hurts to see people stagger under so much debt. I incurred debt for law school, but it was much more manageable.

Anonymous

I am routinely appalled by the deplorable quality of the legal briefs I see. I frequently find myself asking, "How did this person ever manage to pass the bar exam ... or even graduate from law school?" I'm not talking about poor work ethic, e.g., failing to file briefs timely, failing to comply with the formatting requirements of the Calif Rules of Court. Rather, I am talking about incomprehensible legal arguments, an apparent inability to understand and apply legal principles, deficient legal research, and so on. These incompetent attorneys make my job much harder; I have to explain the flaws in counsel's arguments as well as set forth the correct provisions of law. I'd rather oppose an awesome attorney with fabulous arguments. Thank you in advance for your consideration of my comments.

Anonymous

The purpose of the bar is to ensure that California has qualified attorneys and to prevent ill qualified attorneys from taking advantage of the public. Lowering the bar qualification fails to protect Californians from people who are not qualified to pass the bar. With the large amount of people taking the bar exam, standards should maintained, not dropped. If the state is concerned about its passage rate, a better solution would be to disallow non-ABA accredited school attendees from sitting for the California bar as these schools have not shown that they prepare students in accordance with ABA certification requirements.

Anonymous

California has a large population of lawyers in sufficient numbers to serve all interests or persons requiring legal representation. Decreasing admission standards will decrease the quality of the attorneys. Even with existing standards, there are many attorneys lacking expertise or confidence. Lowering the requirements for bar admission will increase the number of unqualified attorneys or low qualified attorneys who will harm the persons or interests they seek to represent. Dumbing down the legal profession is not the answer to concerns regarding ethnic or racial diversity within the legal profession or the provision of legal services to persons who cannot afford to pay.

Anonymous

The bar score must stay the same or be raised. There are too many new attorneys who have been unable to land jobs as it is. Many lack basic lawyering skills and knowledge of the law. The last thing the legal community needs to do is lower the score. I had to take the bar more than once. It was a very important lesson for me. It taught me the value of perservernce and overcoming adversity. California lawyers can take pride in passing a difficult exam. Instead of lowering the score, encourage law students to stop bringing their laptops to class. If more law students did not surf the web in class, perhaps they would pass the bar.

Brian Lambert

The cut score is a standing threshold to ensure attorneys of sufficient legal knowledge and problem solving skills pass the Bar Exam. While the cut score is not perfect, it is one of the few safeguards to prevent a person without a requisite aptitude from practicing law in California. While California has one of the highest fail rates and cut scores in the country for the Bar Exam, these considerations are secondary to preserving the integrity of the profession.

Additionally, the number of people taking the bar exam continues to increase, which is not offset by the decreasing pass percentage. Further, lowering the cut score does not ensure that underprivileged communities will be better served or that the pool of attorneys will be more diverse. Lowering the cut score only ensures to lower the public perception of attorneys (such as if news is printed stated more people are passed based on laxer standards). We are empowered through the public's trust, and lowering the cut score can only hurt such trust.

Further, how can a lower cut rate be justified to the attorneys who passed the Exam in the last couple of years under the old standards?

Thank you.

Anonymous

I believe that the declining pass rates are not an indication of the cut line, but of the quality of the candidates. 43% is substantially higher than he pass rate (<30%) when I took the bar in July 1986. Given all of the disciplinary issues with unqualified, under-qualified, and/or unscrupulous lawyers admission to the Bar should be more restrictive, not more expansive.

Roseanna Miani - GetitDone-Legal.Center

People need a full disclosure of the full facts and responsibilities that are involved in undertaking a course of legal study. If what they are expecting is a lucrative way to make a living, then they need to know that they have other options. Too many people are disappointed in both the bar exam pass rate as well as the job market for legal graduates and/or attorneys in California. Current case law does not favor being able to obtain redress from the schools that encouraged them to make this big committment. I, myself, recall going into the school recuiter's office and now, looking back, it was much more of a "sales pitch" than an actual determination of fitness to enter law school The issue of Bar Exam pass rates and legal occupational outlook was even put to me as a "challenge" almost as in the Movie, Lion King, where The bad lion coaxes Simba into going into the dangerous territory by saying "only the bravest lions go there Simba" and Simba replys, in his childish enthusiastic voice "BUT, I AM BRAVE!" So it is with law school recruiters, they put on the show because they have a quota to meet. Much like Timeshare Sales or Car Sales or HERO Solar program sales. Current law needs to be changed so that a full disclosure is made. This is because not all of these budding attorneys will be able to find adequate employment to pay their living expenses as well as their accrued costs. In fact, a woefully large number of people are eventually required to retrain at something else, and have massive trouble paying their debts. This has become a disaster that is caused by the greed of the numerous law schools that have mushroomed in California. It is wrong to label the graduated students as losers. They managed to complete school which shows personal initiative and direction. The percentages are not good. The facts that those who are in charge of regulating the Legal Profession have done very little about this does not speak well. There seems to be no real compassion or concern for humanity.

Anonymous

Attorneys from the past have had to deal with a 1440, pass or fail. That's why there's the option of taking the bar a second, third or fourth time. I've had to take the bar more than once, before I finally passed. I felt that it made me a stronger attorney. We don't lower the bar (figuratively and literally) just because the new batch of Applicants can't pass it. If we do that, the quality of future attorneys will suffer because they of of a lower (1414 score) quality. Lastly, the classic slippery slope argument is applicable here. You lower it once, and later down the line, when another group in the future can't pass the bar at 1414, then you'll have to lower it even more. Then again and again. For the above reasons, we cannot and definitely should not lower the cut score below it's current standard.

Anonymous

The State Bar of California should NOT be reducing the qualifications required for Bar passage due to Law Schools inability to attract qualified students. By keeping the Bar passage rate where it stands, the State Bar is rightfully discouraging numerous under qualified individuals from attending law school and graduating with six-figures of debt. Anything to discourage people from attending law school should be encouraged by the State.

Allen Wilkinson - Allen P. Wilkinson, Attorney at Law

I think there are too many lawyers, many of whom are marginally or not at qualified to practice law. Lowering the Bar score would only result in more incompetent lawyers. I took the Bar exam in 1979 and thought it was tremendously easy. I graduated from a California accredited school (Western State University College of Law in Fullerton), passed it on my first try, and went to work for the celebrated San Francisco attorney Melvin Belli. I am vehemently opposed to any measure to reduce the Bar score cut rate. If anything, I firmly believe the cut score should be raised to 1500 and more attention should be given to law schools teaching and training potential lawyers, rather than arbitrarily reducing the pass score cutoff rate.

Allen P. Wilkinson, Esq.
SBN # 88344
2126 Via Puerta Unit B
Laguna Woods, CA 92637

Anonymous

The proposed solution here does not solve the problems which you are tasked with solving. I have addressed a few of these issues below:

1. Our passage rate is low: This seems to have no impact on the number of attorney's in the marketplace. If there was a lack of licensed professionals, this might be a consideration, however this is not the case in California. Even if there were a lack of qualified professionals, I would rather we visit our reciprocation rules for competitive markets like New York in lieu of putting out lower-qualified applicants.

2. This would provide opportunity for law students to pay off student loans: This has many false assumptions built in. Licensing is simply one step of the process, not the whole, and does not necessarily provide a great income. If we could be more proactive in helping law school students determine whether that profession is the correct one for them, they would not incur as much debt only to find out it is not what they thought it was. Practical on-the-job training, required internships beginning the first semester of law school (as a weeding out mechanism), introduction to the legal community early on is essential. Upon entering law school in 2008, internships were nearly impossible to come by - even if you were free, it became very difficult for any of my classmates to find any hands-on experience. Every law student should be required to go through 1 semester of a transactional deal or negotiation clinic and 1 semester of trial advocacy based around real-life events, perhaps as part of Year 2 curriculum [regardless of concentration]. Perhaps this would be a grade that was not weighted against the whole or was a requirement of graduation and had to be completed over interim breaks (winter or summer).

3. Access to affordable legal services: Larger Law Firms need to carry this burden and should be required to provide a certain amount of pro-bono services per practice type in order to organize as a firm. Perhaps this should be based on revenue. Alternatively, you could require that client funds be held in interest-earning accounts in which the interest is directed to the state for legal services for the disadvantaged (I believe this is a requirement in NY).

4. Alternative: I believe one alternative would be to restrict the pool of bar applicants to ABA accredited schools and see how that affects the scores (obviously with a window or alternative method for existing law students in these schools, with a cut off). There do not seem to be advantages to schools with no accreditation - it may be a lower cost option, but if more of these students are not passing the bar on the first try, then there is a time lapse which involve costs as well. It is cyclical.

Bruce Sulzner - Sulzner & Associates

Simply because few examinees pass the bar at the current cut score does not merit lowering the cut score. The declining results suggest several possibilities. First, and most likely, given studies of educational decline across all areas, it is most likely that an increasing number of examinees are simply not qualified or educationally equipped for the intellectual requirements of being competent lawyers. Lowering the bar just to increase the numbers of admittees will just result in lower competence levels among members of the bar. This is hardly in the interest of the public. Perhaps the better answer is to examine the standards set for admission into law schools and/or the internal standards of law schools for graduation therefrom. If law schools have lowered their admission standards so that they can increase revenues, that may explain the phenomenon. Assuming the bar examiners have not made questions more difficult, perhaps a better way to ensure "test aversion" is not contributing to the decline, is to institute an additional component to the exam -- an oral portion, similar to that employed by the medical profession for board certification, should be considered

Anonymous

I am a sole practitioner and come into contact with other sole practitioners as well as small, medium and large firms. I have an associate attorney employee who attended a non-ABA school and was able to pass the 2016 Bar Exam without any problems. Many in her class did not pass but she attributed that to their lack of studying and dedication rather than a harder than usual test.

Making more attorneys available to the public is a worthy goal but not at the expense of the quality of lawyers. I have talked with law school students and/or new graduates and I believe the lack of passing is more the result of a lack of dedication and discipline than the test being too hard. Passing the Bar is not the hardest part of being a lawyer so if they cannot summon the will and drive to study enough to pass, then they will not make good, dedicated, reliable lawyers for the public.

Karen Wallace

The minimum score required to pass the California Bar exam should not be lowered.
Based on the July 28, 2017, Committee of Bar Examiners Open Session Agenda Item re: Standard Setting Study for the California Bar Examination and Related Recommendation to Circulate Two Options for Public Comment, the impetus for the change seems to be concerns articulated by law schools regarding dropping enrollment. The decline in the number of law students is due in large part to the dismal job market for attorneys in California, which itself is the result of many factors unrelated to the bar exam. If the job market improves, more students will enroll in law school. When law schools have a bigger pool of applicants from which to choose, they can admit students more likely to succeed and ultimately pass the bar exam. More qualified graduates will result in a higher pass rate on the bar exam. Lowering the minimum score won't affect this process. I would anticipate the opposite effect, in fact, where students who are not prepared to succeed in law school and in gaining the minimum skills required to succeed as practicing attorneys will be encouraged to earn JDs, because they have greater confidence that they will pass the bar and get work, and then proceed to fail in practice because they were underprepared. How does this help aspiring attorneys or their future clients? I am a practicing attorney. I passed the California Bar Exam the one and only time I took it. Despite having already earned a PhD, I was also one of the prospective students most law schools considered, and would still consider, a less than desirable candidate based solely on my LSAT score, and I was admitted to only one of the three ABA-accredited law schools to which I applied.

Law school was incredibly difficult for me. "Legal thinking" is deductive, which is contrary to my natural inclination and all my education and training. I discovered that law schools generally are designed to promote students who already think deductively ("like lawyers") and who, consequently, don't require much direct instruction; they review and memorize outlines for each subject area and regurgitate the information in the prescribed format ("IRAQ"), often without understanding the content. As I struggled to understand - not the law but what I was being asked to do as an aspiring lawyer - I frequently sought assistance from both professors and peers. The response I invariably got was that they couldn't explain and maybe I wasn't cut out to be a lawyer. The end result for me, because I didn't graduate in the top 10% of my class, was severely limited job prospects and virtually no support after graduation from my professors or the school's career center, not to mention (what is now, after compounded interest) hundreds of thousands of dollars in debt from student loans. One professor from whom I had taken several courses in which I had performed reasonably well actually refused to write me a letter of recommendation. For one of my classes, I wrote a paper on the subject of ABA accreditation and discovered that the ABA prohibits accredited law schools from "teaching to" the bar exam. Because this prohibition diminishes or constrains law schools' ability to prepare students for the bar exam or provide remediation, assuming they'd want to (this is a dubious assumption, based on my experience), most students take a separate (and expensive) bar prep course after they graduate. I did, and it is without doubt a significant factor in my passing the exam my first try. The other factor is writing skill. I have a lot of that; many law students and aspiring lawyers do not.

Some additional concerns raised related to bar exam pass rates focus on under-represented and under-served communities and/or students. Many such students lack access to schools able to provide them the resources they need to succeed in post-graduate education, including law school, which their transcripts and test scores reflect. In particular, many students (and lawyers) simply never learn how to write competently, regardless of where they attended school. Law school graduates who cannot communicate their ideas effectively in writing, as required by the bar exam and by the legal system, are not likely to earn high scores on the bar exam, no matter how smart they are or how hard they work. Ineffective writing by a bar examinee may be the result of a lack of training, it may be the result of an incomplete understanding of the material at issue, or it may simply be the result of test anxiety. Regardless, legal education has systemic problems, many not addressed here, that should be acknowledged and resolved in order to produce graduates more qualified to pass the California bar exam.
Lowering the pass score on the exam will make it easier to pass but won't accomplish much else.

Walter Youngman - Youngman Ericsson Scott LLP

The purpose of the exam is to insure that California residents can have reasonable confidence that the attorney has a minimum level of competence. It protects the public from incompetent pretenders claiming to be lawyers. In addition there is an abundant supply of lawyers who have passed the bar, but cannot find employment. To claim that lowering the standard to practice law to help the poor or other under served residents is a specious argument, that assumes that the less competent lawyer would be interested in serving the poor and under served residents. Lowering the standard to practice law can only hurt the general public.

John Tribuiano Iii - TRIBUIANO & YAMADA, LLP

Is this a joke? Has anybody asked the NBA to lower the height of the goal?

Anonymous

It's entirely unfortunate that students are graduating from law school with such oppressive debt. I have been practicing for 14 years, and still owe more than $100,000 dollars in student loan debt. The reality is, however, that there are too many licensed attorneys and not enough jobs. Moreover, for those lucky enough to find jobs, the starting salaries are so poor that these "new" lawyers have no hope of making their monthly loan payments, paying mortgages, raising children, etc. It is a buyer's market, and new lawyers are the victims. Raising the passage rate will not result in a more professional bar; it will simply result in more unemployed attorneys.

Anonymous

The quality of lawyers who even manage to pass the bar has been going steadily downwards for the past 20 years in terms of their writing ability, articulation in oral presentation, analytic ability and professional discipline. This appears to be an artifact of a lessening of standards in education at all levels, from grammar school through law school. As a partner and supervising attorney, I increasingly find myself teaching English grammar to people with bar licenses and several years of practice experience, which is appalling. I and my other senior colleagues also find ourselves teaching these little snowflakes about the world in general at a level that was never needed before. The cosmic scope of the ignorance and incompetence of the last two decades' licensees is an indictment of the education system that coddled them along instead of demanding excellence. The State Bar should not take any measure that lessens standards in the profession. If anything, I would raise the passing requirements. Things are deteriorating even with the current requirements; it is difficult to see how making them inferior will work a better result.

Sarah Cottingham - CEB

The fault for the low passage rate lies with the education of potential future attorneys and not just at the law school level. The bar should support all levels of education because by the time students make it to law school they have already acquired most of the study and writing skills that they will take with them into practice. Also, work on making it less agonizing to be an attorney and the top students might once again consider the law a viable career path.

Ben Salorio - Imperial County Public Defender

As a current practicing attorney here in California, I strongly disagree with any downward departure from the current cut score of 1440. As the most populous state in the nation, I believe we should strive to admit only the most qualified candidates for attorneys in our jurisdiction. Flooding the market with attorneys that passed with lower cut scores would not solve any problems; in fact, I think it would leave the public vulnerable to malpractice issues by this group of attorneys. In addition, there is no guarantee that lowering the cut score to 1414 would lead to an increase of attorneys practicing in under-served rural areas, such as my home county of Imperial. It is my belief, that these attorneys would continue to flock to the coastal areas of our state such as LA, San Diego, Orange, and the Bay Area. Perhaps a better solution to the problem of legal access to under-served areas would be a generous loan forgiveness program by the State Bar awarded to attorneys that agree to spend at least 5 -10 yrs serving rural areas of the state. The loan forgiveness could be in graduated steps of 40%, 50%, 80%, etc. depending on the number of years working in a rural area Lowering the cut score is not the answer to increasing access to justice in under-served legal areas.

Philip Gasteier - LEVEN NEALE BENDER YOO & BRILL

Please do not lower standards for admission to the California Bar. All of those who need legal services are entitled to quality representation. That includes people of modest means who need the advice and services of an attorney (an issue raised in your survey). In addition, the public interest is served by a competently staffed legal system. Anyone who has had to deal with an opposing attorney who is ignorant of the law or unable or unwilling to comprehend issues can attest to how wasteful that can be and how it undercuts the public confidence in our system. The Bar should not lower standards further below the shocking target stated in the posted consultant report - "the target threshold (i.e., minimally competent)." As someone who practiced on the East Coast for years prior to being admitted to the California Bar in 1987, and still engages with lawyers throughout the nation, I have often observed that on coming here I was taken aback by the lack of professionalism I frequently encountered with California attorneys (not to overgeneralize that as there are of course many fine and professional attorneys in California). We need better education and more competence and professionalism, not less. Thank you.

Anonymous

The problem is not with the exam itself, it's with the people who are taking the exam and the level of preparation they have received in law school. I don't think much should be made of the fact that accredited schools are having lower passage rates of let's say ten percent. The main issue as I see it is that those who attend unaccredited schools are allowed to sit for the exam. The passage rates of those who attend these schools are abysmal. They often get stuck with massive amounts of debt and are in no way prepared to take the exam or practice as attorneys. Whereas people who attend accredited schools often pass on subsequent attempts, the passage rate for repeat takers of unaccredited schools is terrible.

Anonymous

Lowering the score will lower the quality of attorneys. I appreciate and enjoy the fact that CA has one of the hardest tests in the nation. It sets us above other states.

Anonymous

California allows graduates from non-accredited universities and applicants who did not attend law school but completed an apprenticeship program to apply for their California law license. Comparatively, the majority of states prohibit such applicants from applying for their law license. In light of the reduced entry standard, the need for maintaining the standards for obtaining a law license are particularly imperative in California. Merely because the number of applicants who can pass the exam has diminished does not mean the California Bar Exam's standards should be diminished accordingly.

Rae Lamothe - Golding + Lamothe

At the risk of sounding like my grandmother, my experience is that many young people today do not have the study habits and attention span necessary to pass the Bar, but this does not mean that the standard should be lowered.

Study habits, thoroughness and attention span are all needed to practice law.You have to be able to slog through reams of documents (either in hard copy or digitally) to find the gem needed for your case. You have to be able to research until you come full-circle and end up finding the same cases. A simple Google search does make the grade.

Many young people are not accustomed to working independently. Our daughter is in college, and everything seems to be group projects or team efforts.The Bar exam is not a group project.

In lieu of lowering the standard, perhaps adding a half-day performance test to the LSAT would better screen out the folks who are ill-suited to long-term independent work.

Anonymous

My vote to keep the current cut score is based on several considerations, none of which are beyond debate, but one of which is most important - maintaining trust and confidence in the legal system. For what it's worth, here are my two cents (may be worth less than that):

Everytime I hear about lowering standards with respect to the process of becoming a lawyer, whether it be reducing law school acceptance standards or doing away with the LSAT, I feel that emphasis swings toward increasing applications and/or enrollment in both accredited and non-accredited schools. What I'm saying is that there seems to be a monetary/financial consideration that is being prioritized over ensuring that we are creating attorneys whom are prepared to assist clients with their legal issues. I won't delve too deep into what that means to the legal community, but suffice it to say that such prioritization leads to an erosion of trust and confidence in lawyers, in general.

While I can understand that part of the intent is to allow for a more diverse attorney community here in California, this seems like a misguided attempt to accomplish that goal. The real issue is educational the junior high and high school levels, opportunities to move into higher education, and to a lesser extent, diversity at the university/college level. Just lowering the bar for attorney candidates may not really increase diversity at all, but will more likely cause a larger gap in the quality of legal services. Top-tier firms, mid-tier firms, and government agencies, will still hire from the best candidate pool (who generally do not have an issue passing the bar with the current cut score). Most of the other new attorneys, many of whom come from lower ranked schools or from the bottom 70% or so of their respective law school, will be the ones most harmed by just reducing the cut score and letting more attorney applicants into the bar. These attorneys largely fill the ranks of smaller firms and legal startups. The harm to these new attorneys, who make up most of the new attorney pool, is the biggest problem with lowering the current cut score. We should be trying to help current attorneys obtain gainful employment rather than giving them MORE competition.

Jeffrey Sissung - Law Office of Jeffrey R. Sissung

In my view the pass rate is artificially low in California where the state allows persons to take the exam, e.g., graduates of non-ABA accredited schools, who would not qualify to sit for a bar examination in the majority of other states. Regardless, lowering the cut score runs contrary to the Bar's express "highest priority" of protecting the public where, by definition, individuals previously determined unqualified to practice law in the state become qualified, not by the individual rising to meet the mandated level of performance, but rather by the state lowering the mandated level of performance to meet the individual. This serves to dilute the pool of competent counsel and, thus, to degrade the integrity of the profession. There is NO higher purpose to be served by the State Bar than maintaining the integrity of the practice of law. While "increasing diversity in the profession" and "increasing access to legal services for underserved populations" are noble goals, they are both subservient to the necessity of ensuring that those licensed to practice law in our state are competent and should be accomplished by means other than lowering the quality of available practitioners.

Anonymous

There are too many attorneys and far too many bad ones already, it should not be easier to become one.

Anonymous

I had to take the California Bar Exam when it was still 3 days. It was difficult back then, and many people did not pass. I am not sure why the testing results have been low, whether it is just more people taking the exam, people not studying as hard, or whether the grading has gotten harder.

There are a lot of people that do take the exam and pass though. And many people pass on the second attempt. I think it needs to be examined further before any changes are made, such as lowering the cut score. The cut score was not lowered when I took it, and it was just as competitive ten years ago.

Jill Hersh - Hersh FamilyLaw Practice, P.C.

I do not see any benefit to the public from lowering the passage rate. The high degree of preparation for the bar presages a better degree of readiness and preparation to represent clients' interests. This is a matter of quality representation for the consumer and a stringent bar exam or maintenance of the "cut" number is consistent with encouraging excellence in the practice of law. It is my personal observation that people who do not pass the Bar generally either do not adequately prepare or do not demonstrate the skills necessary for a high level of practice. The tenacity involved in trying again at least demonstrates ambition, drive, and a willingness to improve.

Charrisse Artry

The Bar score should not be lowered for any reason. I feel that it is not going to solve the real problem, which is access to justice. Additionally, the amount of attorneys that are already practicing in. Cali is bonafide evidence that the score is attainable with proper preparation.

Sallie Barnett - UCR SOM

The answer to declining pass rates is NOT to lower the bar. It is to encourage and assist with better preparation for the examination.

Anonymous

DO NOT lower the cut score. I can assure you that there are enough attorneys in California, and can personally attest that the quality of attorneys varies wildly. Lowering the threshold for inclusion in this club will only increase the number of incompetent, worthless attorneys. If they cannot pass the bar exam they are unfit to practice law.

You all already made the test two days instead of three. I disagreed with that move but it was made. California must maintain standards. If those who complained and championed for a modification spent half of the time spent complaining on actually studying and improving their legal skills, the bar passage rate would increase. Their future and fate are in their hands. The point is to make them work harder to achieve their goal, not lower the expectations and make it easier. Lowering the score will only serve to further cater to a generation that believes the world owes them everything, including a law license. It is ill-advised and short sighted. Ultimately the public will suffer.

Hayward Colby - Law Offices of Hayward K. Colby

I feel that lowering the cut score marginalizes the profession (even if only slightly). There is nothing wrong with requiring our new lawyers to meet a high standard. I do not believe it will unreasonably reduce the number of lawyers available to serve the public needs. The pass rate of the Bar Exam I took in February 1978 was slightly over 30% as i recall. I don't find a 43% pass rate to be inadequate to populate the profession.

Christina Carson

I know that the correlation between bar passage and ability as an attorney is weak at best. but my gut reaction is 'The last thing we need is even stupider attorneys. I'm swimming in morons as it is.'

Anonymous

Maintaining the current extraordinary high cut score is practical and appropriate for a state that arguably has one of the most competitive markets in the country. Further, the suggestion that we consider lowering the cut score (even temporarily) below the national median is absurd when considering both the market and circumstances. The proposed cut to 1414 would likely admit people genuinely unqualified to practice law in our state during this 'interim' consideration period, with no further safeguards to the public for the poor legal counsel they will offer over the course of their careers.

The diversity of the legal profession is NOT an issue that can appropriately be addressed by lowering the standard by which we allow or prohibit an individual from practicing in our state, but rather is a matter that should be addressed at the educational level of both law schools and lower learning institutes. Similarly, this is not the appropriate mechanism to attempt to assist with the law school student debt burden that most graduates face, or the way to increase access to legal services for underserved populations. Both of which should be addressed by policy makers and legislators at the financial/tax level with debt reduction proposals or possibly repayment suspension/delay options.

While California's abnormally low passage rate is suspect, I don't believe that the cut score should be adjusted until the full results from studies have been received and evaluated. There could be multiple factors contributing to our low passage rate, which aren't apparent based on the initial results, and lowering the cut score so that California admits attorneys to practice that wouldn't be admitted in most other states jeopardizes the integrity of our profession, which most citizens already believe is corrupted by frauds and incompetents.

Myron Hecht - self

The most important consideration should be providing the public with the confidence that when they deal with an attorney licensed by the California Bar, they are dealing with a person who has a high level of intellectual capability and a broad perspective on the law in addition to whatever specialty or experience that person has. I have not seen any evidence that California has a shortage of lawyers such that it is beneficial to bring less intellectually capable people into the profession.

Stewart Jenkins - Law Office of Stew Jenkins

There is no shortage of practicing attorneys in California. There is no need or legitimate reason to lower the threshold score to pass the bar.

The difficulty that people in disadvantage communities have in getting legal representation is unrelated to any lack of lawyers willing to represent them, it is due to a lack of funding to help people in disadvantaged communities pay for the services of a lawyer.

When John Adams was asked by a young lawyer what his first duty to his client was, former President Adams - an accomplished lawyer - reputedly told him "to charge enough so that you can do a good job for your client." Adams was not being tongue-in-cheek about this ethical duty of an attorney to only take a case where the lawyer is in a position to do a good job for the client. He knew that if the lawyer went broke while handling the case, the lawyer would not be able to fulfill his/her duties to the client. Lowering the bar exam standards will not make it any easier for a young lawyer to serve poor people, it will actually make it harder. It won't lower the cost of serving people in poor communities.

The answer to a shortage of legal services for the disadvantaged is to put more public money into legal services for the poor, not unleashing inadequate lawyers to go into practice.

Another answer is to put public money into paying the cost of a legal education for students who pass the bar at the high standards now maintained, if those students go to work for low cost legal aid that serve and represent people in disadvantaged communities; many of those firms are first rate, funded by grants or foundations. Though their lawyers frequently are paid less than those in larger firms, the attorney's are quality practitioners.

Passing individuals on lower bar scores will not uphold our profession, or our ethics as professionals to serve the public. It will dis-serve clients by providing them with 2nd class lawyers.

After 38 years of continuing practice myself, serving folks at all income levels (yes, even those living in their cars who couldn't pay me to successfully protect them from a city trying to criminalize them and run them out of town), I believe the proposal to lower standards for passing the bar is a mistake. The reported justifications for the proposed change do not wash. The change will not increase diversity within our profession. It will not increase services available to the poor, the working poor, or the middle class. It will not lower the cost of legal services.

The proposal will only trap clients needing help into hiring lawyers who were licensed, though they were not mentally or articulately qualified to take on the task of practicing law.

Stephen Kolodny - Kolodny Law Group

The level of education should be raised not accepted and encouraged by lowering requirements to meet some artificial number so you can report a higher pass rate. Competency not higher pass report higher percentages of persons who pass. Competence not higher pass rates should be the goal.

Joseph Mcmanus

I believe keeping the cut score at 1440 if the re-read procedure is modified. I think that the essay scores on a re-read should not be averaged; rather, if a bar taker receives a higher essay score on the first or second read, the scores should not be averaged but the bar taker should just receive the higher score. Thus, those who are close to passing would likely pass since it seems those who get in re-read territory end up failing due to averaging the scores.

I think since the bar exam was modified to a two day exam, the score should remain at 1440 for the July 2017 administration to see if the change in the examination format itself will increase pass rates. Only then should the bar adjust the cutting score if passing scores are the same or worse as the February 2017 administration.

Joseph Kar - Law Office of Joseph M. Kar, PC

I totally disagree with lowering the score or simplifying the bar exam. Any contrary position is an argument that seeks to reduce the quality of the overall membership by diluting the pool.of competency that already has erroded now for several decades. If you are going to reduce passage rates as well, then how would you propose to compensate those attorneys who have been taken through the more rigorous examination. Meaning, there must be some other distinction, the bar is failing to look at which is that maybe the examiners should look toward keeping the same passing score but change the weighing of the multistate and written essay portion.

Anonymous

I am very offended by the questionnaire provided asking if the bar exam cut score should be lowered and paired with "diversity." This pairing makes the implication that diverse attorneys may not be as capable and there are already many issues with this in the Bay Area, for example -- see the recent Google employee memo about biology and gender. Such a questionnaire sets the seed in people's minds that diverse candidates may not be as good for the sole reason the they are diverse. I am an African American female attorney who passed the California Bar on the first try while preparing for trial because I moved from another state. All my diverse colleagues passed the bar on the first try. Yes, the bar exam is difficult, but one must apply themselves. Passage of the exam is the first step to providing qualified legal advice and representation.

Perhaps, a better effort would be to look at BarBri and Kaplan. Almost everyone takes these courses and perhaps law schools should be teaching more to the bar exam then letting sub-par bar review companies prepare people.

Anonymous

I am concerned about the decreasing quality of lawyering already even without the lower cut off score. Attorneys are less respectful and intelligent, and lowering the score would aggravate the condition, harming the public and the integrity of legal practice. There is no shortage of lawyers here, and lowering the score seems to be a response to the pressure from law schools that want to attract any student for financial gain.

Anonymous

The California bar exam is more demanding than other states, but that does not mean that it is too difficult to pass. A large part of passing the California bar exam is simply studying and preparing for it; some brilliant people who do not study and prepare for it will fail, and some less intelligent people who do study and prepare for it will pass. It is difficult to tell who is actually cut out to be a capable, competent attorney based on one three-day (now two-day) exam. But one thing the California exam does do is reward those who prepare for it. As it should. A fundamental requirement of being an attorney is preparation. Practicing law requires being able to learn new legal issues and master them, in order to properly advise clients. Attorneys that do not put in effort and prepare will leave their clients disappointed; those who do, will be successful. We should reward those who are able to prepare and master the material on the bar exam; we should not lower the pass score to let in attorneys that fall short of these standards. I have not seen anything compelling that suggests the passage rate is dropping because the exam is getting harder. It is dropping because the quality of individuals taking the exam are not studying and preparing sufficiently to pass it. A large reason the pass rate is so low in California is because California allows individuals who did not study at ABA-accredited schools to take the bar exam. The crop of individuals that are allowed to sit for the exam is part of the reason we need to have a vigilant grading process. Several individuals are given the opportunity to take the bar exam that would not even be allowed to set foot in the exam room in other states. If California wants to give these individuals the opportunity to take the bar exam, that is fine, but the exam needs to be difficult enough to pass to ensure that the people we are letting practice law in this state are capable enough to provide competent legal advice.

Anonymous

As a practitioner and bar exam grader, I have watched bar pass rates decline (and the quality of essay answers, as well). It seems to me that there is a correlation between the downward trend and the fact that the number of law school applications had declined as the recession took hold and the economy bottomed out. As a result, law schools lowered their entrance requirements to keep up enrollments so they could pay their bills. Accepting students with lower qualifications has now manifested in lower pass rates. Some law schools reportedly eschewed teaching subjects that are on the bar exam. Therefore, the fact of the declining pass rate should be laid squarely at the feet of California law schools. Lowering the cut score will undoubtedly result in harm to the integrity of the profession because unqualified practitioners will be unleashed on unsuspecting clients, including those clients that come from more disadvantaged socio-economic communities. The State Bar should not give cover to law schools and, essentially, paper over their mistakes by lowering the cut score. Please keep it where it is.

Thank you for your consideration.

Anonymous

The real problem with low bar passage rates is lower accreditation requirements for some schools. Bar passage rates are substantially lower for CA accredited schools. Just because schools are willing to take virtually anyone's money to give them a "law school" education does not mean that the State should lower the cut score so they can work after law school.

I was, and continue to be amazed, at the number of incapable attorneys in and out of the courtroom. Lowering the bar passage rate will not solve this problem, nor will it give undeserved populations better access to "quality" legal representation. Lowering the cut score will likely lower the overall standard of legal services - which will likely hit undeserved populations harder.

California doesn't want for lawyers - but it suffers tremendously from a lack of qualified and ethical lawyers.

Anonymous

THE STANDARDS FOR THE PROFESSION OF LAW ARE GETTING LOWER AND LOWER.
DO WE NEED TO ENOURAGE LOWER STANDARD EVEN MORE WITH LESS QUALIFIED ATTORNEYS?

Jonathan Depriest - Salient

The issue here is simple: supply and demand. The demand for new lawyers decreased dramatically post-financial crisis. Yet law schools, motivated by the need to keep seats filled and the corresponding tuition payments (often debt-financed) that accompany that, responded by lowering admission standards as more highly qualified candidates (accurately) took measure of their job prospects and looked elsewhere. Turns out, LSAT scores actually do predict fairly accurately one's likelihood of passing the bar exam. So the reason for the low pass rate is that law schools lowered their admissions standards. Which, given the levels of student debt many incur to go to law school, is morally reprehensible and represents a conflict of interest for any law school dean or faculty member who calls for the bar exam cut score to be lowered.

The problem is with law schools, not the bar exam. And this is a bigger problem to fix, to be sure, but there is an opportunity there for California to lead the nation. First, law schools need to tighten admissions standards, even if it means they admit and ultimately graduate fewer people. There simply isn't demand, and many graduates of non-elite schools are forced to seek work outside the profession, even if they do pass the bar. This will result in some law schools closing, and it will result in fewer faculty positions, all of which will be painful.

Further, law schools need to restructure to a format that more appropriately balances classroom instruction with apprenticeship and practical skill-building, potentially shortening the time needed to graduate from three years to two. The goal is to make a legal education more affordable and accessible, in addition to producing graduates with more relevant and marketable skills. Law schools are entirely too reluctant to become trade schools, essentially, but that reluctance is the very reason new graduates exhibit such a deficiency of the very practical skills the real world demands.

Once this is done, we absolutely should look at the bar exam, both in terms of cut score and what it tests. For example, should an apprenticeship be required for some period of time, prior to sitting for the bar? Other professions such as architects require some certification of basic competency in core areas before the candidate can become licensed.

In summary, we need more innovative thinking here, mainly because what we're doing right now is not working. Lowering the bar exam cut score now seems a knee-jerk reaction to a problem the law schools, not the profession itself, created by lowering their admissions standards. As a profession, we should take a broader view and use this opportunity to improve the quality and skill sets of the new lawyers who are our future, to the betterment of the public whom we serve.

Anonymous

Maintaining high standards for the legal profession is of utmost importance. Dropping the bar for the Bar, in my opinion, would seriously jeopardize the quality of attorneys admitted to the practice in the State of California.

While shortage of attorneys who serve the underserved is a valid concern, it is not a reason to drop the standards for the profession. I will use the following as an example of the critical flaw of the proposed drop in admission standards. There is always a shortage of qualified medical professionals, including physicians, who serve low income and other underserved communities. Yet there is no concentrated push to make board exams easier, reduce length of residencies, etc., or in any other way undermine the quality of professionals practicing the trade.

However, somehow, there is now a push to reduce the quality of attorneys admitted to the Bar?! Easier scoring will mean admittance of those who would otherwise may not be admitted, ever. Exams are a barrier to entry. Although imperfect, it is the only method to ensure that certain standards of the legal profession are maintained.

Otherwise what's next? Drop the score to 1400, 1390, 1380, etc...?

Dale Bratton - Attorney at Law

I believe that the issue of a pass rate for the bar exam is being politicized in a way that is antithetical to the maintenance of a high standard of professional competence among admitted California attorneys. I note that I took and passed the bar exam in 1986, another year in which the pass rate was unusually low. But for whatever reason it did not stay that low in succeeding years.

I am sensitive to the desire to diversify the Bar's membership, and to provide more access to legal assistance for underserved poor and minority communities. In my view, lowering professional standards is not the appropriate route to these goals. More realistically, lowering the pass rate would produce an inexpensive but artificial increase in the pool of admitted attorneys -- artificial because it simply adds more attorneys at the weakest levels of qualification. The better ways -- but more expensive and therefore dodged -- are to improve the education of law students who will sit the bar exam, including increased mentoring and aid to law students from more diverse backgrounds; and to provide more funds for legal aid programs so that attorneys can afford to work for organizations that serve underserved communities. Because these solid bases for improving the Bar are politically difficult to achieve -- since they involve increased funding in several categories -- political pressure is instead leading the bar toward the cheaper but far less meaningful route of lowering the pass rate.

I add that I believe the status of unaccredited and weakly accredited law schools in California needs to be addressed. We have too many students enrolling in substandard law schools that induce in these students unrealistic expectations that the graduates will be able to pass the bar and obtain legal employment at a meaningful level. That these expectations are not met is not a legitimate reason to lower the standards for entry to the profession. That these substandard schools induce their students to take on monstrous student loan debt in these circumstances is a moral wrong.

Gerald Niesar - Niesar & Vestal LLP

In the 70s I was a grader of Bar Exam questions when all of the test was written essay type answers. I was often appalled at the material we were asked to grade. (Usually corporate or contract, or cross over of both.) In order not to have a candidate flunk on the basis of only one bad answer, we had to give reasonable credit (usually about a 50 or 55 if we felt the person was alive and competent, and maybe indicated some hazy understanding of the question being answered. Often I thought, while gritting my teeth and giving a grade in that range, "pity the poor soul who will actually hire this person if he/she passes the bar, partly as a result of my not grading this answer at a 10 or 15". I believe in diversity and helping under-served persons get competent legal services. These goals should not be met by lowering the already low standards required of a person who wishes to become a member of the bar. Rather, there should be more insistence on adequate education. The law schools should not be questioning why the bar exam standards are high; rather the schools should be looking at how and why they are failing their students who pay incredible fees to get the education that should enable them to pass the bar. In my 47 years of practice I have often had to deal with incompetent attorneys. So I am convinced that keeping the pass requirements as they are, or even increasing the level required to pass, would still not weed out all the candidates who should not become lawyers. Less someone think that I am afraid of more lawyers and this will diminish my chances of a full plate of work (the "trade union" argument), this is nonsense. I would estimate that at least 10% to 20% of my work is unscrambling messes created by the marginal-pass folks who were allowed to become attorneys. It follows that lowering the pass level would more likely increase my workload.

Anonymous

The recent decline in bar passage could be the result of test changes that were recently implemented and bar takers being inadequately prepared for the new format. Bar takers and bar prep courses will adapt to these changes. For this reason, lowering the score now would be premature.

My main concern is that lowering the cut score may damage the integrity of the profession. California has high standards for a reason and by lowering these scores, it would damage the public opinion of attorneys. I am also equally concerned about the admission of unqualified attorneys. In my experience there are already plenty of incompetent and unethical attorneys. Lowering the scores would only make this situation worse.

I do sympathize with the bar takers. The CA bar is a long, arduous, and harrowing experience. But the test was designed this way to ensure that only those who are most qualified for the profession are admitted. Maintain the current standards of the profession, do not lower the cut score to 1414.

Dan Larkosh - Larkosh & Jackson LLP

When I took the California bar exam in 1991, it had the reputation of being the most difficult exam in the country. I am of the opinion that that is an asset to the profession, not a problem. The integrity of our profession demands that we only admit the most qualified attorneys. We shouldn't be dumbing down the exam just so more people can pass. In fact, a low pass rate signals that California cares that only the most qualified attorneys are licensed to practice in there. The exam is not some meaningless rubber stamp. The public should be confident that a license to practice law means that the lawyer has a fundamental understanding of the law. This is why we have standards. Law schools should work harder to make certain their students learn the fundamentals. Bar applicants should be studying harder to come up to the level of the exam. If this is a "problem", then that is the solution. Study harder.

Jon Furgison - Furgison Law Group

We need to preserve the legal standards for attorneys that practice in our state. It is important for California to lead by example with the highest standards in the country.

Anonymous

It is my understanding that PROTECTION OF THE PUBLIC IS THE HIGHEST PRIORITY OF THE STATE BAR OF CALIFORNIA is now the guiding principle of the State Bar. While the California Bar Examination is not perfect in any sense of the word, lowering the standards required for admission will certainly not assist the State Bar in achieving its highest priority, PROTECTION OF THE PUBLIC.

If the Bar Examination is to be modified to allow a higher passing rate, why not abolish the exam requirement entirely, adopt the multi state exam and require only that the applicant graduate from an accredited law school? This would certainly do no greater damage to 'PROTECTION OF THE PUBLIC than modifying the cut score to allow a higher pass rate.

Anonymous

I don't believe that lowering the cut score will necessary result in more attorneys serving underserved and minority communities. Once admitted, I see no reason to believe that they would not pursue their legal careers in the same manner as attorneys do now.

If the Bar is interested in increasing the number of attorneys of color or from underserved communities, then it needs to do outreach in those communities and work with prospective applicants to law school and law school student to determine their academic needs and ways in which the Bar can help them succeed in gaining admission to law school, graduation from law school and passing the bar.

Jeffrey Coopersmith - Davis Wright Tremaine

We should continue to have very high standards in California. The solution to the problems identified is to improve law school education, and provide funding for bar review course is for lower funding for lower income candidates to take bar review classes It is not to lower bar admission standards.

James Caiopoulos - Galaxy Oil

A declining bar passage rate is clearly more of an indication of the failure of law schools to prepare their students either with sufficient knowledge of the law and its application to real life issues or they are admitting students who have no business in law school in the first place! You do not lower the bar to accommodate ill prepared students--otherwise the unintended consequences to our quality of our profession will be catastrophic, both generally and specifically, with potential drug and alcohol abuse when excessive pressure on poorly trained attorneys takes its toll!

John Wilson

Why not do away with the State Bar Exam and allow Caveat Emptor prevail? This is exactly what I feel this proposal does.

If there is a problem passing new Attorney's then the problem lays with the Law Schools who do not prepare their students to take the exam. Additionally, Law Schools seem to be more interested in making money than preparing their students for the tough job of being an attorney.

Charles Payne - Charles Payne Law

The basis for setting the cut score should be very simply to maintain the integrity and competence of the profession. It should not be for the purpose of enacting some version of "social justice," providing an income to otherwise unqualified law school graduates, nor expanding even further the number of attorneys in the State of California. There are already plenty. If anything, the test should be even more selective. I went to a small, unaccredited private law school that allowed me to work and support my family at the same time. I passed the California Bar on the first attempt, in 2015 when the pass rate was its lowest in approximately 30 years. And I honestly didn't think the test was that difficult. The problem is not with the test or the cut score. The problem is with the lackluster effort level that many contemporary law school students put forward. We should not be further dumbing down the test or, by extension, the legal profession.

David Swanson - Law Office of David Swanson

Just because applicants can't pass the exam is no reason to lower the required passing score. Maybe the applicants should work harder a mastering the subjects that are being tested. If the passing score hasn't been raised and more applicants are failing, it's not a problem or the score, it's a problem of the applicants.

Jamie Platto

I believe that if pass rates are declining, the solution rests with improving the training, rather than reducing the testing.

Anonymous

While the California bar pass rates may be low compared to other states, this is largely attributable to the fact that California permits people who attended unaccredited, or only California accredited, law schools to sit for the bar. Bar passage rates for ABA accredited law schools in California are much higher than the CA average. If there is concern about the low pass rate, and graduates being saddled with debt they are unable to pay off because they can't pass the bar, the way to address this is to limit those who can sit for the bar, not by lowering the standards for attorneys. In my practice I have been, and continue to be, exposed to attorneys who should never have been permitted to practice law. Lowering the bar is not the answer.

Anonymous

The primary function of the CBX is to assure a minimum level of competence in order to protect the public from unqualified practitioners. California has long ago outlawed the use of affirmative action; any effort to revive that practice (by lowering the cut score) to increase diversity is counter-productive and contrary to the primary function of the State Bar and CBX.

David Harrison - Law Offices of David W Harrison

The Cal Bar was a ball buster when I took it, so why should today's applicants receive an easier part than I had? No one then cared about my student loan debt, my ethnicity or area of future practice. The Bar pass rate was low back in my time, no one cared then, it was touted as an indication of the strength of the California Bar, and why it was the best in the country. It's sad to see that the noble profession of law is falling victim to the continued weakness of current generations & their ability to step up & achieve at a high level. Three of the criteria in the survey are an embarrassment to California Bar evaluators. They have nothing to do with qualifications to practice this noble profession. It seems the concerns of those in charge of the Bar are more concerned about helping law students pay their student loans, or rewarding certain ethic groups with lowered admission status, than they are with maintaining high levels of admission to the legal profession. What you don't seem to recognize with your consideration to lower Bar passage standards is that you are harming those who can not reach the current standard, by coddling & appeasing underachieving. Allowing people who are not meeting the standard to enter the profession anyway is a disservice to them. You'll toss them into the pit to be gobbled up by those who have gone before and met the standard. They will suffer, their client's will suffer, and most importantly, the legal profession will suffer by lowering admission standards to our noble & respectable profession.

John Mccann - The Law Office of JTM

Increasing the amount of lawyers in the State of California by lowering the threshold, does nothing to protect the integrity of the law. It will however, cost consumers more money, losses and inadequate representation. The State Bar is a simple minimum competency exam, nothing more. If you can't pass a minimum competency exam than you most certainly should not be able to hold yourself out as an attorney that can protect the public and person's that higher that attorney.

I graduated from a Tier 1,000 law school, Lincoln Law School of Sacramento. I worked 60+ hours for the Sacramento Probation Dept. at the time, took no bar prep review class and I took and passed the bar the very first time I took the State Bar. It is not the score that is the issue, it is the quality of teaching, the quality of student's being admitted and with the rate of default and unemployed lawyers who actually passed the California State Bar, I can only scratch my head and wonder whose brilliant idea it is to:

1. Increase the Student Loan Debt Bubble.... which is the next big bubble in the market.
2. In order to allow less competent lawyers who previously would be unqualified to practice law in the State of California. So the BAR's response is to lower the competency exam such that somebody less competent can pass the bar and take money from the consumers of the State of California?
3. This bill only makes sense to those schools that charge a lot of money for kids to go to school at there school and can't seem to teach those students enough information to pass a basic competency exam.

Lowering the threshold is not the answer, that is a formula for disaster as to the integrity of the law profession. If they can't meet the minimum standards here in California, then take the BAR in Colorado, Idaho, Iowa where the laws are less complicated and the bar score number to become a member of the profession is lowered to that of the State's laws in that State.

California has a high standard, has a lot of laws and procedure.... this idea only waters down any consumer protection that consumers are getting even at this point in time.

John McCann.

Michael Matoba - Los Angeles County District Attorney

I serve as a Deputy District Attorney and it amazes me that brand new attorneys are handling serious cases such as murders, rapes and other offenses where the defendant is looking at a life sentence. Some do well because they put the time and effort to defend their clients and are smart enough and qualified enough to handle this type of case. On the other hand, a large number of trials that I have had or my colleagues have had, the courts had determined that the defense attorney provided ineffective assistance of counsel. With a lower standard, I foresee that these number can and will go up. It is not fair to the defendants and their families to have to go through these trials more than once (as a result of an ineffective private counsel because the families have to pay multiple attorneys to try the same case) and it is not fair to victims to have to re-live trauma again and again. We should not lower our standards because we still have one of the largest per capita percentages of attorneys in California. Just because there is a shortage of attorneys serving particular communities should not give way to an increase of admittance. This is not going to change the need for people to serve these communities. Instead the Bar should find ways to encourage people to serve in these communities by providing incentives such as loan forgiveness or paying for a Bar prep class in exchange for serving an underprivileged community for 6 mos to a year.

Unfortunately, attorneys have to deal with other people's problems, some of which are life changing. We should not sacrifice quality to have more people admitted. This will hurt the reputation of the profession and honestly we are already not well loved.

Sophia Yin

The bar exam has never been about its passage rate. It has been about protecting the public from individuals not qualified to practice law. It has also been about protecting the integrity of the profession and licensed attorneys doing goos work. Just because the pool of candidates taking the bar exam are not as stellar as those before them, hence low passage rate, that fact does not warrant lowering the cut score. That would be analogous to lowering the driving age because the number of individuals passing the sriver's license test has decreased. Maintaining the current cut score protects all from incompetent law professionals, forces law schools to adjust their teaching material to better educate their students, and forces all applicants to study harder. Interestingly, the medical board would not even entertain such an idea because doing so may cause an increase in fatalitirs so why wohld tbe law profession?

Shoshana Karpeles - CA Bar Style, LLC

I have been a CA Bar Exam tutor since 2010. I passed the bar exam on my first attempt with a six month old at home, and was one of only a few from my graduating class to have passed the February 2010 CA Bar Exam. As a CA Bar Exam Tutor, I have dealt with graduates from top tier law schools, lower tiered schools and attorney applicants from all across the Country. To date, I have tutored over 600 applicants.

I have a firm belief that anyone well prepared can pass this exam. However, what I have found is the reason applicants do not pass the exam actually has little to do with the complexity of the exam, but instead with the lack of preparation and weak fundamentals of analytical, writing and research skills. I have students from schools like UCLA Law School that cannot find a holding in a case! That is unacceptable. I have students that do not know the basic principles related to the IRAC method, cannot identify a rule of law and have no clue what a proper legal analysis is. I often ask myself, how is it these applicants completed 3 or 4 years of law school and were not trained with these skills? I think the focus on the cut score is the WRONG focus. The focus and accountability should be more on law school professors and deans that are not ensuring their graduates facing the bar exam are ready and prepared with the basic fundamentals of the practice of law.

In addiiton, there are a number of commercial bar exam preparation companies that lack in approach and proper strategy specifically for the CA Bar Exam. Law schools only promote these companies. The number of repeaters is indicative of a lack of good preparation that is specifically tailored only to the CA Bar Exam. These programs offer little to no personalized attention, and applicants are not being prepared well. I know the reason my applicants have done so well is because I work with them on the fundamentals and then show them exactly what the CA Bar Examiners are looking for. I then make sure I track their individual practice and work product to ensure they truly are on the right track.

I could go on and on about this topic. Please believe that when you work with applicants for almost 8 years, you see things on a personal level that is much deeper than a cut score.

If the cut score is lowered, I fear that a great deal of unprepared applicants will face a cut throat work force where already there is a severe lack of jobs. If these applicants do not develop their skills before passing the exam, and be expected to keep showing the same degree of preparation as always, the work force will only wean them out and this state could be left with even more lawyers with an abundance of student debt and little to show for it.

I would be happy to discuss this further.
Sincerely,

Shoshana Karpeles

David Greene - Dignity Law Group

Many of those who pass and practice are still functionally incompetent, if anything make the test more difficult!

Edward Cahill - Law Office of Edward Cahill

California does not appear to suffer a deficit of bar-certified attorneys, but it has a significant number of attorneys that are ethically deficient. Such attorneys do a disservice to their clients and to the profession. Dropping the Bar Exam Cut Score to increase bar admittance will more likely than not increase the number of marginally to unqualified attorneys practicing in the state. I strongly recommend the Committee put the interest of potential clients and the integrity of the profession first.

Anonymous

Fewer people are passing the California bar examination because California's public school system is now one of the worst in the country and the world. For most students, the first two years of college are spent on "remedial" education. This, in turn, means students who graduate from college are only receiving approximately two years of higher education. In addition, the curriculum offered at most universities lacks the "educational" part of education. Some argue that the goal of education in the U.S. today seems to be ignorance.

At the very least, most observers agree that critical thinking, problem solving and creativity are no longer part of our educational system or social values. Law schools are dropping their admission standards because applicants are not ready for the rigors of a traditional legal education. If the current trend continues, soon law school will be graduating paralegals, who will unable to service any population.

This survey is bananas. The simple truth is: Law schools will continue lowering their standards of admission and continue graduating students not qualified to pass the bar exam because they have to stay in business. As a result, whether it happens in 2017 or 2020, we all know the State Bar of California will eventually trade quality for quantity.

When that happens, the flood of complaints against "incompetent", "unprofessional" attorneys will keep the State Bar of California quite busy.

Anonymous

I disagree with the proposal to "dumb down" the California Bar. It should be fairly obvious that the reason the passage rate has declined in recent years is that California law schools are admitting more underqualified students who simply have a lower likelihood of passing the Bar Exam.

The cut score has been the same for the past decade, during which time the financial crisis happened, law school graduates had a more difficult time finding jobs, loan debts skyrocketed, more people were made aware of the "law school scam," fewer people applied to California law schools, law schools (particularly the lower-ranked ones) admitted less qualified students in order to keep enrollment numbers up, and Bar Exam pass rates declined. It's not rocket science! To blame the Bar Examiners and the Bar Exam itself is just laughable, and when people like Dean Ferruolo of USD Law whine in front of state legislators about the cut score, it's particularly mindboggling. The Bar Exam hasn't created lower passage rates, law schools have, by admitting students who shouldn't be in law school in the first place! Notice how higher-ranked schools like Stanford, Berkeley, UCLA, USC, etc. haven't seen declines in their passage numbers? That's because they haven't had to reach for lesser qualified students like the lower-ranked California schools have had to do, in order to preserve their precious dollars which come from government-backed student loans that many law school graduates have to deal with after graduation.

Keep the cut score the same and tell the law school deans to stop admitting students who have little likelihood of passing the Bar!

Anonymous

I would like to know about how law students are preparing for the bar. Please examine whether the law school impacts the passage rate. For example, how do students from unaccredited law schools in California perform?

Anonymous

News Flash: The current bar exam is not a breeze, but it ain't rocket science. There are already legions of idiots licensed to practice in California. California should be proud of having the second-highest cut score in the nation, not ashamed. The pass rate has gone down because the state bar and the ABA have not done their jobs in maintaining law as a profession rather than a business trade anyone can do. They allowed shoddy "law schools" to proliferate which swelled the bar candidate benches with with people who should become salespersons, HR or office administrators or paralegals rather than attorneys.

You can't have it two ways. You can't have law respected as a demanding profession and open it up to people who can't pass an analytical reasoning and knowledge exam of some (but not spectacular) rigor. All you are going to do is downgrade law as a field even more than it has been downgraded over the last decades in which the LSAT was dumbed-down and all these for-profit "law schools" were allowed to multiply. Just because many individuals suckered into those "law schools" are non-Northern-European in ethnicity doesn't make it racist to maintain the standards for admission to practice in this state.

The idea put forth in the private survey, that a survey-taker's race/ethnicity matters in weighting opinions on this issue says it all, and is vile. It is an asinine canard that lowering standards of analytical reasoning, verbal ability, and professional knowledge competency leads to racial/ethnic "diversity." This was tried in certain medical fields, with horrid results. Luckily for the patient cohort, the licensing groups seem to be coming to their senses and reinstituting stricter admission standards to fields such as nurse, physician assistant, etc. Let's hope the AMA continues to hold the line.

Here is another News Flash: Plenty of people of Northern European race/ethnicity who yearn as kids to be attorneys find they cannot score high enough on the LSAT to get into a "real" law school, or pass a bar exam. Those life disappointments have been going on as long as there has been a law profession in this country. Everybody else across the racial-ethnic spectrum needs to take the hit on that same disappointment, though of course we want the day to come sooner rather than later, when the percentage of folks facing that disappointment is equal for all groups.

But the only way to get there is aggressive change at the K-12 level, for all race/ethnic groups. Aggressive re-institution of demanding standards at K-12, for the verbal, math, and critical reasoning competency that equips young people with the gray matter to make the cut in analytically demanding aptitude tests and professional competency exams. Nobody wants to be honest about that and have that icky conversation. They would rather pretend that dumbing-down the professional licensing exam is racially progressive and enlightened.

Anonymous

This whole thing is ridiculous. Trying to bring in more attorneys that are unqualified, by definition. The system isn't broke, why are we fixing it. The Committee or Bar Examiners already lowered the exam from 3 days to 2 days, that alone should make the exam easy enough to pass. This is all coming from an attorney that attended a non-ABA accredited school and passed the bar on the first try. If this passes you are awarding mediocrity.

David Winter

The outcry that has brought about this request for public comment is based on faulty logic. The assumption is that because the percentage of people taking the bar and passing is following a downward trend, the exam must be too difficult. Consideration should be given to the fact that the quality of law students has decreased and many people should not be attending law school. If medical students were suddenly having difficulty passing their licensing exams, would there be an outcry to lower their passing scores? Perhaps people take more seriously the responsibility that doctors have for life whereas lawyers only have fiduciary duties; as attorneys always say, "nobody will die if you do [insert legal work here] poorly." Lowering the passing examination score is simply a race to the bottom seeking to satisfy one of two stakeholders who are directly affected: (1) the corporate/business desires of law schools that should not be in business in the first place and (2) students who should not have attended law school in the first place (although their entry was made easier by crummy law schools). Legal education has been commercialized improperly and students are the ones who are suffering for it. I feel badly for the students who have been unable to pass the bar examination, but making the exam easier or enabling such students to pass undermines the integrity of the bar and sends the wrong message to future law students and low-quality law schools. These law schools should fail in the marketplace as inferior products. Lowering the passing bar score will improperly prop them up.

On the anonymous survey, attorneys are asked to rank the importance of certain factors. It is frustrating to see what appears to be a political agenda on the face of the survey. Is there any other explanation for a request to rank "Increasing access to legal services for underserved populations" as part of an attorney's decision to comment on the passing score? Is there a direct connection to lowering the passing score and lawyers providing more *quality* service to underserved populations? The simple fact of increase in service providers is a false answer -- that increase would be made up of unqualified attorneys! Because the increase in legal service (if any) would be provided by people who would be otherwise unqualified attorneys under the current scoring system, if the "powers that be" want to increase access, they should make a program specifically for underserved populations without impacting attorney qualifications. Perhaps this new program can be related to social work degrees or analogous to associate's degrees in comparison to a bachelor's, but diluting the quality of attorneys is never the correct answer. "Increasing diversity of attorneys from different backgrounds" as part of an attorney's decision to comment on the passing score is also a false narrative. People providing legal service should meet the rigorous standards one expects from an attorney; demanding quality work is not a diversity question. To return to the doctor analogy, is it appropriate to push people over the threshold who otherwise wouldn't pass their licensing exams just because of diversity?! There is a skill-set being tested. Diversity cannot be an answer to the score change because professional service is diversity-blind. People are being evaluated on their ability to perform, which is not an inconsequential matter. While diversity is a real consideration in the professional context, those solutions should be found and established earlier in the education system. Attempting to meet diversity standards cannot be at the expense of quality performance.

Finally, it appears that people simply do not value the services of attorneys as highly as doctors or other professions with licensing examinations. It would be inconceivable that people lobby for lower scores for doctors. While some doctors are surely qualified and fail, the public must not be exposed to doctors of inferior quality and those people are the consequence. Hopefully, those people will pass their exams on their subsequent attempt to pass. The same is true for attorneys.

In sum, creating other degree programs should be the avenue explored to increase access to legal service. Lower-education reform should be explored to increase diversity. And to decrease cost, consider eliminating a year of law school (and prohibit/censure law schools from increasing yearly tuition to make up for that loss of revenue) and making CLEs more comprehensive in the first year/cycle upon admission to the CA bar.

Anonymous

If, in fact, California has set the bar higher for passing the exam, that is a good thing. The last thing we need is more incompetent attorneys. If the reason for our lower pass rate (it looks to me as if the current rate is insignificantly lower than it has been in the past) is due to the students not being as good, then it must mean that the law schools are not up to par. I also firmly believe that looking at the demographics of California as a whole, one could easily conclude, with simple common sense, that the average IQ of our population is declining due to immigration and to the skewed birth rate among various groups in our population.

On the other hand, perhaps it is the other states who should look at their, apparently, lax standards, and correct that.

In any event, it appears that California has too many attorneys as it is, so why would we lower the bar to allow the marginally competent to pass?

Kathleen Bales-Lange

I am less interested in how many people pass than I am about what the practical effect of lowering the standard would be. What skills, quality etc. Would be sacrificed to make the cut lower.

Anonymous

I believe the cut score needs to be raised. The quality of attorneys in California is on the clear decline with no indication that it is getting better. Attorneys entering the profession are demonstrating a complete inability to understand case law and articulate legal arguments. It's a disaster.

Robert Zernich

I was admitted to the Bar in 1971. The standards for admission and practice has declined greatly since that time .The practice has changed from that of lawyering to social tinkering. Far too many individuals attend law schools in far too many schools. Likewise the classes offered at some schools have nothing to do with traditional practice, ergo,they can not pass the bar exam. Instead of dumbing down the exam it should be lifted . All one need do is look at the Bar Journal each month and see the disbarments and suspensions and conclude too many are admitted for the amount of real work available. The practice has been diluted enough it is time that stops.

Anonymous

This profession requires the best of the best. Anyone who cannot pass the bar according to the existing standard is incapable of the type of thinking and diligence required to be a California attorney and should not be entrusted with the lives and financial fortunes of the citizens of our great state.

Regina Ratner - Law Office of Regina Ratner

I believe that there is no shortage of attorneys in California and there is no reason to lower the admission standards. It is also not fair to those of us who took the exam multiple times. I, for one, would have passed on my first try if the score was 1414. I had to spend time and money to take the exam again to attain the 1440 score. If there was a true shortage of qualified attorneys and California was in a crisis, I would understand, but I feel that California's reputation for having a difficult exam and a high pass score are what supports the integrity of the exam. Especially for us lawyers who went to unaccredited law schools, passing the difficult exam is a badge of honor. There are many factors, but, again, the fact that there are plenty of lawyers in CA who are looking for work indicates that there is no reason that we should lower our standards and have even more out of work attorneys in CA.

Anonymous

I went to the California accredited law school, John F. Kennedy University, with a not-so-good pass rate. I graduated in 2012 and passed the bar exam on my first try in July 2012. The moral character screening held me up from being admitted to the bar until February 2013.

I think the bar exam in general is a horrible way to determine the proficiency of future lawyers. However,if we're going to use this method of testing, by no means should we be lowering the standards so more people can pass. I took the survey emailed me to by the State Bar. The fact that some people never pass the bar exam leaving them with large student loan debts is totally irrelevant the question at hand. That should not even be part of the thought process. As I understand it, the goal of the State Bar is to protect the public. How can lowering the standards achieve that goal? The question on the survey regarding lowering the standards so the profession is more diverse is an insult to all those that worked hard to become lawyers, irrespective of their race, and implies minorities need the standards lowered so they can pass.

The only question on the survey I found relevant to the issue was the lack of access to attorneys for low income people. I think that can be addressed in other ways, such as legal document assistants being licensed by the State Bar, rather than locally. That market needs to grow, especially in family law where many people are underserved. There is no way you can increase the access to legal advice without lowering the average income of lawyers in the state. It's simple supply and demand. Rather than increasing the supply of lawyers to meet the demand by lowering standards and compensation of lawyers, a second class of legal service providers, legal document assistants, should be made more broadly available to the public through the State Bar. And the certified law student program should be expanded to be less restrictive and allow law students to provide free or low cost legal services to low income people while at the same time gaining real life experience, which is lacking in many law school graduates that do pass the bar.

Anonymous

I disliked the way the BAR survey was worded. For example I support increasing access to legal services but do not believe we should lower standards. Yet survey results of "xx% favored increasing access" could be used to argue to lower standards/ score requirements. as the best way to achieve the former goal. The survey seemed rigged to me.

Anonymous

The remedy to declining passage rates should not be to lower the cut score, thereby lowering standards for admission. I believe the culprit in the passage rate decline is the quality of law schools in California - namely, the prevalence of non-ABA accredited or even CA accredited schools. I live in an area where students regularly attend non-ABA or even non-CA accredited schools and many of these students are vastly ill-equipped to pass the bar and become attorneys. These schools are taking advantage of these students, many of whom do not even have a Bachelor's Degree or fluency in the English language. The Bar should crack down on these non-ABA-accredited schools instead of lowering standards. Otherwise, the profession will decline as well. As someone who works in public interest law, lower standards for attorneys harm the low-income population instead of helping them because it is these vulnerable individuals who lack the resources or sophistication to determine whether they're receiving high-quality legal services who end up getting these substandard attorneys.

Dennis Zell - The Zell Law Firm

Do not lower the bar.

1. The liberty and money of people in California are directly at stake.
2. The performance of lawyers is linked to the reputation of the bar.
3. Even with the second highest standard, there are too many lawyers who struggle with the complexity of California law.
4. How about studying why the pass rate has fallen before making changes. Are there too many schools without accreditation? Has the accreditation process been diluted? Are the most qualified students choosing other vocations, and if so, why? Are unqualified students being admitted into law schools; and if so, is it because of lower law school standards or are colleges or the LSAT not properly measuring academic merit?

Anonymous

The high academic standard of the California Bar Exam must be preserved.

Diane Hong - LA DA Office

California is home to one of the most complex of legal issues, from real estate to intellectual property, from corporate to landlord/tenant, from civil to criminal. It cannot be compared to other states in the country where there are fewer attorneys and fewer litigation rates. Additionally, we have a large number of law schools both accredited and unaccredited. I think that due to all of the above, California bar exams should be one of the toughest to pass in the nation. This profession should require the very best of all test takers. This profession serves the public whether in private sector or in public. The clients should be able to have confidence that the person representing him has met the rigorous requirements.

Peter Taussig - Law Office of Peter E. Taussig

A senior professor at one of California's leading law schools recently told me, "If we were not promoting diversity in our admissions, our student body would be almost entirely Asian . . . ."

The low bar exam pass rate reflects the lowering of law school standards to further delusions regarding diversity. As was predicted when law schools stared down this path, we now are being pushed to extend the lowering of standards to bar admissions -- to admit to practice individuals who never would have been accepted into or graduated from a legitimate law school before such schools became bastions of political correctness and began to fudge (and institutionalized lying about) their standards.

Sooner or later we probably will succumb and pass the problem further up the line even if doing so results in foisting lower quality or even unqualified lawyers onto the public . . . and particularly onto our poorest citizens as the well-to-do always manage to find and engage the services of the best practitioners. But the next steps, onto the bench and then to the higher courts, already are in progress. We are well on the way to bringing things into line with the view expressed by onetime U.S. Senator Roman Hruska, who famously argued that the nation's mediocre lawyers deserve representation on the Supreme Court

Diego Ortiz-Pacheco - Law Office Of Diego E. Ortiz

Are the failing candidates really faced with an excessively difficult test or are they not being properly educated? I really can't fathom why you would consider mediocrity by lowering the base score. If anything it should be raised. There are plenty of attorneys in California. We don't need less competent additions. We need smarter ones. Lowering the score serves no purpose other than water down the value of our profession.

Scott Barbag

As professionals we need to ask would what is being proposed be acceptable by other professionals? Would CPAs say that because an exam is too hard to get qualified people, they will either dumb down the exam or simply pass more people? No. How about for physicians? The exam is too hard, people spent so much money on school, what are we to do? No.

The public is entitled to professionals who are equipped to provide the service needed. Allowing unqualified attorneys to parade around as though they are fit for duty is a design for disaster. This is a mistake.

Anonymous

I don't believe that there are too few California Bar recognized attorneys to accommodate the demand for the job market. Additionally, I don't feel that "lowering the bar" is an appropriate remedy for the plight of recently graduated law students. The legal education system is broken, and while the quick fix might be to let a few more graduates slip past the standardized test, in the long run it does not benefit our profession or the Californians seeking legal representation to do so.

It is unsurprising that so many students are failing the bar exam. Society seems to have promised students that everyone who enters into higher education is entitled to a high-paying career; if you can't pay off your undergraduate debt with an art history, communications, or government studies degree... head into a masters program. And law schools make BIG BUCKS taking advantage of these misinformed children, encouraged by television legal dramas and stories of what historically was an extremely lucrative profession.

If the percentage of law school graduates passing the bar is too low, don't lower the bar... reduce the number of unqualified graduates taking the exam. Law Schools have shown their true colors; they will continue to pump out unqualified graduates as long as students are willing to pay (and it is profitable). Some schools (I will not name names, but I graduated from one such institution) will even go so far as to hire massive quantities of their graduates, for a VERY short period of time, right before law school rankings survey recent graduates to determine the percentage of employed graduates in order to deceive prospective students.

The argument that there are not enough attorneys to represent anyone needing representation ignores the MANY members of the California Bar who have been forced to do non-legal related work, or work that is marginally related that could be performed by non-attorneys, because there are not enough PAID (or decent paying) legal positions to allow them to dig themselves out of law school debt. Increasing the number of individuals who have passed the bar will not magically make their debt go away, leading to the army of pro-bono attorneys indicated by the survey that was circulated when seeking feedback.

Do not lower the bar. Keep the current cut score of 1440 (or increase it).

If circumstances rationally require that the cut score be lowered, for the protection of students, then it must also protect students by restricting the creation of junk law schools, limiting the number of graduates and/or limiting law school tuition.
http://abovethelaw.com/2016/10/law-schools-agree-there-are-too-many-law-schools/
https://www.nytimes.com/2015/08/25/opinion/too-many-law-students-too-few-legal-jobs.html
https://lawschooltuitionbubble.wordpress.com/original-research-updated/law-graduate-overproduction/

Anonymous

After having practiced as an attorney in California for nearly 30 years I have watched as the quality of attorneys entering the profession has slowly declined. Please don't make it decline even further by making the bar exam easier. If anything it should be made harder to weed out unqualified individuals.

Anonymous

Personally, I'm against lowering the bar for passage. I don't think doing so serves the public interest, in fact I think it goes against it. The practice of law is now more complex than ever. The idea of having folks out there practicing that probably shouldn't be, doesn't serve anyone's interest, least of all ours. The likelihood of our E&O premiums going up further and faster would seem to be almost guaranteed. If the State Bar disciplinary section is busy now, I'm guessing they'll be hiring lots of new people to deal with the increase in complaints against lawyers. Then we get a triple whammy - increased bar dues to cover all these new investigations, increased E&O premiums and finally the black eye on our profession for these unqualified practitioners.

Traditionally, the CA Bar is one of the toughest in the country to pass, and for good reason. The CA economy, being the largest in the US and either the 5th or 6th largest globally (depending on which survey you look at) places its own demands on CA lawyers. Personally, I think the folks at the Bar shouldn't be looking to lower the proverbial bar, but rather raise it. There's a reason it's called the bar! Being a lawyer in CA is an enviable achievement. The idea of lowering the requirement to pass the test and potentially letting less than qualified people into the profession only serves to cheapen our license. I'm not sure the licensing bureau in CA that deals with medical doctors is looking to lower their requirements for prospective doctors because students can't pass their boards. My guess is they and doctors who already hold CA licenses would be against letting someone less than qualified practice medicine. Why should law be any different?

The road to practicing law is a hard one. Finishing your undergrad, taking the LSAT, getting into a law school, getting through a 2, 3 or 4 year program, studying for the bar and then passing the bar. I'm sure this brings back lots of painful memories for many of us. Kowtowing to lobbyists and deans who represent mostly non-accredited schools that are matriculating less than qualified applicants seeking to become a licensed attorney is not in the public's best interest, much less ours. Doing so only serves one group - those schools putting out less than qualified people. Perhaps the Bar should be more concerned with the significant numbers of prospective students that are continually sold a bill of goods by these schools after they have taken out massive student loans only to realize they have no business being in law school and are now left holding non-dischargeable student loans. I'm guessing there's a reason those same students couldn't make it into a traditional law school - they probably weren't qualified. This is very different than what many of us dealt with in law school - remember the famous saying of (I'm paraphrasing) "look to your left, look to your right - one of you won't be here at the end of this". At least those people got out early and didn't incur all those student loans and weren't led to believe they could pass something they really have no business even attempting. I'm sorry if this sounds elitist but I offer no apologies - practicing law is a privilege and it's hard. Passing the bar exam was hard. I'm proud to be a practicing lawyer.

My two cents...

Anonymous

I have not conducted any studies, but I want to provide my own, limited, empirical experience:

I went to a small California accredited law school in the central valley. They keep photos of each graduating class on the walls of their hallway. As you walk through the halls, classes transition from the 1970s on up to the most recent graduates in 2016. The class sizes have clearly grown over the years, and the most recent classes by far contain the largest numbers of graduates. You can see it in the pictures. So, from my limited perspective, I have observed an increase in law school enrollment, at least in the Central Valley.

Additionally, I have witnessed seminars and informational meetings for prospective students where the school promoted taking classes to learn to pass the LSAT, and taking it more than once. In my opinion, the LSAT is an aptitude test, and taking a class to learn to take it diminishes the tests accuracy. At my school, when a student fails the first semester, they are not dropped from the program, and they are placed in remedial classes instead. Struggling students are encouraged to hang in there, no matter how apt they actual are for law school (and likely the Bar Exam or practicing law).

The school I went to was not for profit, but there are a number of for profit law schools to weed through online if you are interested in attending law school. I cannot speculate as to how the for profit schools may contribute the lower pass rate.

I do not believe that lower enrollment rates at law schools are the problem. And, even if they were, I do not believe that lowering the bar (literally) is the way to address it. People deserve competent legal representation, not simply more representation that is poor quality. This seems to be the push, and from what I've read in the Daily Journal, at least some of this push comes from law schools.

It would be difficult for schools to develop curriculum that better prepares their students to pass the bar and competently practice law. It would be expensive to only take qualified students, and not coddle the unqualified in order to continue to collect tuition. But nothing about practicing law should be easy. There is too much at stake. Not just for clients, but for society as whole and for the profession itself.

If there is lull in the number of attorneys in California right now, it is probably because there were too many before, and the market is adjusting. Those of us who are practicing all managed to pass that test-- even incompetent attorneys.

I think the law schools should take a good long look at their practices and curriculum. Have some studies run on what they can do, and implement changes to see what impact that has, before lowering the pass score for the bar.

John Donovan - Law Offices of John J. Donovan

I don't believe adjusting the cut score addresses the real problem. It seems to me there are two many applicants from substandard "law schools". Many students are paying for an education that does not prepare them to sit the bar or practice law. I have no statistics but I have seen and spoken to what appears to be an excessive number of graduates who struggle with the Bar, some many times, who come from schools with terrible pass rates. I think there may be some schools that rarely or never graduate a successful candidate. This smacks of fraud. These schools are making money from students who have no business in law school or the schools are teaching at a substandard level. Don't lower the bar, upgrade the quality of legal education. Force the improvement of these mills, or eliminate them.

Dwight Christensen - Retired Sheriff Detective

Keep the standards high! There are enough poor Attorney's in the profession now, no need to make it worse.

Anonymous

The cut score should remain at 1440 and not be lowered to 1414. I took the July 2012 CA bar and passed the first time. To be honest, I never, ever thought I would pass the first time. My ABA law school told me my grades were too low for me to pass the first time. I defied everyone's expectations through hard work and using a bar tutor instead of BarBri, the course that literally everyone else took at my school at that time. There is a flood of attorneys in CA and I had to leave the state in order to find employment. CA absolutely does not need more attorneys. If current graduates cannot pass the bar, they should study harder. If law school graduates cannot pass the bar, then it means that law schools are not teaching them the skills they need in order to pass this important exam. The fault is not with the bar exam; the fault is with the law schools and they should modify how they teach if current students cannot pass the exam.

I have met too many attorneys who take advantage of their clients. Maintaining the current cut score of 1440 is very important to maintaining the quality of attorneys in CA.

John Molloy

In my view, the Bar should not follow many schools In California or the State Superintendent of Education in reducing the "pass" score or the requirements for graduation from high school and acceptance into college. If applicants can't pass the Bar, study harder. The response should not be to lower the cut line. Since I took the exam over 45 years ago, California has always had the reputation as one of the hardest in the country. What is wrong with that? It adds to the honor of being a California lawyer. Don't lower the standards because people have trouble meeting them. Don't give every Little League player a trophy. Give trophies to the winners and the best players. That's the way life is! Don't mislead them!

Anonymous

I would have passed the first time if the cut score was lowered... but needless to say I personally don't think its fair after what I went through for the score to be lowered. Unless the state bar wants to give me a refund for the time and money I spent taking it again... I don't agree with lowering the score. Everyone should have to go through the same suffering. Unless you retroactively apply my passing to July 2016 I do NOT support this. Total BS and unfair. The California state bar is a scam. Everybody knows it MAJOR scam. Give me a refund. Literally please do.

Anonymous

In the almost 30 years I have been an active Bar member, I have seen an alarming decline in the competency and ethics of the younger Bar. Maybe this is due to the proliferation of online law schools, maybe not. But to looser the bar even further is a mistake. I began when the passage rate was in the 30% range and we all survived and thrived. Thank you!

Anonymous

It is imperative to maintain the integrity of the standards for qualified attorneys in the great state of California.

Joseph Pastore - Sorem & Pastore, Lawyers

Assuring proper candidates to be licensed is more important than the passing percentage. Lowering the pass rate merely lowers the quality of candidates to practice.

Jane Doe - none

I graduated from an unaccredited school in California and passed the bar the first time I took it. I was able to do this because I put a lot of hard work into studying for the bar. The bar exam is not a difficulty exam to pass in any way, shape or form. I have even tutored many students to pass it and the number one problem is the inability to prioritize the time needed to prepare for the exam. If you want your pass rate to improve, don't lower the score, eliminate the class of universities that are predominantly bringing down the score such as distance learning schools and other non-ABA accredited schools. There is a reason that the ABA accredited school pass rate is much higher than non-accredited state or accredited regional. The reason is that they prepare students to prepare and prioritize the bar. Many ABA schools do not even allow students to have employment their first year in law school while non-accredited are quite lax. Students need early early preparation for prioritizing preparation for the bar exam and this is not received in distance learning or non-accredited schools. The pass rates makes this quite obvious. I was the exception, not the norm. In addition, many individuals who pass the bar after attending a non-accredited school are limited to only fully practicing in California and a few other states. There is a constant underlying impression that many of the non-accredited states give to students leading them to believe that by the time they are ready to sit for the bar, the ABA will have approved the learning platform offered by the schools such as distance learning schools. That is simply untrue and will not be true in the near distant future. Pick the institutions that are bringing the stats down so drastically and require them to be much more selective about the applicants they accept and audit the curriculum so that they are actually producing students that are not only intellectually prepared, but also mature enough to make studying for the bar exam a priority. Bar review should be a course that starts at minimum in 2L and should consist of mcq exams that predict your likelihood of passing. Practice essays for courses in 1L should be reviewed consistently in 2L and 1L & 2L should be constantly reviewed in 3L. The pass score does not need to be lowered, the quality of the candidates approved to take the bar needs to be highered.

Dave Garner

I think the Bar could achieve its goal by adjusting the content and/or format of the exam questions somewhat. I passed on the first try and my approach to studying involved being conversant in what I called "top level" law. I did not try to memorize every detail and exception to every principle in every body of law. I felt to do so was somewhat unrealistic as in the real world I would not know always know things that well and because that was the purpose of research. I felt that it was better to know the "tops of the waves" so to speak (and as far down them as I could easily get), but then also to make sure that I could write effectively and efficiently and thereby apply what I knew and could remember to the fact sets presented in a way that demonstrated my overarching ability. I felt I had a better chance of passing if I could demonstrate general competence as a new attorney (understandably with lots to learn) then to try to become king of every area of law but be unable to demonstrate it on the exam. I felt I would make some mistakes, but that perhaps my work would demonstrate competence even if some technical points were incorrect. I adopted this approach in part as I was married with two children and simply could not take two months off after law school to study for the exam. My family counted on my paycheck.

I passed on the first try. To this day I don't know every area of the law, and even in my practice area I regularly have to do research and look things up. I know where to look however and once I find the correct answer, I know what to do with it.

I think the bar exam could do a better job of capturing this kind of approach for test takers. Rather than really difficult questions that require hyper technical understanding of a particular issue, have a more general issue that requires a more general knowledge and then see if test takers can successfully apply the law to the facts in a way that is coherent. That would probably be a better test and would not require lowering the pass score. I would probably give graders a better feel of who can really be a good attorney.

Anyhow, just a few comments respectfully offered.

I hope all is well.

Dave

Rex Cluff - Cluff Legal Services

I passed the exam on my first try after graduating with a C grade from McGeorge. I had five children, employment, church service, community service and my studies to manage. I did not have time to be an A student so I did the best I can and graduated with an average grade that put me in the bottom third of my class, yet I passed the bar exam on the first attempt. I consider myself to be modestly qualified to represent my clients competently. My point is that we should not lower expectations just because students are having a hard time passing. They need to study more and work harder. We have too many attorneys as is. The state is glutted with attorneys. I'm okay with discouraging more attorneys by keeping the exam difficult. However, I also would ask the State Bar to institute a mandatory internship for new attorneys requiring them to work under an established practitioner in order to learn the business of law; how to run and office, select clients, keep billing records, etc. I was not picked up by any firms because of my modest grades and had to open my own office. This is not the ideal way to do things and I eventually folded after only five years. My law practice has been a part time effort while I work full time for the State in order to provide benefits for my family and a steady income to pay the bills.

In conclusion I exhort you not to lower the bar exam standards. Keep them high and insist on students meeting the standard.

Michael Williamson

Talk to the law schools about better preparing their graduates.

The practice of law and the legal profession are no less demanding than the Bar Exam. The public interests embodied by the competent professional skills of Officers of The Court are undermined by weakening the minimum expectations of persons entrusted to practice law.

Qualified Officers of The Court should be of the highest caliber, not of a lesser caliber.

Anonymous

California has a number of unaccredited law schools. Sadly, many of the graduates of these unaccredited law schools, and even some graduates of accredited law schools, are not qualified to practice law in the State of California. In recent years, law schools desperate to maintain enrollment have admitted students who are less qualified than in past years. Thus, the bar exam pass rate has declined in recent years as increasing numbers of less qualified applicants have taken the bar. The answer is not to lower standards so that individuals lacking the necessary skills to practice law enter the legal profession. Standards need to be maintained to protect clients and the integrity of the judicial system. All law schools must be required to fully disclose their pass rates so that applicants can make informed decisions about whether to invest the time and money attending a law school that is not likely to properly prepare them for the practice of law and the California Bar Exam.

Eric Johnson

The cut score is not the most important factor in re-assessing the CA bar exam. I would encourage CA (and all states) to move towards a fully multi-state exam. This would be able to maintain the high standards of the profession, but also enable interstate mobility and competition while at the same time massively reducing costs.

The purpose of a bar exam is to ensure basic competence and ethics. The legal profession is somewhat unique in that we are (1) invested with great trust, and (2) often not immediately accountable for our actions - e.g. in my practice, a contract might never be tested, or might only be tested years or decades after it is drafted. Hence, there is a valid role for pre-admission standard setting such as through the bar exam. But the laws of the various states are not so different that they require different exams, and the interests of the profession and our clients are not served by requiring knowledge of local minutia.

Use of a multi-state exam (for which CA could of course set its own score threshold) would lead to great efficiencies across the profession in a time of ever increasing client cost pressures, would allow more attorneys to serve more diverse and needy populations, and would reduce costs for new lawyers, all while maintaining high intellectual standards.

Patricia Halsey-Munroe - Retired

If new attorneys are unable to find employment, why would California accept a greater number of attorneys by lowering the pass score? To cause even greater economic hardship on those who cannot obtain employment?

Increasing the number of attorneys in California is at direct odds, & contradicted by a lack of jobs for attorneys.

Lowering the passing scores to increase the number of attorneys in California does not seem a reasonable or rational solution to the lack of jobs for new attorneys (who may have a huge debt for law school.)

Eric Yadao - CA FTB

I am a minority (Mexican and Filipino) and therefore, bring diversity to the lawyer profession.

I worked full time while going to school evenings for four years. I dedicated myself to, and was successful in passing the bar exam the first time. Lowering the bar pass rate, like reducing the exam from three days to two, is an insult to those that worked hard to become lawyers in California. I've never worked harder in my life and it saddens me that the Bar is seeking a way to give away the right to practice law to an unequal effort. The same is true of the purported effort to allow lawyers to pass and practice limited sections of law.

Bringing diversity for the sake of diversity into the profession would equally disserve the profession as well as the public that seeks qualified and professional assistance. If thousands of lawyers, regardless of gender or ethnicity, passed the bar exam in its present exam setting, then thousands more that dedicate themselves to passing, will also become lawyers.

Thought needs to be given as to why the Bar is considering this change and who really advocates this change:
1) Students that feel entitled but don't dedicate themselves to studying to the extent required--so they come away with debt but no bar card?
2) Law schools that want the tuition but admit students that do not have the potential to be the students necessary to pass the exam?

Lowering the bar pass score is a solution looking for a problem.

Perhaps the pass rate problem should be addressed by decertifying accredited schools where their pass rate is consistently below a certain level. Perhaps then the students they admit will be screened for qualifications rather than their ability to pay tuition with loans, scholarships or what ever the source. Perhaps more, students should be advised upon admission of the debt they may be taking on is no guarantee to becoming a lawyer--citing to pass rate statistics.

Ultimately, given the choice, the general diverse public seeking legal services are happier to have a proficient and winning advocate regardless of gender or race than they are to have a politically correct diverse advocate that provides unqualified poor service.

E Lawrence Brock

I do not believe the Bar exam is an indicator of qualifications to practice law, integrity of the individual or ethics of the individual. The cost of law school far exceeded the value and the potential to earn an income is insufficient to pay the student debt is minimal.

The civility and professionalism in the profession has declined dramatically since the 1970s when I first became involved with lawyers. I worked in the profession throughout my undergraduate and law school career and observed the professionalism and civility and courtesy of lawyers first-hand. My employment took me to the State Bar convention every year from 1973 to 1980.

I think too many new attorneys are unwilling to listen and learn from seasoned and experienced attorneys. Too many are on their own which is damaging to the public because they give very poor legal service. Unless they are under the supervision and direction of the senior attorney the public will be harmed.

James Rushford - Rushford & Bonotto, LLP

Law practice is difficult and complicated and becoming more so every day. California clients need and deserve qualified attorneys. If the law schools aren't preparing their students for the exam and/or are admitting students who do know have abilities sufficient to succeed in law school, bar passage or effective practice, then the focus should be on the schools and the quality of students they admit; not lowering the bar score. Frankly, even with the current score, I am amazed at the number of ineffective litigators I encounter in my practice. It is apparent the undergraduate schools are not doing their job either. Many of the new attorneys I run across cannot write, let alone produce effective legal writing. Representing folks is serious business and the focus should be on producing quality lawyers who can provide good representation for their clients, not some politically correct social program. A client who experiences a terrible outcome in a legal matter is not going to find much solace in knowing his or her attorney was admitted to fulfill a quota or other social agenda. There are many bright and capable folks in this state in all flavors and categories who can do this work. The law schools goals should be to find and educate those folks so as to provide competent attorneys for the citizens of a State where the need for legal representation is growing.

Eual Blansett, Jr - Retired

I attended the University of California, Hastings College of the Law, in San Francisco from 1971 to 1974. I substitute taught both elementary and high school for the last two years of my three years in law school while I lived in the Half Moon Bay School District. I had no sugar daddy to help me get through law school. If I got a call to substitute teach before 6:30 am, when my bus left for San Francisco, I would answer the call and not go to class at Hastings. I missed a lot of class, but I had a small loan to pay off when I graduated.

After graduation, I took a bar review course. I learned more in my bar review course than I learned in law school, particularly how to write essay questions to satisfy the graders of the exam.

I then took the bar exam in July 1974 and passed it the first time. I was thereafter hired by the Office of the District Attorney in San Joaquin, where I spent 31 wonderful years as a prosecutor, specializing in homicides. I even supervised the Homicide Unit, which I created after John Phillips became DA, for over five years. I am now retired and I do nothing but pro bono work for the people I know.

While a prosecutor, I got to know the intelligence, skills, and capabilities of the attorneys in and outside my office, both in public work and in private practice. I would rate half of the attorneys I got to know as incompetent. I would not trust them with any legal work I needed done. This included attorneys in the DA's Office.

I write all of the above to assure you that I know what I am talking about when I say that you will do the people of the State of California an enormous disservice in lowering the standards for passing the bar exam. The exam was three days long. It was tough, it was grueling, but it is passable for those intellectually prepared for it. It takes a certain mindset to become an attorney. It takes a keen insight to take facts, find the appropriate law to apply to those facts, and then present the conclusions in a rational manner. Lowering the standards would only let people practice law who are intellectually incapable to providing adequate representation. We have too many of these already.

One last story to make my point. While I was at Hastings, the school had a LEOP (Legal Education Opportunity Program). Hastings let in those who would normally qualify (people like me) and then admitted 50 minorities and women who did not qualify otherwise. I had no problem with the concept. I just did not like them in my classes because of the inane comments they would make from time to time.

I had several of the LEOP minorities in a class called Psychiatry in the Law. The final exam was based on the professor's lectures, which were taken straight out of a book he had written and he suggested we buy. The final exam was made up of true/false, fill in the blanks, and other such questions. Apparently a number of the LEOP students flunked the class for some reason I don't understand. I got a grade of 97 percent. I was approached by one of the minorities outside of class. He wanted to know if I would join a protest against the professor who taught the class. I asked why. He said the professor is a psychiatrist and he knows that minorities do not do well on true/false, etc., type of questions. Therefore, according to my friend, the professor gave such a test to flunk the minorities. I told him I was not joining the protest. Here is what I told him: when I was at UCDavis, minorities there protested that the professors were racists because they gave essay tests, knowing full well that minorities would do badly on such tests. I asked the minority standing in front of me at Hastings this question: "Which is it? Minorities can't do well on true/false type tests or they can't do well on essays?" He had no answer. He then turned and left. I don't want people like him practicing law in California. We have enough dumb attorneys as it is.

Anonymous

This is ridiculous to even consider. The profession should maintain standards. As it is, there are very unqualified individuals practicing law. Lowering the standard will degrade the profession and cater to a generation that has no work ethic and even less ambition. I am only 35 years of age so this is not a senior citizen talking.

Jack Beebe - Hollingshead & Associates

Lowering the "cut score" in response to declining passage rates strikes me as a ludicrous response. I am not aware of exactly how long there has been a bar exam, or for how long there has been a "cut score" for the bar exam, but presumably that measure of pass/fail has been in place for some time, and a significant number of bar exam applicants have met or exceeded that "cut score," if the quantity of lawyers in California is any indication. Presumably, then, passing the bar exam is not impossible, as there are many who have been able to meet/exceed the "cut score" for many years. I'm not aware of the bar exam undergoing any significant changes or modifications in recent years, so applicants today are taking essentially the same bar exam as those in years past. Thus, the issue does not appear to be with the exam itself, but with the applicant pool: apparently, the percentage of qualified/prepared applicants is what has decreased.

I would suggest that the issue, therefore, is not with the relative difficulty of the bar exam, but rather with the qualifications/competency of those taking the bar exam. While I have no actual figures or statistics to confirm it, I have heard that California is home to more non-ABA accredited law schools than any other state. I also understand that bar passage rates from those non-ABA law schools run historically far lower than those of applicants who attended ABA accredited schools. Thus, rather than "dumbing down" the bar exam by lowering the threshold for passage, perhaps attention should be focused on those institutions which seem to produce graduates who are not sufficiently equipped or prepared to pass the bar. To put it in simple terms, a crackdown on the "fly by night" law schools would result in fewer ill-prepared candidates sitting for the bar exam, and passage rates would therefore and thereby increase. Perhaps those "lower tier" law schools' continuing accreditation by the State of California could be tied to some minimum bar exam passage rates of their graduates? That might help to motivate those profit-centered/money-making businesses to convert to actual educational institutions.

I am not in favor of ANY measures which promote or facilitate any influx into the profession of people who are insufficiently educated and/or vetted to practice law. There are already too many of those who have found their way into the profession, the clearest indicator of which is the ever-increasing number of frivolous and meritless lawsuits with which the courts are jammed; obviously, too many lawyers think that every injured or "wronged" client who walks through their door has some claim and recourse against someone else, and the civil justice system has thereby been reduced in large part to the equivalent of a "let's-take-a-shot-and-see-if-we-get-lucky" carnival game. The State Bar would be doing a great disservice to both the public and to the profession by opening the door to such "practitioners" even wider by lowering the passage score of the bar exam. If California's bar exam operates in part as an instrument which serves to weed out those who are not qualified to practice law, or who don't grasp the fundamentals of the ethical strictures by which lawyers are to conduct themselves, I applaud that instrument, and would cast a vote for California to continue to strive to set and attain high standards, regardless of where it's bar exam might fall on any list of "toughest tests."

Anonymous

There is no shortage of attorneys in California, and absolutely no legitimate reason why the cut score should be lowered.

Deborah Kemp - Retired

To lower the cut rate is a disservice to the profession and the public. Unqualified persons should not be foisted off on the unsuspecting public.

Jon-Erik Storm

California already has one of the highest ratios of lawyers per capital in the nation. We do not need more lawyers. The Bar should stop accepting applications from unaccredited law schools, which artificially distort the pass rate and create three myth of the “hardest bar exam.”

Jim Martin

It is imperative that members of the California Bar be qualified to provide excellent and reliable advice, service and counseling to clients. Pretty good is not good enough when an individual's life, liberty and pursuit of happiness is at stake. We cannot and should not, in good conscience lower the standards to reach some numerical goal thus putting the public's safety at risk. Too many schools, universities and law schools are doing just that--pushing people through without due regard for the overall effect on education and the resultant ability to obtain and perform in a good job. Families are being left without effective leadership, guidance and earning power as a result of lowering standards in education and behavior in general.

As a nation, and certainly as a State Bar, we need to meet the needs of today and the future by expecting and requiring excellence. A forty-three percent pass rate for the State Bar is hardly too severe. The people of California and the many other states to which California lawyers migrate deserve to be served by well qualified and professional lawyers who know the law, have the ability to ascertain the law and apply it in our increasingly complex world.

Samantha Siegel

Studying and sitting for the California Bar was very important to me, and was a calculated and thought out decision. As California, has the lowest passing rate in the Country, the importance of passing the Bar increases the importance of such acceptance. Additionally, the fact that people sit for the Bar who might not have attended, or finished an accredited Law School, in my opinion, could contribute to the low rate. Further, lowering the rate and admitting attorneys into the Bar who are not adequately equipped for the work ahead is troublesome, I believe that regardless of race, religion, background, etc., if you study for the Bar you can pass it. Lowering the rate and passing more people does not serve anyone well. Everyone, regardless of economics, social status, religion, sexuality, etc, deserves proper representation which can only be upheld and guarantee by California's highest standard,

Anonymous

If scores need to be lowered for people to qualify, then they are not qualified to practice law. Lowering the standard is ridiculous. It will only result in a substantial decline in the quality of attorneys. Bad move for the profession. Law schools need to do a better job. Public shouldn't suffer because they cannot churn out quality (qualified) lawyers. Malpractice waiting to happen.

Michael Pecherer - Michael S. Pecherer, Attorney

I have practiced law since 1970. Over these years, the collegiality, professionalism, and competence of some younger attorneys has, in my opinion, declined considerably. While there are certainly many young attorneys that are competent, I never cease to be astonished at the work of others. There is no question that the provision of legal services needs to be more broadly available and that so-called under-served "communities" may well be a problem. But the solution is not to lower the standards, it is to improve the educations of lawyer candidates. Law schools today spend so much time on politically correct indoctrination that the basis analytical skills and ethical standards appear to be neglected. My law school education was rigorous, demanding and I was fortunate to have professors who took pride in developing our thinking and analytical skills. (I attended Columbia Law School.) I had a very diverse class in which African Americans and women were well represented. Many of my classmates have gone on to be judges and prominent attorneys (including the women and minority students) although sadly, we are dying off these days. I remain in a very active and fascinating practice and fortunately my health is good.

Focus on the cut score is, in my opinion, an excuse for not addressing the underlying issue. The exam is not hard and any well educated candidate should be able to pass. What plagues the exam is and overall dumbing down of law school education and a compulsive need on the part of law schools to include classes and subjects that when looked at critically, contribute little or nothing to the fundamental skills that attorneys should have.

Sadly, I suspect mine is a minority opinion and that I am a dinosaur fighting the tide of mediocrity.

Michael S. Pecherer, (SBN 047053)

Leonard Stitz - Leonard W. Stitz, PC

Shouldn't we be focused on the ability of the Bar exam to evaluate the applicant's abilities and not simply focus on raising the pass rate?

Anonymous

I deal with far too many attorneys in California who are not strong practitioners, who do not know the law, who bring frivolous lawsuits without any apparent investment in client intake, and without any concern for whether they are pursuing a valid claim, representing a legitimately aggrieved individual, and so forth. There is, in my view, already an overabundance of such attorneys in the state, as well as many others who have no regard for the client's best interests and are only using the client's allegations as a vehicle to pursue their own payday. I recently executed a settlement of a matter, only to find that the lawyers representing the plaintiff had taken almost 98% of the settlement money. I was completely appalled by learning such information.

Lowering the bar passage rates will, in my opinion, only increase the number of attorneys in California who "practice law" as described above. Committing to passing the California bar requires an investment of time and effort, and the individuals who are willing to make that commitment are the types of lawyers we should have. Additionally, having passed the California bar exam as the first of several I have now taken and passed on the first attempt, I did not find the California exam to be any more difficult than other state bar exams. My personal experience therefore suggests that the reason for the low passage rate is not the difficulty of the exam itself, but the quality of the pool of exam takers. That certainly is not a legitimate and valid reason to me why the passage requirements should be lowered.

Carol Miller

In an era when it is documented that young people are not being held to standards of knowledge and learning in colleges across this state, lowering the bar, e.g. the standard, for admission to the law profession is not advisable. For instance, it has been reported that community colleges in California are contemplating dropping requirements such as Algebra I. If a student cannot master Algebra I, they have no business calling themselves a "college graduate." In this era of advanced access to knowledge and learning tools, it is inexcusable. Algebra is indeed used in "everyday life." It's basic abstract concepts are tools that can assist in "everyday living." With the advent of the internet and on line learning, there is no reason for anyone of average ability to not be able to learn. Likewise, with the advent of the internet and access to on line information and knowledge, there is absolutely no reason to "lower the bar." In fact, an argument could be made that the "bar" could be "raised."

The lowering of the bar pass rate to "increase diversity" is an insult to those of "diverse" backgrounds. It assumes they are not intelligent enough to meet the standards of those who have gone before them, especially if those person are mostly of the "white" race. What an abject insult. Hispanic persons are not less intelligent than non-Hispanic persons. Asian persons are not less intelligent than non-Asians. Black persons are not less intelligent than non-black persons.

I have direct experience with people who were labelled as being "below average intelligence." These same people, who applied themselves and worked harder than the more intellectually gifted persons, were able to master their education. They used the online tools available to them. They used whatever tutors were available to them. And they succeeded in graduating, with honors, in some cases, from college. Do not "lower the bar." It is a vote of "no confidence" in those you believe you are "helping."

CiaráN O'Sullivan - The Law Office of Ciarán O'Sullivan

The current discussion regarding the cut score is solely a result of the perceived reduction in the need for legal services after the 2008 financial crisis, and the decline in applications to law schools that followed. This in turn resulted in certain law schools admitting less-qualified candidates, who had difficulty passing the bar. I include my own law school, Hastings College of the Law, in that group. Hastings' dean has reacted by complaining about the cut score, when its real problem is the reduced quality of its students. The bar exam is about protecting the public, not about enabling more lawyers to get licenses.

I completely agree with the arguments of Judge William Fahey in his article entitled "The case against a lower bar pass score," published in the Daily Journal dated August 8, 2017

Anonymous

Thank you for the opportunity to submit my comments regarding the potential cutting of the cut score for the California bar exam. While I would agree that the exam is difficult, one of the most in the country, I believe that is why California has an abundance of qualified attorneys. While it is understandable to be concerned with the passage rate, the solution does not appear to be to lower what qualifies as passing. In my opinion, the appropriate response is to encourage more robust study programs and evauluate the accredited law schools curriculum.

California attorneys receive a high level of respect and are generally thought of in high regard because of our rigorous testing requirements. Ensuring this high level requirement also protects the public interest as attorneys licensed to practice may be more qualified. While it is true not all attorneys that pass the bar exam are great attorneys and many that don't would be great attorneys, the public perception and protection would be lessened as a result of this.

I strongly believe it is in the best interest of the profession to keep the bar set high, and simply encourage personal accpuntablility.

Dave Jones - Hackard Law, a PLC

We have nearly 200,000 active attorneys in California. We do not have shortage of lawyers. Lowering the cut score will increase the number of lawyers in the state--and not the highest quality lawyers, either. People have been talking about the difficulty in finding employment as a lawyer. If you increase the pass rate for the bar exam, you will only make the problem worse. Perhaps law schools should focus on admitting more qualified students? Or law schools should be teaching better so students are more prepared for the bar exam and life as an attorney. Lowering the standard so more lawyers are set free on society does no one any favors. Do you really want a bunch of unskilled, under-educated, lawyers-only-because-the-cut-score-was-reduced attorneys providing legal services to anyone in California? Bad legal help is often worse than no legal help. Giving bad representation to the "under-served" is worse than no representation. DO not dumb down the bar exam.

Anonymous

The whole point of the bar passage rate, and the exam, is to make sure that only qualified attorneys are admitted to the bar.

While this is somewhat of a farcical attempt to reach this goal, making it easier to pass the bar to allow less qualified attorneys help out the poor, is of no help at all.

Already, poor people and immigrants are taken advantage of admitted attorneys, notarious and fraudsters. It does not seem a proper goal to have those people you seek to serve to have even more people available to them to screw them out of their funds and then, not give the result they were hoping to get.

Attorneys is one of the very few professions where, when you are admitted to the bar, you can hang up your shingle, and go out and screw as many clients are you can find, without any experience or expertise.

When you come out of law school, you know absolutely nothing about the actual practice of law. This is true, notwithstanding the alleged efforts of law schools to try and get you some training.

Law schools cannot train their students, because, for the most part, the professors have never practiced law themselves.

Look at doctors. They do interships for several years, they train in hospitals, they do surgery, they attend to patients, and other actual practical things for their professions.

Lawyers go to law school for 3-5 years and get some class room training. Some of the lucky ones get internships with judges, but that is not going to be the ones with the lower bar passage rates that you intend to sic on these poor, unspecting poor people.

Lowering the bar passage rate is not going to support this goal, it is only going to make it worse.

If you really want to do something that will help, give law students actual training on how to practice law, akin to what doctors are given, make state law schools more affordable, and work with the students to give them the actual tool that will help them pass the bar, and be able to be a qualified attorney upon passing the bar. This training should be available to every student, not just the lucky ones.

If anything, the score to pass should be raised, not lowered.

Leslie Shaw - Law Office of Leslie S. Shaw

Clearly this is not a State Bar issue rather, the request to increase the bar passage rate is coming from the bottom line for the Deans of Admissions of the law schools in California. In 1992 I received a bar number in the 160,000. Currently, we are in the 300,000. Which means in 25 years the number of attorneys licensed to practice has doubled. I hardly consider that a reduction in pass rate. We already have enough problems with the number of attorneys practicing and the competition. After 2008 with the stock market crash and housing crisis, people lost their retirement income. That means, attorneys who should have retired have not because they are trying to re-build their retirement income. What edge will you be giving a first year by increasing the passage rate. You have the license but can't get a job because the old attorneys aren't retiring? Furthermore, even though the test is not complete evidence of ability to practice, it is somewhat indicative of the ability of the person to perform under pressure. There are too many attorneys in California who steal from their clients and are committing fraud. Look to the Orange County DA who recently indicted 10 attorneys in Southern California for workers compensation fraud. The likelihood is that criminal activities will increase if there are more attorneys practicing due to increased competition for jobs that don't exist.

If the argument is there are not enough attorneys to do pro bono work and help out the indigent, the admission of more attorneys does not necessarily calculate to an attorney more willing to take on indigent clients. Let's face it, free work does not pay the student loan. Furthermore, why should the indigent have sub standard representation rather than representation from a qualified individual..

Rather than increasing the bar passage rate and lowering the standards of the California bar, shouldn't action be taken with the law schools themselves? Perhaps raise the criteria for admissions. Or perhaps take less working adults as students so they can devote 100% of their time to study during school and then for the bar exam itself.

Realities are, the only thing that will occur by increasing the pass rate is more crime and mediocrity, thus further lowering the already low opinions of lawyers.

Anonymous

We need to maintain the integrity of the attorneys. I have seen some unqualified attorneys on the market. To lower the score, the public interests may be satisfied. I tend to focus more on quality rather than quantity.

George Aloupas - Quintilone & Associates

If anything, the cut score should be RAISED, not lowered. Why should it be easier to become a lawyer in 2017 than becoming one in 2016. Not only did the Sate Bar cut the work load of the Bar by 1/3 by making the Bar a 2-day ordeal rather than a 3-day one like every other CA lawyer had to take, but you're also going to lower the cut score. Why don't you just give Applicants 1,000 points for typing in their name on ExamSoft?

Last time I checked, people were complaining about too many lawyers in CA, not a shortage. Moreover, how can the State Bar guarantee protection of the public when it is lowering the bar (pun absolutely intended) to be granted the privilege of practicing law in this State? How is the public better served when the State bar floods the legal market with new lawyers who literally are not "minimally competent" to even practice law based on the present standards.

Speaking of flooding the market, more lawyers mean that there is less bargaining power for each individual lawyer to negotiate pay with their respective employers. There needs to be more scarcity in the legal market so individual lawyers will be worth more. When there is more of something, the price of that something goes down. That is basic economics.

Unless the State Bar is going to put an asterisk on all new Bar Numbers, so people can distinguish lawyers who are actually competent, versus lawyers who needed the State Bar to cater to them and lower the standards so incompetent lawyers can practice law, this proposition will end in disaster. Why even have a Bar Exam at this point? Why don't we just let every one be a lawyer? It is discomforting to see the State bar of California adopt a "participation trophy" mentality when it comes to licensing attorneys in the State of California.

Most people come to lawyers when they are in huge trouble, usually more trouble than they have ever been in. They deserve and expect a competent lawyer who will vigorously represent them so they can have their day in court. With that said, I strongly urge the Bar to either keep the cut score as is or raise it and make it even harder to get licensed, so the public can be guaranteed to have competent representation. Thank you.

Adam Ambrozy

Lowering the Bar passage rate will not guarantee that low income sectors of the community will be served. Instead, it would only lower the standards for the profession at large and could result in driving down salaries of current members by over saturating the market place. Is the Bar going to increase the resources for clients who are the victims of malpractice in relation to the decreased passing score? Probably Not. Is the Bar going to provide additional resources to these new attorneys who did not meet current competency standards to ensure they can competently practice law in the real world? Probably Not.

The knowledge and performance standards associated with the effective practice of law will not change simply because you lower the standards. Maybe you should turn your attention to poor performing schools and take away their accreditation if they are unable to ensure that significant enough percentages of their students pass the exam. Bottom line lowering the passing score sends the wrong message to the community when it comes to guaranteeing that licensed attorneys can effectively represent them.

Freddie Selan - Sole practioner

The number of inept and unqualified people I encounter, regularly, who are admitted to practice law in California never ceases to amaze me. Their legal skills, basic knowledge and ethics clearly reflect that they do not possess the minimum education which should be required before they are entitled to represent anyone. I believe that there has been a significant and substantial decline in the overall legal profession, which apparently stems from their receipt of their law degrees from purported law schools, which obtain accreditation under false and misleading representations. An inordinate number of these people should have never been admitted to practice law based the absence of a minimum education. It is shameful. They are committing malpractice constantly and The California State Bar Association functions in the same manner as a toothless tiger. It is borderline embarrassing to acknowledge that I am a lawyer. The standards for admission to practice law in California should be raised not lowered. What is the matter with you people?

Fred Selan

George Zugsmith

I sat for the bar exam in 6/68 and again in 3/69. The passing rate on the 1969 exam was 43.6% (as published in the Daily Journal on June 3, 1969)

I do not know what a "cut score" is as I've not heard or read the term before. Having practiced law for 48 + years I've learned that a significant key to a successful result is understanding what one reads and being able to organize the information effectively.

When I sat for the bar the questions asked required a narrative responses. The exam required understanding the question, having the knowledge to respond, together with the organization of the response.

"Lowering the bar" I believe will result in a disservice to both the public and our profession. Unfortunately, the bar exam cannot accurately predict whether the applicant will possess the ethics required in our profession. It can however, measure to a degree the knowledge and writing skills required to practice law. To reduce these requirements makes no sense.

Michael May - Attorney at Law

Several days ago a sitting Judge of the Los Angeles County Superior Court submitted a letter to the editor of Los Angeles Daily Journal in which he expressed the view that the answer to declining test scores and pass rates is NOT to lower the bar (no pun intended). I couldn't agree more. As an attorney with more than 35 years of experience I am flabbergasted by the quality of representation being offered by some current graduates to their clients.

There is currently a similar debate going on in the CSU system where the issue involves whether to discontinue the requirement for remedial classes (for which the student receives no credit) in cases where the student does not meet existing entrance criteria.

Much has been written in recent years about the "dumbing down" of our education system. I happen to believe that regardless of cause or fault that is what we are seeing across the board in our education system. I happen to believe that my success as a lawyer can be traced directly to my sixth and eighth grade English composition teachers who taught me how to communicate effectively through the written word. There methods were simple — learn what I have to teach you and pass or ignore me and fail. Today, we, as a society hell-bent on rewarding mediocrity if not outright slothfulness.

I find it interesting that one of the questions in the survey which was posted by the bar asked its members to rate the relative importance of student debt to the question of whether bar pass rates should be lowered. I find this proposition not only absurd but frankly disturbing given the the inherent suggestion that if one borrows money to go to law school one deserves a license to practice law simply because one borrowed money to go to law school. I wonder how many members of the American public (or the Committe of Bar Examiners) would ascribe to the same suggestion if applied to members of the medical profession. Would the readers of this comments wish to operated on by one who, but for the political winds of the day, would not have been granted a license to practice medicine.

I urge those reading this response to read Judge Fahey's recent comments to the editors of the Daily Journal. I apologize for the fact that I didn't keep the article and thus can't quote it directly but an confident that it was published within the last week. or so.

Joyce Akasaka

Just because fewer people pass an exam is not a good reason to lower the standards. Doing so for the legal profession would lower the caliber of attorneys as a whole in the State. The reason fewer people pass the exam is a much larger problem state-wide. It has to do with the idea that students will be passed along in their education even though the student may not have learned the skills necessary to advance.

Part of my job includes reviewing resumes from attorneys and non-attorneys for open positions in the organization. I am disappointed in the writing ability of today's youth. A simple cover letter rarely reaches my desk without grammar or spelling errors.

I read the article in the ABA Journal Weekly Newsletter about lowering the pass score on the California Bar Exam. The article included a link to a letter submitted by the Deans of several of the top law schools in California. I was disappointed. The only reason the deans want a lower pass score is so that their school's pass rate would increase. I suppose to them law school is just a business.

Please do not lower the standards for the legal profession in California. You already made it a two day test instead of a three day test. Part of the test was endurance. Now that you've taken that away, don't make it any easier. California already has a glut of attorneys. I know. I receive several resumes from attorneys for non-attorney positions.

Timothy Lee - Law Offices of Timothy R Lee

I have been practicing law since 1983. Initially I worked in a firm of about 8 attorneys that grew to 25 attorneys. I became a partner after three years and remained with the firm for 17 years. I have practiced on my own for 17 years. I have testified in legal malpractice cases. I plan to retire in the next year of so. Thus I really don't have a dog in this fight. I do though have some comments.

Over the years with the higher passing score, I have encountered a number of attorneys that were not qualified to practice law. So at times i didn't think the score required to pass the bar was high enough.

Now there is talk of dumbing down the passing score. The question is why? Do we need the additional attorneys. I have not seen a study that supports that position.

How does student debt justify licensing an incompetent attorney? It doesn't. We deal with extremely important aspects of our clients' lives. The clients' needs outweigh the prospective attorney's financial needs. If the employment market is over saturated, that will decrease the income of many young attorneys who make less and have a harder time paying off their debt.

One's race has as much bearing on the passage rate as student debt. I know they exist, but I don't know of any attorneys that turn down client's based on race.

The passing of the bar is the MINIMUM standard to be practice law. Either you are competent or you are not. Justice should not be blind in that regard.

How does the passage rate in other states justify the lowering of the passing score in California? Have there been studies to compare the competency of the attorneys from these other states with those in California. If so, why do these other states look to California in the development of the laws in their own states.

The practice of law is not youth soccer. The license to practice law is not a participation trophy.

Jennifer Asuncion - Fowler Law Group

If I'm not mistaken, the Bar Exam was already restructured (it’s now 2 days with five 1-hour essays and one 90 min. performance test along with the Multi-State instead of 3 days with six 1-hour essays and two 3-hour performance tests along with the Multi-State). So why do we need to lower the score as well? If prospective attorneys are not able to pass the Bar Exam, even as restructured, that does not mean California must lower its standards. It means that prospective attorneys and law schools must work harder. As a licensed attorney, I want to know that a fellow attorney is up to the tasks of the profession and not have to worry that there are sub-standard attorneys allowed to practice in California.

Eric Grote - Morgan Lewis Bockius LLP

Maintain the integrity of the profession. There are plenty of lawyers in California, and plenty of lawyers who are not practicing law but could.

The pass rate went down because the quality of the law school applicant pool declined. The pass rate will increase when the quality of the applicant pool increases. That will happen when the profession is more attractive - better opportunities and salaries, or when fewer low quality applicants decide to go to law school.

Potential law students should be warned in advance that it is hard to pass the bar. Then they won't waste their money going to low quality law schools. Don't mess with these incentives. Communicate them.

Sara Baxter - Baxter Law Offices

I am proud to live and practice in a State that is regarded as having the hardest (or one of the hardest) Bar Exams. It is a complete travesty that the Ca Bar Exam has already been reduced to 2 days of testing rather than 3. To again lessen the Ca Bar Exam, with a lowering of pass scores, would be a terrible mistake. We want qualified attorneys. We want the best. There are already too many attorneys in California so let's keep the restrictions tight so that only those who are most qualified can become attorneys. California is also notoriously known to have one of the highest numbers of lawsuits per year compared to other states. Why would we lower our Bar Exam standards so that even more attorneys file even more lawsuits? Our Court systems cannot even handle the number of cases running through our legal system. Budget cuts, furlough court days, half-days, and employee strikes are all an indication that our system is struggling. The last thing we need to do is to open the flood gates and bring more attorneys, who are also less qualified, into our legal community. If anything, let's raise the score and bring back 3-days of exam testing!

Jordan Kwan - K&L Gates LLP

The impetus for considering whether to lower CA bar passage standards seems to be triggered by simply a lower bar passage rate of late. While I don't know all of the additional motivations now being tacked on, it seems any reasons supplied in furtherance of this change have gained more validity - if any - only as secondary reasons, after the primary concern of fewer new lawyers passing the bar.

With this in mind, I find poor reasons to dilute the standards of CA bar entry. As long as the exam designers don't believe the exam has gotten any harder, then the problem isn't with the bar exam or the CA bar itself. Rather, it is simply a short term blip in the caliber of students taking law school classes.

This is consistent with the expected trends of late. The Great Recession changed the legal landscape. Many entering lawyers at that time struggled greatly to find jobs once abundant in the profession. The market took note of this, leading to a lagging - but much needed - correction in the supply of entering students (which is to say, fewer students are now applying). As it stands, with the glut of entering new bar passers around 2010 and 2011 flooding the market with far fewer viable employment opportunities, it was estimated that it would take close to five (!) years for the supply of positions available to catch up with the languishing supply of people looking to fill those positions. Therefore, it is only reasonable that fewer students now should be applying, or else you just get a never ending glut of extra students with not enough positions of employment. In other words, this shortage is actually needed in order to correct for the shortage in jobs a few years earlier.

Lowering the standards of entering lawyers should not be the way to make changes. First off, fewer bar passers is a short term issue. Secondly, numbers should not be the end goal, particularly at the expense of known standards for CA. Compensating inappropriately in response to a short term goal that leads to reduced intregrity and confidence in the long term (because the entering lawyers will probably be less capabale and possibly have other deficiencies) is not the solution.

Look at it this way. Once the market corrects, there will be more demand for good lawyers. Due to the current shorter supply, this will cause law firms to increase their compensation packages. This in turn will draw an increase in the number of law school students, and therefore, the available number of higher quality students who are more likely to pass the bar at the right standard. This same principle can apply to other incentives in law. For example, if another deterrent is the infamous law firm culture, then it is the responsibility of law firms to change their ways, not for the CA bar to find short term fixes that mask real problems. As another example, the cost of going to law school is fantastically high, which leads graduating students a natural compulsion to take jobs that pay, regardless of what their passions are. If that cost is too high, you don't lower your standards of integrity. Instead, the market or other governing bodies should directly address the problem of law schools committing highway robbery, especially toward those who do enter the profession with a desire to help clients with fewer means of helping students pay back their loans. Changing bar passage thresholds won't move the needle in that regard.

A last point to consider is whether lowering bar standards helps increase access to lawyers who will help indigent clients, lower income, higher diversity, increase access to justice, etc. My response is, I would not want crappy lawyers to be the ones helping these people. In addition, it is not known that people who would not otherwise pass the bar would be so inclined to choose to help these people. What if these people who would now squeak by are just hustling business people, who have an increased desire to make more money, in order to compensate for their poorer grades and poorer understanding of the law? In my experience, those who go to worse law schools are just more likely to be the types of lawyers who try to make a quick buck. Similarly, we may be equally, if not more likely, to allow more con men into the profession than we are to find lawyers who want to use their privilege to help others.

For all these reasons, I believe we should maintain the gatekeeping standards as they are and address these issues through other means.

Jeffrey Walker - Unemployed and Homeless

It is my position that if the student attends an adequate law school, and makes a good faith effort to prepare for the bar exam, the student will pass! I believe that California has a low pass rate due to many students just taking the exam each summer and winter as applicable, and if they pass great, and if they do not the student believes they can just take it again in a few months with the same amount of effort while continuing their current employment or lifestyle. Put another way, many of the bar exam participants often believe he or she may just keep taking the exam until they pass and in the meantime they will continue their lifestyle until a passing score is had. Accordingly, in my opinion lowering the cut score will only be an incentive for people taking the bar without a full effort, and the likely result is having attorneys admitted who are not necessarily driven to be the best attorneys they can be.

Anonymous

Do not lower the score. There are enough lawyers in CA already. Please maintain the integrity of the bar.

Christina Ushijima - Shutterfly

Cutting score is not something that will advance the legal community. It makes no sense to allow those who do not have the knowledge, work ethic or aptitude to practice law. The Bar Exam is designed to weed out those who will not thrive in this profession. It does not benefit the individual or the industry to lower those standards. The legal field is already quite saturated and does not need an additional influx of underperformers. It is also a slap in the face to those who did pass.

Anonymous

Without any current statistics to back this up, I perceive there to be an influx of graduates from law school (due to the growing class sizes/admissions to law school - potentially for monetary gain by law schools). This does not mean everyone is qualified to be a lawyer because they graduate from law school. California's legal profession is distinguished nationally because of the strenuous and challenging nature of our licensing process. I do not feel that the cut score needs to be lowered, and hence reducing the qualifications to join this profession, because of the increase in graduates from law school that are seemingly unqualified to practice law. The law school admissions process is broken and too many people are being admitted to schools when they are unlikely to be successful in law school, passing the bar exam, or in the legal profession. I would recommend looking at law school accreditation and admissions before lowering the cut score.

Harold Gault - SYMVIONICS, Inc.

There are already too many persons passing the bar exam that can't find jobs. The field is overcrowded and there is no need to reduce standards to make the situation worse. The monthly summary of bar discipline also shows that all of those who meet CA's standards do not necessarily maintain them. To protect the profession and the public, the "cut score" should not be reduced, nor should ethical standards be relaxed. The argument to lower standards because more candidates are failing than before is totally bogus. Would you lower the standards to certify airline pilots based on more unqualified applicants failing to meet them? Totally wrong!

Scott Fruchter - RETIRED

The declining pass rate may partly explained by declining economic conditions causing marginal or disinterested students to enter law school rather than live in their parents' basements. The decline in law school admissions will remedy this issue in a few years.

Haytham Faraj - Law Offices of Haytham Faraj

I was first admitted to practice in Illinois in 2005. I studied hard as it was my first exam. The preparation for the exam was as important to practicing law as passing the exam. It helped bring the law together for the purpose of practicing law. I took the California Bar in 2012. I failed. I did not prepare and had just completed a trial. I took it again in 2013. I approached that test with more commitment and discipline. I passed. The preparation for the exam, like in 2005, helped me in preparing to represent California clients. The problem is not the exam. It is a lack of commitment to exam preparation. The exam is not hard...if you prepare. The practice of law requires a commitment to learning the facts and the law so clients can be represented adequately. reducing the level of commitment and discipline required to pass, will lead to greater pass rate but will also lead to attorneys who don't care enough about their clients to prepare.

Anonymous

My concern is the overall competence of all new and existing lawyers.

I have been practicing 14 years, and have opposing counsel who purportedly took and past the bar themselves, but literally have the literacy level of a 5th grader, not even 6th grader. They cannot write, spell, or do math.

They misspell words in briefs, fail to punctuate, have unfinished sentences, rambling, unintelligible and disjointed thoughts, contractions, incorrect numerical references, and just bad math, all in legal briefs, complaints, and motions, including appeals.

This is in addition to their utter lack of any legal knowledge, skill or competence. They should have been disbarred years ago, but are allowed to practice by the State Bar and every judge that they appear before. It is a disgrace to this Bar, our state judicial system and our justices.

The problem in my opinion is not this Bar's scoring system, although it may be harder than any other state in the union, it is the poor quality of the State of California's underlying elementary, secondary, college, university and even law school educations. Simply, California students are ill prepared from the beginning to pass a bar exam, including especially California's.

In my opinion, keep the score high, and instead of lower the score to meet the student's poor competency levels, raise the standards, and improve the underlying education to force students to meet the Bar's standards. Also, have more consistent grading standards to avoid false negatives, students who are actually competent to practice but fail the bar, or worse yet students who are incompetent who actually pass. This is how it should be, not he other way around.

Anonymous

The reason the current pass rate is so low is because you let people from non ABA accredited schools sit for the exam, which other states do not. There are too many attorneys in California as it is. Literally lowering the bar to entry cheapens the profession and will only serve to further flood the legal services market with unqualified attorneys.

Anonymous

I have been working as a tutor for law students for several years. It is unfortunate to notice the trend of students inability to stay focused, and on task when studying for the exam. When properly prepared, students have no problem passing the exam at the current cut score. Many students are simply lazy, and do not want to make the commitment that it requires to prepare for the bar exam. I have tutored several students that work while studying for the bar exam, and they have had no problem passing. The cut score should not be changed simply because many students do not want to put in the work required.

Karen French - Retired

California already has too many attorneys --which has resulted in under employment and the law school culture has lured too many individuals into incurring debt when the jobs simply are not there. It took me three times to pass the bar, so I am not insulated from cultural and gender inequities in the exam. I strongly urge the State Bar to emphasize education, literacy and competence and to not dumb down the threshhold. for passage. If you do so you will be devaluing the quality of education and training. Reduce the number of law schools or at least the number of students in those law schools. Recruit diverse students and supply them with an array of support services to ensure success. Do not just admit students and expect them to make it on their own (and then dumb down the Bar, because the schools have failed to provide adequate preparation)The Bar must emphasize preparation and then provide whatever remedial and supportive educational and financial services necessary to support a diverse legal workforce. If you do all of these things , this issue of failing the bar will not be irrelevant.

Kevin King

The concerns about a "percentage" drop are much less meaningful without also knowing the actual number of exam takers during the exam administrations included in the study. If the number of exam takers has increased over the past few exam administrations, then the 4% difference between those who made the 1440 cut and those who would have made the 1414 cut is less significant. As a further, related point, did the number of exam takers from either state-accredited or wholly non-accredited programs increase? That would also account for a lower pass rate, a well-known phenomenon concerning such programs.

The exam process has already been modified recently reducing the number of testing days from 3 to 2. Is this part of the reason for the lower pass rates? Did the Standard-Setting Study take this into account? Perhaps the change in format still needs work?

Of course there's is also the argument that contemporary students are simply lazier and less inclined to buckle down and learn this difficult material. Unless the exam content and question difficulty itself has changed significantly, then the fault lies with the individual students not being sufficiently prepared for success. I believe this has become a recognized symptom of the modern, always-connected to social media generations. They're too distracted by their favorite YouTube channel and beauty blog to really dig into the law against perpetuities or learn the exceptions to the exceptions to the rules of Torts. Law is complex (and evolving) and learning it is difficult. I question whether modern students with their inflated egos and sense of entitlement are up to the challenge. Perhaps the decreased pass rate is just reflective of the law school equivalent of Survival of the Fittest? What kinds of grades did those who failed the exam make in their classes? Did they just slide by with Cs while those who passed made As and Bs? Was this studied? Why not?

I myself was among the last graduating class from a state-accredited school which was shut down in 2008. Before they actually chained the doors, the school's eligibility to administer Title IV federal funds was suspended in Fall 2007 and we couldn't even get student loans in our last semester. I could not afford a formal bar review course and had to study using my own class notes and a few materials I picked up on Craigslist... Thank God for Jeff Adachi. From mid-May to exam day on July 29, 2008, all I did was eat, sleep, live and breathe bar exam preparation... I read and re-read, wrote and re-wrote my class outlines and completed every sample multiple-choice MBE question I could find. Forget "MYLEGS," I devised complex mnemonics that evolved into full sentences of what would only look like gibberish to anyone else, but which represented every rule from my Contracts class, both UCC and California.

When the results were announced in November, I had passed the only administration of the CBEX exam I ever sat for. Today I tell people I knew it all along but I didn't really. Even with all that I was doing to prepare I still had doubts, mostly due to being forced to forge my own path and not take a formal review course. Are new graduates doing the work to learn this stuff, or are they coasting through their $8,000-$10,000 bar prep courses under the false entitlement belief that since they paid for the prep course, they already bought their ticket to Passing Score Nirvana? I don't know, but if these kinds of individual, anecdotal factors were not studied then you only have

limited, and I dare say, not very meaningful findings.

Finding out what really motivates law grads to study and pass the bar exam would be the single most valuable bit of information you could gather instead of just caving in and making the exam easier to pass for unprepared exam takers. Why encourage mediocrity? Instead of the 2nd highest cutoff score, California should have the No. 1 highest cut off score in my opinion.

Kevin King
264291

Nadine Jett - Law Office of Nadine M. Jett

There is no question that the Bar exam is a difficult test. However, with average intelligence, and studying, most of the population could pass the current exam. I myself, went to an unaccredited night law school, worked full time, and passed the Bar the first time. Additionally, my only undergraduate education is an AA from a junior college.
I run a small law practice, in Los Angeles County. I routinely hire approximately 1 law school grads per year. Over and over again, my experience with law school graduates, during this decade are, that they lack life experience, lack writing skills, lack ability to recognize issues, and are not prepared to take the bar exam. The individuals that I have hired take the exam over, and over, and cannot pass. Having worked closely with these individuals, I am not surprised that they cannot pass. My impression is, that the law schools are passing these students, but that these students are not going to pass the bar. The issue seems to be, the individual's poor education, not the difficulty of the Bar exam. It would seem that the last few generations of students/children, that are given praise and stars for simply "attending" have great difficulty understanding or recognizing what it really takes to pass a standardized test, with a concrete pass or fail. Running a law office is hard work. Representing people is hard work. Presenting your case to a Judge is hard work. Protecting people from their own poor choices, or misfortune is a huge responsibility. Allowing unqualified individuals to pass the Bar exam, by lowering the requirements is a disservice to the applicant, because this individual will be in trouble, in terms of practicing law.
Making the Bar easier, is a disservice to the public.

Katie Payne

The cut score shouldn't be altered simply because the passage rate is low. The low passage rate either reflects poor law school education or lack of law school education and either way, these problems will not be addressed by passing individuals that are not qualified to practice law. There are many attorneys out there, including in this state, that do not provide competent legal counsel or representation. Please do not lower the cut score and allow more of these individuals to practice. California is currently known as a state that has incredibly high standards for the legal profession; I'd like to keep it that way.

Thank you for soliciting comments on this matter.

Anonymous

We should not lower the cut score for the California Bar Exam. Lowering the score would undermine the integrity of our profession. In society today, there is too much catering to the lowest common denominator. We need to maintain the highest standards of education and professionalism in the legal community. The declining pass rates should be addressed by the law schools who are charged with educating the future lawyers of California, not by lowering the standards of our profession.

- Staff Counsel

Lowering the Bar test scores is nothing more than the "dumbing down" of our profession. What we do is NOT rote, it is not a highly paid profession anymore. In fact, most staff attorneys that I know have second jobs.

There are already too many lawyers in California. Why we want to make the admission process easier to dumb down the profession is inexplicable. Other than, of course, to falsely support the notion that our members are not diverse. I'm as dark skinned as a native American comes. Yet because of my "surname" most people consider me anglo.

And look at the number of attorney's whose name is "Martinez" or "Fernandez"...I have met many of these attorneys. They are as anglo looking as any person of European (Spanish) descent.

A friend of mine who was born in SA (South Africa) recently became a U.S. Citizen. What background was he to check on an application for a government job? Though he is white with blonde hair and blue eyes....he is clearly "African American".

STOP dumbing down our profession on the guise of DIVERSITY. If you can't pass the CA bar then you can't pass it....try Wyoming.

Anonymous

I took the Bar Exam 3 times before I passed which ruined my finances. I would have passed the first time out had it been 1414 which effected my entire career path.

If I and thousands of others went through with this (I have friends who never passed and moved to other states to practice) it is only fair that everyone else goes through the same standard of becoming a California attorney

Howard Rosoff - Howard L. Rosoff, A Law Corporation

The reputation and respect for attorneys has declined more than the percentage of those passing the bar exam. Reducing the cut score will only allow more unqualified attorneys to be practicing. Regardless of the law school attended, those students who are qualified will pass the bar exam. More needs to be done to try to repair the community outlook about attorneys as being less than honest, over charging and unknowledgeable.

In the last few years it has been my understanding that there are more available lawyers than there are available job openings. If that is true, expanding the number of those seeking work in a law firm will only increase those than cannot find work. It will also drop the pay rate because of the excess competition. That will result in either a race to the bottom or a race for attorneys to leave the practice and find other work..

Jay Bulmash - Lane-Aire Manufacturing Corp., General Counsel

We currently have more than one active bar member for every 200 people in the State of California. There is no need or demand for that many attorneys. Because of this glut, competition has become unethical and cutthroat, ethics among attorneys have deteriorated substantially, and the quality and capability of attorneys is in freefall. We need stiffer standards, not lower standards. The "honor" in the profession I used to love is now almost gone.

Pablo Drobny - Court of Appeal Second Appellate District, Division Seven

I have been an appellate judicial attorney (Court of Appeal, Second Appellate District) for 35 years. I am often appalled at the poor quality of lawyering by practicing attorneys, and even the lack of attorneys' foundations in basic grammar. I believe that lowering the Bar Exam Cut Score will result in an increase in the number of successful bar applicants who should be deemed not qualified to practice law.

Anonymous

Quite frankly, we should stop allowing schools that cannot obtain ABA accreditation to defraud their students. There are a lot of really crappy law schools in Tier 4. If a school can't manage to reach the mediocre level of an ABA Tier 4 school, why on earth should the State Bar and the state Supreme Court give their endorsement by allowing that school to hoodwink the least capable students into paying above average tuition for significantly lower than average prospects of passing the bar?

We're blessed to have top ranked schools like Stanford, Berkeley, UCLA, and USC. UC Davis, Irvine, and Hastings, USF, and USD turn out fine lawyers. But if you can't get into Thomas Jefferson, Southwestern, or University of La Verne, you probably shouldn't spend the time and money on a low probability of passing the bar. We owe the public a minimum standard of competence from the legal profession. Let's not compromise our standards the bottom graduates from the bottom schools.

Anonymous

I feel like you are dumbing down the test. Perhaps, instead of looking at the quality of the education and preparedness for the exam and the practice of law. Perhaps, pro-profit non ABA accredited schools are a really bad idea and do not serve students or the profession well.

Moreover, it is rather insulting to minority groups and unrepresented areas to say that the only way to get more minority attorneys, or attorneys to serve certain communities or segments of the population is to lower the cut rate. 2nd class? 3rd rung attorneys are adequate?

Attorneys use to attract the best and the brightest. Perhaps you need to look at the profession and what is waiting at the othet end of law school to determine why #s are down.

To give context, I am a 1st generation American. I am the 1st in my family to become an attorney. I am admitted in NY and CA (NY 1st, CA more than 10 years later). Please don't insult us with the rational for this chan. The battle should be with equal access to quality education and opportunities long before college and law school. The deck should not be stacked against you your whole way through, to then lower the bar to increase diversity in the profession. Please.

Jieun Choi - Meyers McConnell Reisz Siderman

The problem is not that the cut score is too high, but that California has too many test takers who are not qualified to take the test. California not only has non ABA approved law schools, but also non-Cal-Bar-accredited schools. The legal profession is not an easy profession to find employment. I hear about how difficult it is for new law school grads who graduated from an ABA accredited school and passed the Bar on the first try and yet are having difficulty finding employment. I myself had difficulty finding employment even though I graduated from UC Davis and passed the July bar immediately after graduation.

Lowering the cut score does not increase access to attorneys for the poor because lowering the cut score allows for the possibility that unqualified attorneys are practicing law and giving incorrect advice to the public. California has always had one of the hardest Bar exams. However, how is that a problem when so many California attorneys who have passed the bar are unemployed? Rather than allowing unsuspecting students to incur thousands in law school debt, perhaps the law schools should be encouraged to cut down on its enrollment size and heighten enrollment requirements. While the market for California attorneys continues to remain as over-saturated as it is, there can be no reasonable basis for lowering the cut score. In fact, the Bar should take one step further and return to a 3-day exam.

J. M.

I completely agree with Judge William Fahey's position as published in the Daily Journal on August 8, 2017. We have too many attorneys practicing who cannot understand basic concepts like the rules of evidence or civil procedure. I have litigated and tried cases against attorneys who consistently blew deadlines and ultimately failed to adequately represent their clients' interest.

Making an exam easier in order to make the profession more accessible to people does nothing to solve the proliferation of bad attorneys. There are also no guarantees that access translates to adequate representation.

Passing the bar exam is difficult. Being a good attorney is even harder.

Let's focus on trying to get more good attorneys out there practicing and put less emphasis on lowering the threshold for bar passage.

Dinah Perez - Law Office of Dinah Perez, PC

The question is not whether the State Bar show lower the cut score, it is why the school's are not training their students to pass the Bar. You should not make it easier for students to pass the Bar. If they cannot pass the Bar, then maybe they should not be practicing law. It's not about creating diversity or about making it easier for students to pay back their loans. It is about making sure that the standards of the industry are upheld.

Audit the law schools, figure out what coursework they need to add in order to train students better. Get rid of the unaccredited schools. Threaten to take away accreditation from schools whose pass rates fall below 60% (or whatever other rate you believe is acceptable). Make the schools implement coursework geared to preparing their students to pass the Bar. For example, how do you complete a 3 hour performance exam when law school gives you an entire semester? Every school should have a course where at least 3 times a term, the students will be tested via a Bar simulated performance exam.

Don't lower the standards -- raise them.

Anonymous

How will decreasing the pass score contribute to more qualified attorneys being added to the workforce? It will only allow substandard schools to continue churning out high-debt, unqualified, under-paid candidates. This is not a helpful solution to the graduates, nor to the community at large.

Andrew Talebi - Lewis Brisbois Bisgaard & Smith LLP

The California Bar Exam should not see a reduction in cut score. If anything, it should see an increase. It is the duty of the Bar to protect this industry from the epidemic of an over-saturated market brought on entirely because law schools throughout the state have failed to accept qualified applicants and have failed to adequately prepare them for the rigors of law practice.

It is completely obvious that the incentive for law schools across this state to accept more applicants was monetary in nature, even during an economic downturn where law firms were hiring less graduates. Instead of acting as gate keepers to the industry, the schools opened the floodgates and exacerbated the problem by further over-saturating the market with ill-equipped graduates.

The Bar should not bend to the pressure applied by these schools and the schools themselves should be ashamed of the proposition of making the Bar Examination less rigorous. The Bar Examination is a test of minimum competency. If graduates are incapable of performing and passing an examination of minimum competency set at the standards that have been set in the state of California for years, then they should not be granted a license to practice law. Far too many incompetent lawyers are reprimanded by the Bar on an annual basis and far too many lawyers commit grave breaches of fiduciary responsibility and malpractice, eroding what little trust the public still maintains in the profession.

California lawyers take pride in the difficulty of the Bar Examination. We are counting on the Bar to maintain their commitment to excellence. We respectfully remind the law schools and their graduates of the 49 other states with less rigorous examinations that will welcome them with open arms.

Anonymous

There seem to be many under-qualified attorneys in California as it is. First the state reduced the exam from 3 days to 2 days. Now the solution is to lower the cut score? How is that fair for all the attorneys who worked hard and spent the time and effort to pass the bar in years past? What about those of us who had to endure preparing for the exam a second time (or more)? The cost, the time, the anguish, the dedication... And now there are those who think it should be easier to pass? This makes no sense. While I am sympathetic to those who spend tens of thousands of dollars to go through law school only to fail the exam and not be able to practice here in CA, I think the responsibility for the inability to pass at the presently recognized level falls on the students and, perhaps to a greater extent, law schools. As far as I am aware, each school is able to set its own criteria for admission. Perhaps schools are accepting students who have no reasonable likelihood of passing. Law school tuition is paid regardless of whether a student subsequently passes the bar. It simply makes no logical sense to lower the cut score to make it easier for more people to pass the bar. Here's a question: After decades of administering the test in the same, consistent manner, if enough people start failing their driver's license exams, will the DMV be encouraged to make the exams less difficult? Or might they consider that applicant drivers are less motivated to drive? Could it be that the driver's safety schools are not doing a good enough job preparing drivers for the exam? Safety and security is important on the road and in the legal profession.

James Kauffman

I have taken the Bar Exam and passed it the first time. It is NOT a rigorous test. Students who cannot pass this exam should not be trusted with the well- being of their clients. Law is a rigorous career that requires intellect, knowledge, perseverance, dedication, continuous learning, people skills, and the ability to handle stress. The Bar Exam tests all of these and the standard should not be lowered.

James Kirk - Self

Working 40 hours a week in a research field while preparing for the State Bar Exam does present the applicant for admissions with a challenge that I will acknowledge.

Race does not .. The tougher the competition the better and the toughest competitors when I was at UCLA were the orientals and they were the greatest .. If there is concern about production rates, get the UC to bump up their production rates of medical doctors to approach that of the U of Guadalajara and make the state medical exams harder..

I have heard that the Bar Exam and pass rate in FL is also in trouble Low pass rates may have something to do with good weather

The US produces about 60K engineers a year. China produces about 300K engineers and India produces about 400K engineers.. The H1B immigration program is just a way to keep the wages of US engineers lower than the wages should be. US engineers are not migrating to CN or India in large numbers..

It may be that if CA and the US need more engineers, the UC and Univ of CA State systems should reduce their tuition for those fields substantially..

The state of CA probably has a surplus of attorneys.. So why be provincial!

How does the pass rate of those taking the Bar in CA compare with the pass rates in of those taking the Bar exams in JP, the UK and DE, all of which are socialist countries.. It may be that CN and India are also very low and since CA appears to favor socialist norms, the pass rates of those states may be a vector showing the direction that the State Bar should move in.

Anonymous

I am licensed in NY (1992) and CA (1994). I see the work product of many attorneys and often am appalled not only by the analysis but also by writing that can sometimes be hard to understand simply because it is not well written or thought-through. Yes, I want everyone to have access to lawyers; but what is the point if the representation is inadequate? That does not serve clients, and it is a bad reflection on all of us. I strongly believe that the standards we wish to have in the industry must be maintained; if that means fewer lawyers, that is the lesser evil.

Matthew Mcdonald - Brown & Winters

This is absurd. Let's lower the admission requirements so we can let in attorneys either lacking the requisite knowledge or the required work ethic to pass this exam. Classic modern standard of lowering the bar so everyone can participate. This should categorical be voted down and I can't even believe we wasted bar dues on such a study.

Anonymous

California is flooded with lawyers already, and lowering the standards to make it easier to pass the bar does nothing to positively impact society.

Anonymous

The current bar examine has already been shortened from 3 to 2 days. Unless there is imperical data to support the notion that the current bar scoring is precluding qualified persons from gaining admittance is keeping qualified candidates from obtaining their license, then lowering the rate merely diminishes the profession and will create an over saturation of unqualified people practicing law.

James Rush - Rush Injury Law

Dear State Bar of California,

I don't see how making the test easier to pass helps 1) maintain the integrity of the profession or 2) protect the public from persons unqualified to practice law. You have already cut the exam from 3 days to 2 days in an effort to increase the bar passage rate. The problem is not with the test but rather with the schools preparing applicants for the exam and perhaps some of the applicants themselves.

The practice of law isn't for everyone. Similarly, the practice of many professions aren't for everyone. Would it be fair to the public to lower the qualifications to board certified surgeon just because a lot of people failed? Would it be fair to the public to lower the qualifications for a commercial pilot just because "too many" aspiring candidates couldn't safely land the plane in a simulator? Would it be fair to the public to allow civil engineers or architects to practice their professions when they weren't able to meet the qualifications? Of course not! Public safety would clearly be compromised because you'd have surgeons with bad hand eye coordination performing surgeries, or pilots with vertigo issues crashing planes, or buildings and bridges falling down because someone didn't do their calculations correctly. Personally, I would be an abject failure at all of those endeavors and therefore I should not be allowed in an operating room, cockpit, or at a drafting table, no matter how much I may "want" it.

What other profession would go about their qualification process based on the percentage of pass/fail? Either you have what it takes or you don't. While most attorneys aren't holding matters of life and death in their hands every single day like a surgeon or a pilot, the work we do often can affect our clients' lives in very meaningful ways. In some circumstances, like a serious criminal case, attorneys actually do hold their clients' lives and/or liberty in their hands. Incompetent estate planning or bankruptcy attorneys can cause huge financial consequences for their client. Incompetent personal injury attorneys can leave an injured person without any just compensation when they needed it the most. Incompetent landlord/tenant attorneys can leave their clients homeless. The list goes on. It's not fair to the public to unleash thousands more attorneys who can't pass the test with the current cut score (which, by the way, they have two chances every year to do so and can take it as many times as they like so I fail to see why the Bar has to react to their failure).

The State Bar of California should continue to focus on administering an exam that is a fair test of whether or not an applicant can demonstrate the required level of knowledge and skill to be a competent attorney and not worry at all about the bar passage rate.

Sincerely,

James Rush
SBN240284

Anonymous

Some may not pass the first or few times they take it, but even where one doesn't pass first go, the lesson of endurance and perseverance teaches a far greater lesson.

Anonymous

Although I don't believe that the bar exam is necessarily a good measure of the competency of an attorney, I also believe that it serves no one to lower the standard for admission. It brings "grading on a curve" to a whole new level.

Based on my recollection of my bar exam, I'd suggest that the questions may be partly to blame. Seems like I spent a great deal of time explaining that if you meant A, then this is the answer; if you meant B, then this is the answer.

Claude Lashlee - C. Timothy Lashlee, Attorney at Law

It is difficult to analyze the situation due to the lack of material details. I would like to know what percentage of the non-passers passed the essay, but failed the multi-state, or passed the multi-state but failed the essay, or passed and failed other portions of the exam. Also, how has the exam changed since I took it in 1976? Perhaps the lower passing rated are due to the exam itself and not the education/competency of the exam takers? Perhaps the requirement that the exam be taken on a computer is part of the problem? Perhaps the stress of having to download the exam and then upload the results, worrying all the time about a technical failure that has nothing to do with the ability to take and pass the exam has something to do with the worsening results? Finally, why should I or anyone not taking the exam care if the passing rate is 44% or 47%?

Anonymous

I am offended by the idea that the bar passage rate should be lowered so as to allow more minority representation in the State Bar and to allow greater access to lawyers by the under-represented portions of society. The under-represented deserve quality lawyers. I think that the inherent racism in the first argument speaks for itself

Nina Levin - California Court of Appeal

I strongly disagree with lowering standards for the sole reason that fewer people are unable to meet those standards. You end up with people who have passed exams but don't know anything and are incapable of doing work at the next level (e.g., college students who don't know basic English or math and need remedial classes before they are able to do college-level work). It is better to discover the deficiencies in current law students' education or law schools' admissions policies and remedy those to ensure that students who graduate law school are capable of passing the bar and obtaining gainful employment. If California's standards are too high and you want to lower them to be in line with those of other states, that's one thing. Lowering standards because you want every kid who participates to get a trophy is another.

By the way, I went to Southwestern when its admissions standards were still a little lower than those of the top law schools. Everyone in the top half of my class passed the bar the first time. Those who did the work and understood the material passed, so I don't see a problem with a tougher bar exam.

Karyne Ghantous - Ghantous Law Corporation

Lowering the standards to increase the bar passage rate is not the solution for either the profession or the public. As a practicing civil defense attorney with nearly twenty years of experience, I currently encounter attorneys who take on matters they have no business taking which ultimately cost the Courts, the parties, and the general public the loss of time and money-- resulting in a backlog of cases to the point where cases take years to resolve. This hurts the entire profession.

Newly admitted lawyers should be held to higher, not lower standards. Law schools need to retain practicing attorneys who can teach the advocacy skills necessary to not only pass the bar, but to succeed in the practice. The theoretical discussions that take place in law schools are not helpful in the actual practice of law and the law schools should be requiring more trial advocacy courses and/or practice focused classes that are designed to train their students to think like lawyers.

I went to UC Hastings and my civil procedure and trial advocacy courses were taught by practicing attorneys who taught me skills I use today. The worst class I took was my real property class (ironically, real estate law is part of my practice today). The class was taught by an elderly man who had both a JD and an MBA and who had never practiced a day in his life. He spent the entire semester rambling on about theoretical hypotheticals on the Rule Against Perpetuities that had absolutely nothing to do with what we do as practicing attorneys. I felt he had stolen valuable time and brain cells from my life, not to mention the hours of time I spent trying to actually learn real property from outside treatises (cause I sure was not going to learn anything from him.) I bring this up because I think the universities need to truly understand that the time they have with these students is incredibly valuable and may impact their futures significantly, along with the futures of the public at large. Carefully choosing their staff is essential to this process.

As for Bar passage. That is very simple. Hire the Barbri folks to train the professors how to teach what the examiners want to test on the Bar. As it stands, universities are hiring academically trained professors to teach the theory of law, while the examiners are expecting the students to learn the practice of law. There is no connection between the two and so you are left with a frustrated result. The Barbri videos helped me pass the bar, the trial advocacy folks helped me learn how to try cases and the civil procedure professor taught me the foundation of the rules I use daily as a practicing attorney. Lowering the bar passage rate, is far from the solution when the bigger problem is the entire approach to the training of lawyers. With three years of time to teach future lawyers, why not focus on getting them ready for the real world instead of making law school an academic exercise.

In sum, do your job schools, this isn't the bar examiners fault. It is squarely on you folks to make the lawyers ready for the practice of law. Use your time wisely!

Karyne Ghantous, Esq.
Ghantous Law Corporation
www.glawcorp.com

Jeremy Cook

The cut score should not be lowered to 1414. It should be kept as is or raised.

The public should be protected from incompetent lawyers. I have unfortunately encountered many attorneys who seem to lack the basic intelligence and literacy to practice. There is no reason to lower the state's standards.

The California Bar Exam standard setting meeting evaluated written essays to determine a base level of competency. After evaluating essays, they reviewed the scores of those essays to determine a recommended passing score, and came up with 1451 (mean) and 1439 (median). The standard they used required demonstration of:

(1) Rudimentary knowledge of a range of legal rules and principles in a number of fields in which many practitioners come into contact.

(2) Ability to distinguish relevant from irrelevant information when assessing a particular situation in light of a given legal rule, and identify what additional information would be helpful in making the assessment.

(3) Ability to explain the application of a legal rule or rules to a particular set of facts.

(4) Formulate and communicate basic legal conclusions and recommendations in light of the law and available facts.

The standard allowed for errors of fact and judgment and did not require the candidates to identify all rules and applications.

Attorneys who cannot meet this minimal standard should not be admitted. The suggestion of 1414 is one (median) or two (mean) standard deviations below this standard of minimal competence. Since it is far more important for the protection of the public to avoid admitting an incompetent lawyer than it is to avoid excluding a competent one, it is better to err on the side of setting a high cut score.

California should be proud of its high standards and should not sacrifice the integrity and quality of the state's lawyers in order to raise the bar pass rate. I therefore encourage the State Bar to keep the current cut score or raise it.

Kr Hart

There is not a problem with the California Bar Exam. There is a problem with California law schools failing to adequately prepare graduates for the profession.

The rising costs involved with education have turned law school into a cash-grab rather than a discipline. Students are expected to depend on exam preparation services and outside resources instead of the classes to which they dedicate three years of their lives. No matter their income, students are expected to study for the Bar instead of work. No matter their network, they are expected to find a job that justifies these expenses.

This is not possible for a large number of students.

Instead of changing the exam, the State Bar of California must coordinate with the American Bar Association to change the law school accreditation and approval process. Students must have substantial opportunities to study for the Bar exam during the course of regular matriculation. Bar preparation must be included in the 3L curriculum (as should improved career and externship placement services).

Ultimately, the State Bar is failing to create lawyers. Rather, it's just passing out degrees to the highest bidder. Until changes are made, law school enrollment will persistently decline and Bar passage rates will continue to fall.

Charles Pierpoint - Self employed

I am opposed to the current politically correct popular thought regarding reducing qualifications for admittance to the CA State Bar.

Society has become more complex with it's demands ever increasing for legal skills in the 21st Century. To reduce qualifications speak loudly on the failure of our educational institutions. Today students from high School and college boast 4.0 academic achievement, with astronomical LSAT scores, only to see them falter when they sit for the bar. To lower the score only supports the notion that mediocracy is all that's needed.

The State Bar should be first concerned with protecting the public from incompetent professionals. I am concerned with number of attorneys who are disciplined each year for malpractice and professional ethical violations. With the high qualifications of Law School applicants today, this is appalling.

The legal profession in California has reached a saturation point. Current attorneys are practicing longer, new attorneys are finding less opportunity as a result. Law schools expand, student loans expand to meet the rising costs for the promise of gainful employment. Students are sold a false promise!

Law Schools are the culprits! They make the promise, expanding their admission qualifications to fill the seats, only to meet THEIR financial goals! Then, it's the Law Schools who hear the wails and cries of underqualified applicants who never could pass the bar. Please disregard the Law School's Ox which is being gored! It is they who have brought us to this question.

Please consider the People of California who depend on the Sate Bar for professional representation... not the Politically Correct movement!

Class of 1972 Univ of San Diego

Larry Eichele

I do not believe lowering the cut score is in the best interest of the profession. It seems there are other avenues to better support programs for people who may not be able to afford an attorney. And as for student debt goes, that's the price you pay to get into the dance and some people just can't dance.

Richard Paul

There is no useful purpose to be served by modifying the cut score downward because one of the core purposes of the State Bar is the license those individuals for the practice of law who have demonstrated a minimum core understanding of our jurisprudence. It is not to increase the number of marginally qualifieds in order to increase State Bar budgets. What is the motive of the State Bar?

Simply speaking, the more lawyers we have, whether qualified or not, generates more money to increase the budget, size, dues and perhaps unwanted growth of a State Bar bureaucracy which like all such bureaucracies wants to control more and more while ostensibly in the public good is actually for the good and personal grandizement of the individuals who have carved out a home for him or herself. Of course, we will need more judges, clerks, reporters, etc. All in the name of the public good.

There are so many people already taking care of me already and the public as a whole, neither simply cannot find another unwanted or unfulfilled need unless you create one and then try to fix it!.

Why not modify the cut score to 1200 - that should do it!

More money rolling than the last political campaign in the State of Georgia and it must be expended on something. We better find something quick!

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Enrique Touceda - Law Office of E. Houston Touceda

The California Bar examination is not difficult. A person failing this exam failed for one or more of the following reasons: 1) failed to diligently study while in law school; 2) failed to intensely prepare for the bar examine including failure to take a bar review course; 3) should not become a lawyer in the first place, or; 4) lacks a basic education have graduated from a series of school from which everybody passes; too only the easiest courses; lacks discipline; does not have study skills, etc.

The object of lowering the cut score is quite obviously a matter of politics and not law; of a progressive agenda; etc.

This objective should be shunned as it stands for: African Americans, Hispanics, people with poor English language skills should be allowed to become lawyers because they have a more difficult time passing the bar, and as a result of their heritage, place of birth, failed parentage, etc., etc. etc.

It should be obvious that "dumbing down" is not a cure or remedy for anything. Simply because many major universities use "race" as one of the admission factors does not transfer to obtaining a professional license.

On the other hand, there are thousands of lawyers from the finest law schools whose professional competence is middling at best. And there are hundred if not thousands of lawyers without the finest education who had the enough wit and wisdom to pass the bar and become fine, if not well noted, lawyers.

This "let's even the playing field" philosophy is flawed but, perhaps, if the cut score is lowered, nobody will notice because the quality of education in and of society at large will decrease in like measure and nobody will notice or even care.

The bottom line is that lowering standards for professional admittance, or for anything that matter, might be viewed as wonderful social policy, but to paraphrase many intellectuals, "What next then?" Our motto is "Lower the Bar" for those who are bad high jumpers. Everybody gets a trophy.

I have a better idea. Create prep schools for law school. Just like unaccredited law schools...on the cheap...a few offices...the instructors are attorneys. How about attorneys who came up the hard way and can "relate" to the students.

As an aside, the best attorney I have every known failed the bar the first time around. Failure, in and of itself, can be and should be, a learning experience. Anybody who fails once can keep taking the bar until they pass.

Michael Plotkin - Law Office of Michael E. Plotkin

1. Why lower the standards for passing the bar exam. California has the reputation of have the most difficult bar exam in the country to pass. As a result, the caliber of attorneys in California is higher than in almost all other states.
2. Another reason, but not as important, is the fact that California has many, many attorneys. I believe most past studies show that there are so many attorneys in California the economic benefit to attorneys is not as high as it could be if we keep adding more attorneys at a higher rate. There is no shortage problem in the State.

Anonymous

It is hard to imagine that decreasing the standards for passing the bar will benefit the public or the legal community. It is no secret to anyone that there are already too many lawyers in California. Now the State Bar wants to have more, and less qualified lawyers to boot. I am not in favor of lowering the cut score.

Anonymous

Two comments.
First - How can we talk about cut scores without any kind of validation studies? This seems completely crazy to me. Second - The implication that we have to lower the cut score to increase diversity is offensive.

Alicia Dearn - Bellatrix PC

The lower pass rate of the bar exam is not a reason in and of itself to lower the standard. I care most about access to justice for the poor and middle classes. Cutting the bar exam score is not going to resolve that problem. There are plenty of lawyers. The problems is that the economics of the profession make us have to charge too much for the average person. Adding lawyers does not change that problem. It is not an issue of scarcity. It is an issue of how the business of law is regulated and how innovation is actively discouraged. That is, incidentally, also the reason why we have high attrition rates of women and minorities in the profession -- it is too hard to balance various life responsibilities and the practice. I'd suggest that lowering our standards is not how we improve the practice of law. Efforts should be focused instead on what happens to lawyers economically after they enter the profession, and how we can improve that. That being said, 48 states make it easier to pass the bar exam than California, and the public there isn't less protected than it is here. So reducing the cut score is not going to be harmful. It just won't solve the problem you seek to solve.

Stacy Plantier - Tulare County District Attorney's Office

The Honorable Judge William F. Fahey's column published August 8, 2017 titled "The case against a lower bar pass score" is on point and perfectly summarizes why this proposal is without merit and should not be adopted. The State Bar has already made the test easier by cutting it to two days instead of three. Law schools need to work on improving the education they provide to students. It is not the State Bar's job to make it easier for under qualified graduates to gain access to the licensed profession. High student loan debt is not a reason to lower scores. If a person is not capable of passing the test at the current scores what type of representation are they going to be able to give their clients. By making the test easier it continues to undermined the profession and the quality of representation.

Anonymous

There is no reason to lower the standards for the Bar Exam. California has some of the best lawyers in the world because of the high standards of its State Bar Exam. Yes. It takes a ton of time and study to pass the Bar Exam, just like it takes a ton of work and effort to effectively represent the citizens of California. Thus, I believe the current standards express what is actually required in practice and those who cannot reach that level should be filtered out.

Alex Gortinsky - Law Offices of Alex Gortinsky

My practice involves dealing with legal issues throughout the United States. California lawyers are highly regarded everywhere. Their work typically stands out from that of lawyers from other states, I see it routinely. I believe the Bar should look at the reasons why prospective test takers are not passing. I see a large saturation of law schools with none or very low admission standards. The practice of law is difficult and requires preparation. Most test takers with little or no college education are just not prepared, even if the law school they attend allows them to pass classes. They don't have the writing and critical thinking skills, nor the necessary foundation for preparing for the Bar exam or legal practice.

Anonymous

There are too many attorneys being accepted as it stands. We need to maintain the high standards to be able to practice law in California. Lowering the passing score is not the answer.

Shara Neff

The legal market in California has, and continues to be, flooded. It is hard enough for well-qualified newer attorneys to find work in the field. Lowering the Bar Exam score required to pass merely exacerbates the problem while at the same time allowing for possibly un- or under-qualified attorneys to become licensed.

Perhaps the issue is not the Bar Exam, but the legal education exam-takers receive. Address the underlying causes, not the symptoms.

Anonymous

Perhaps the "cut" score should be raised. I do know that if we reduce the "cut" score, then we are undermining the integrity of the profession and creating a public hazard in allowing unqualified individuals to practice law. I am not sure why passage rates are falling -- perhaps there are students who are not taking the exam as seriously as they should. Perhaps schools are not properly educating the students. Perhaps unqualified people are attending law school -- and when I say unqualified, I mean people who do not have the skill set to be a lawyer. Not everyone has that skill set. The profession is very demanding and at one time, was considered a noble calling. Over the years, the integrity of the profession has diminished and public opinion of lawyers.has fallen dramatically. Lowering the "cut" score of the bar is only going to lower the quality of lawyers while increasing the number of unqualified lawyers in California.

Anonymous

It seems to me that the three biggest arguments that advocates of the 1414 cut score advance are: (1) creating a more diverse attorney population; (2) providing indigent Californians with access to legal aid, and; (3) the six-figure law school debt anchored to individuals who fail the bar. None of these reasons provide a compelling justification to make it easier to become an attorney in a State that could create its own city of attorneys (165,000+ according to numbers I have seen).

First: are there studies showing that individuals from more "diverse" backgrounds more often fail the bar on their first and second times? Is there a correlation between the two, or is this just an assumption with (problematic) racial undertones? The only diversity that lowering the cut score will create is the influx of lower caliber attorneys in an already over-saturated market. That does not seem like the type of diversity the State Bar of California should be striving for.

Second: Again, where are the studies showing that people who take, and fail, the bar multiple times join the altruistic pursuit of assisting low-income individuals through legal-aid networks? Even assuming that were the case does the State Bar want low-income individuals (some of the most vulnerable members of our population) to be assisted by lower caliber attorneys? Don't make the Bar Exam easier, make legal-aid opportunities more appealing.

Third: As someone who graduated six-figures in the red, I understand the suffocating feeling that law-school debt creates. Despite my sympathy, a lower cut score is not the answer. Rather, law schools need to be more open and honest about passage rates, debt, and job placement numbers. And don't get me started on the cost of legal education. Now that is a "cut" that I could get behind.

Anonymous

To the State Bar

Lowering the bar (literally speaking in this instance) will be bad for the public and bad for existing licensed attorneys.

It's well known that the State of California suffers no shortage of licensed attorneys. Indeed, after becoming licensed, it is common practice in many counties throughout the State for an attorney to volunteer at the district attorney and public defender offices just to be considered when it comes time for interviews. In fact, it is so competitive that often times there will be people competing for volunteer positions. Remember, these are people with a doctorate, who are now competing to work for free. Lowering the cut score means that this trend will only continue.

Can anyone think of a time where lowering the bar has netted a benefit to society? I'm stumped. When your child can't hit a home run, do you insist that the Little League move the fence in to accommodate them? No, you train harder, or accept the fact that maybe the long ball ain't your thing. This is becoming a society where everyone deserves a trophy; everyone is special and lowering the cut score plays right into this. "Don't worry Johnny, you don't need to study harder, I'll just make the test easier."

I studied my ass off for 3.5 years, sacrificing other aspects of my life, so that I could put myself in a position to pass the exam. Now you're telling me that we've knocked off a day of the exam AND now we want to lower the pass score? And these people get the same bar card as me? There should be an asterisk next to these bar numbers just like Barry Bonds and all his steroid buddies who lowered the standards of baseball, because that is what this is doing.

Sincerely,

1440+ Scorer

Matt Kovacs

To whom it may concern,

I believe that lowering the bar examination cut score would serve as a long term disservice to the State of California and to students considering law school - and the associated debt. I also have unique perspective that, I hope, warrants your consideration. I passed the July 2009 bar exam on my first attempt. My wife failed the February 2010, July 2010, and February 2011 administrations. On both the July 2010 and February 2011 administrations, my wife scored between 1390 and 1440, prompting reconsideration. In both instances her initial score was higher than the newly proposed cut score of 1414. She would have been an attorney if the cut score were amended seven years ago. But she isn't, and it has worked out just fine. She found gainful employment within the legal industry, albeit not as an attorney. She couldn't be happier. If she would have passed the bar with a sub-1440 score I'm not so certain she would have found employment, or whether she would be happy. Her present happiness aside, if you decide to lower the passage rate be prepared to feel the ire of past bar takers who would be attorneys under the newly proposed cut score. Deciding to apply the new test score in arrears to the July 2017 administration only is no more arbitrary than changing the score at all.

There is a larger systemic issue that contraindicates lowering the bar passage rate. Law school has largely become a farce. It has become a wildly expensive continuation of the undergraduate experience that churns out multitudes of indebted individuals. In California, I believe this has reached epidemic levels. Compare California to two other western states: California's population is 6.6x that of Colorado and 5.75x that of Arizona. California has 41 law schools accredited by either the ABA of California Bar: 20.5x more than Colorado (2) and 13.7x more than Arizona (3). The supply is just completely out of whack with what demand is (or should be). While an argument can certainly be made that a state with California's population and economic centers certain requires more lawyers, these numbers are wildly out of whack. Given that no law school would ever open admit that it is failing its past, present, or future students, the only meaningful way to bring this demand for law school back into a realm of normalcy is to suspend or revoke accreditation. The only way to do that is to maintain the present high standard for the bar passage cut score.

Ignoring for a moment whether or not there is correlation between one's bar score and their propensity to be a good attorney, lowering the cut score simply floods an already flooded marketplace. Folks scoring between 1414 and 1440 are not individuals with high paying, or even average paying jobs, waiting for them. These folks would likely be struggling to pay back student loans regardless of whether they are employed as an attorney or something else. This eliminates any sort of egalitarian argument that the current bar passage rate is preventing students from paying back their loans. Keeping the present passage rate keeps the pressure on schools to take accountability both from an admissions and an education standpoint.

Setting school aside, students need to take ownership. The bar should not be difficult. If one truly dedicates his or herself to law school and bar preparation, he or she will pass the bar. Failing to do so, results in failing the bar. While she would not have done so then, my wife will now openly admit that did not take law school or bar preparation seriously enough. Are those the type of applicants we should be admitting to the bar? Forcing both students and schools to be accountable will create a symbiotic self-interest between schools and their students. While one consequence will certainly be the shuttering of some law schools and denying some applications admission into law school, these concerns are certainly subservient to the concerns of protecting the integrity of the bar and doing our best to prevent some law school applicants from needlessly incurring crippling debt.

Anonymous

The problem with the exam is not the cut score, rather it is the number of schools which offer sub-par educations in order to compete for student loan dollars. The score for the exam is nothing more than a scapegoat for much bigger problems which face our legal education system. The State Bar should be focused on bringing non-ABA schools up to par, at reasonable cost, not lowering standards for the students produced by woefully inadequate state accredited and unaccredited law schools. Tellingly, first time test takers from schools that must meet ABA accreditation achieved a bar passage rate above 60 percent on the July 2016 examination while non-ABA first time test takers from California accredited schools managed only a 20.5 percent passage rate. In every single demographic category tracked by the State Bar, students from ABA accredited schools outperformed their non-ABA peers. As is clear, the State Bar would be better served focusing its efforts on creating competitive California schools which can produce students capable of passing the bar, not blaming the exam for the failings of inadequate schools.

The State Bar does no one any favors by allowing schools to operate that, even if the bar exam score is lowered, would graduate students so inept that they will rarely have positive employment outcomes. Take for example Western State University. According to Law School Transparency ("LST"), the non-discounted cost of tuition is $284,133.00 for a student starting in 2017. That student, even if they pass the bar, according to LST, has a 31.9% chance of landing a full time legal job, with a mean starting salary of $58,592.00, not enough to ever service the debt taken on to attend that law school. It is an absolute travesty that the Bar is even considering making it easier for these schools to pump out debt-riddled lawyers with little chance at being successful and with a financial burden that prevents them from representing under-represented communities because they cannot afford to do so.

The mission of the State Bar in this regard should be clear,: promote the training of better lawyers at reasonable cost, not, lower standards for poorly-trained students who will be seriously disadvantaged in the workforce.

Stephen Huffman

The purpose of the Bar exam is to protect the integrity and competence of the legal profession. Lawyers are fiduciaries whose acts affect lives and property, and they do so as officers of the courts of the State. The State cannot afford to have incompetent officers handling the affairs of its citizens. Thus, it must have a standard by which to measure the competency of those to whom it entrusts the practice of law.

There are three reasons people fail the California Bar. They are (1) poor knowledge of the law, (2) inability to instantly recall an accurate knowledge of the law, and (3) inability to express that knowledge of the law in a manner that is well-organized and relevant to the facts. It is better to discover these weaknesses in potential attorneys handling fictional cases on an exam than in real attorneys handling real cases that have real consequences. On the other hand, if more takers could overcome these three weaknesses, we would see a higher pass rate.

To adjust the cut score for the purposes of achieving a higher pass rate or a more diverse group of passers defeats the purpose of the exam. The exam is designed to measure the competency of the takers. To adjust the score based on the pass rate is to allow the competency of the takers to measure the integrity of the exam. Such an adjustable standard is no standard at all.

"Thou shalt not have in thy bag divers weights, a great and a small. Thou shalt not have in thine house divers measures, a great and a small. But thou shalt have a perfect and just weight, a perfect and just measure shalt thou have: that thy days may be lengthened in the land which the LORD thy God giveth thee. For all that do such things, and all that do unrighteously, are an abomination unto the LORD thy God." Deuteronomy 25:13-16.

"A false balance is abomination to the LORD: but a just weight is his delight." Proverbs 11:1.

Richard Farquhar - Law Office of Richard Farquhar

There are too many unqualified attorneys already practicing law in California . Lowering the standard would only cause more clients to have incompetent representation.

The law schools need to step up their game. They need to better prepare their students. Lowering the standard only hurts California.

Anonymous

I graduated from law school in 2007 from an ABA accredited school. I graduated magna cum laude and was fourth in my class. I passed the CA bar on my first try in July of 2007. Ten years later, I am finally starting at my first permanent job in a law firm. The past ten years have been spent scraping by, taking temporary document review jobs at ever declining rates just to pay back student loans. And I still consider myself luckier than most - I got scholarships to complete my law school education and ease some of the financial burden. Despite the lowering of bar passage rates, I have yet to see or even hear of any study that says there is a shortage of lawyers in California. The fact of the matter is, even with one of the hardest bar exams in the country, there is a plethora of attorneys in CA. There are plenty of underemployed attorneys already, attorneys who have passed the CA bar and still struggle to find work. I know. Until recently I was one of them, and worked beside so many people similarly situated. While I feel for those who have expended the money on their legal education but cannot pass the Bar, schools should be held more accountable for these failures. The result should NOT be an addition of even more attorneys into the CA lawyer pool to compete for jobs with people who passed the Bar at the current score of 1440.

Sophorn Nhou - United States District Court

The survey ask how much student loan burden should factor in the cut score. I want to say it should not factor much. I believe the bar association should work with the schools in lowering the tuition, which would make it a better return on investment to attend law school. This would attract more talent and likely better pass ratings.

I agree with option 1, but modified. If an exam taker gets a second or even third read, I believe the highest scores should be counted from each essay and PT, not the average.

Anonymous

It appears to me that the low bar passage rate may have a lot to do with too many students graduating from unaccredited schools ? The passage rate when I passed the bar was around 50% I believe. Has the exam gotten much more difficult? Or have there simply been too many more students who are not well prepared by their schools? I don't have a problem with lowering the score -- but ONLY IF it's because the exam has become too difficult. It appears to me that the State Bar wants to lower the cut score simply to increase the passage rate, which I believe is a mistake. No pun intended, but there are plenty of bad lawyers out there, so why would you want to lower the bar even further?? The integrity of the law profession, and the need to have well qualified attorneys is important. The need to increase the passage rate is not. Thank you. (I'm a practicing lawyer with the government).

Elizabeth Kerr - UCSD

The lower passage rate is a symptom of the poor educational system, including the elementary and high school level systems, in California. The lower passage rate is not a symptom of the difficulty of the Bar Exam.

The solution, therefore, is to raise the standards of education in the elementary and high school levels - and at the undergraduate college level as well. The solution is not to lower expectations in the professions.

It is unfair to those coming into the profession to simply "let them in". Lowered standards of success give individuals (who through no fault of their own are unqualified) a false sense that they are doing well when in fact they are not doing well. It behooves us all to continue to believe that young people entering the professions today are as smart as, and have as much potential as, those who have gone before. We need to believe that young people CAN in fact make the grade, and pass that confidence on to them by expecting them (and helping them) to reach high goals.

I come from a disadvantaged background. If everyone had told me that I was doing OK where I was at, I never would have made it to where I'm at now.

Yes, we can!!

Steven Cohen - Derdiger & Cohen, LLP

Maintaining the standards of the profession and the integrity of practice requires that the State Bar NOT reduce the passing score for California applicants. What we need are more qualified applicants, not applicants who cannot manage to pass the current exam. Whereas, the moral and professional character of a person cannot be determined by a score, current standards must be maintained and not reduced merely to accommodate law school admissions and/or passage rates.

Kenneth Ryken - Alameda County District Attorney's Office

The ongoing credibility of our profession necessitates that the State Bar maintain rigorous standards for admission. We gain nothing by admitting new lawyers if they are not immediately capable of providing competent legal services to the public. In fact, to do this would threaten to degrade the collective reputation of all California attorneys.

I accept the accuracy of the data that bar passage rates are falling. But, not every statistical anomaly requires a correction/solution. Why is this a problem for California? Is there now a shortage of California lawyers to provide necessary legal services? I suspect not. Perhaps a case can be made for the need to improve access to legal services for underserved communities. But, the answer is not to lower the cut score. We do NOT need more attorneys in order to serve these neglected consumers. We need more competent, experienced attorneys willing to apply their expertise in these areas, and perhaps more encouragement from the State Bar for pro bono hours from our members. Unless a case can be made that, through attrition or retirement, we no longer have enough licensed attorneys in California to meet the needs of consumers, I do not believe there is any compelling justification to lower the cut score.

If there is a solution to be found for this problem, it is certainly not in lowering the standards for admission. To the contrary, if we are to expend any energy in this regard, it should be spent endeavoring to increase the quality of education and vocational training at all legal institutions throughout California to ensure that those individuals who graduate from them are ready and able to serve the public at the highest levels.

Respectfully,

Ken Ryken
State Bar 154536

Larry Hines - 070

I think the Bar should work with law schools to find out why students are having difficulty in passing the Bar exam and solve the problem at that end. We should not try to solve the problem by lowering the Bar standards. This can be a road that would permit less qualified students to become lawyers and that is not in the public's interest.

Jeffrey Hartwick

It is absurd to reduce the CBX cut score because of declining pass rates. The solution is for the applicants to study and prepare more, rather than lower standards. There are currently over 250,000 licensed attorneys in California, and it does not make a lot of sense to lower standards when many law school graduates are unable to find jobs. Whittier Law School is closing its doors in part because its graduates cannot find lawyer jobs after graduation.

Keep the CBX score as it is. It will ensure that prepared applicants become lawyers and keep the number of attorneys at a reasonable level that will result in gainful lawyer employment for new graduates.

Anonymous

There are already too many attorneys and too many non-ABA accredited law schools in the State. No need to increase the number of either.

Shelley Azizi - Sidley Austin

I am an attorney licensed in both California and New York. This means that I took not 1, but 2 separate bar exams and successfully passed both. When I took the California bar exam, my daughter (who is now 7), was only 3 weeks old. I am including this background description not to toot my own horn, but to iterate the fact that I worked very hard and committed a lot of time and effort to make sure that I would pass the bar exam. I know many people who have had to take the exam over again, and while it was very difficult, they eventually overcame the difficulties and successfully passed. I don't believe that the bar exam is indicative of whether one knows the law or whether one will be a good attorney. However, it is a difficult right of passage that all lawyers have had to endure before becoming a part of this wonderful profession. Cutting this score is not only an affront to all of us who have had to study hard and pass , but will also mean that people who would have formerly been unqualified will now be allowed to practice law. I acknowledge that the legal profession in California has several problems, including the fact that many students are graduating law school riddled with debt. However, cutting the passage score will do nothing to address these issues. There are other, more constructive ways to address these problems. Please, I urge you to keep the current cut score.

Anonymous

Any of us who have attempted to find employment as an attorney in this state can testify that there are too many attorneys seeking work, and not enough positions. Furthermore, any of us who have practiced for more than a few months will have horror stories about incompetent attorneys and the bewilderment we felt over how they passed the bar.

Both of these issues will be exacerbated by lowering the standards.

Access to justice is important, but why stick low-income folks with those who should've failed the bar? This is irrelevant to the problem anyway: the access to justice gap is largely caused by the cost of law school and the cost of living in this state, which combine to make it necessary for recent grads to seek money over any "calling" they may have had at one point. Allowing lesser lawyers isn't going to suddenly mean we have a batch of altruistic lawyers ready to serve. In fact, schools with lower passage rates often charge as much or more than the better schools. (The better schools also often attract candidates with better credentials through scholarships, lessening their graduates' burdens.)

Increasing the employability of debt-ridden grads is also important, but so is preserving the standards and integrity of the profession -- if they can't study harder and pass on their second attempt, maybe they should try a state with lower standards. It sounds harsh, but we already have a surplus of attorneys in this state -- lowering standards just allows more attorneys who are presumably less qualified to sully the label "attorney." And if your goal is to help these potential lawyers, maintaining higher standards (and low pass rates) will hopefully motivate more of them to do something they are more qualified for.

Finally, this idea will contribute to a vicious cycle: The plummeting bar rates are a product of a brain drain in the law schools as a result of the more-qualified students assessing the market and choosing a different path. A plethora of law schools with vacant seats are then filling those seats with lesser-qualified individuals. Lower the bar passage rates, and then schools will let even more lesser qualified students in, which will lead to lower bar passage rates, etc.

One more thing: i understand increasing diversity in the profession is important. I would be more receptive to an idea like this if there was a study showing a historical disparate effect on discernible ethnic or gender groups -- the bar should be fair, but difficult. So far, all I'm hearing is that it's too hard for the recent grads, which is not enough of a reason to lower the bar, pun intended.

Anonymous

Lowering the cut score to create a 4% increase in the pass rate means more than 9.3% of the individuals passing, almost-1 in 10-would not have had the proficiency to pass at the existing standard. Why would we allow this? I am unaware of a shortage of availability of legal practitioners to provide competent legal services to Californians. Such a shortage should be the ONLY downward pressure upon the current cut score. The wants and needs of those trying, but unable, to make the cut is not relevant. Life has risks, and we have a standard. If that were not the case, we could replace the time-consuming and costly Bar examination with a simple inexpensive licensing system, with no test of proficiency. The exam exists to ensure competence and to test the mettle of those who wish to join the ranks of a demanding profession.

Lowering the cut score would: 1) decrease the average aptitude of new attorneys, 2) thus decreasing the quality of legal services available to Californians, and 3) increase malpractice and malfeasance claims, reflecting badly upon the public perception of the practice of law. "Attorney" is already among the most reviled professions by the general public, based upon perceptions of greed and ineptitude. Literally lowering the Bar for entrance into the profession would not improve this perception. Nor would it benefit the public.

The Bar is asking whether we should have fewer more qualified applicants, or a 9% more less qualified ones. Our professional practice is held to an absolute standard; let's not risk eroding that standard at a time of dwindling respect for our vocation.

Susan Lea - Law Offices of Susan Lea

These options in this "out of context" manner are not helpful for making any decision, and I hate to see folks failing the Bar exam over a few points. However, I have these comments to make: (1) new lawyers who have little fluency in English, especially reading and writing, are at a great disadvantage, and if someone wants to be an attorney, since our system is based on English, then they need to learn the language. If not, then we are harming all members of the public and eliminating any quality of justice. (2) the Bar review courses are not doing their job. My success with the Bar taking was primarily based on getting the best possible BAR review course. Since the BAR approves of these courses, then the BAR is failing people studying for the BAR, and it is the BAR's fault that law school graduates aren't better prepared. (3) In the past 10 years, I have seen how the insurance defense industry is controlling the California courts and practice of law, and not for the better. One of the things I have been most proud of is that California lawyers reference the law and relate to the actual law in their briefs, something that doesn't happen outside California. Same with judges. In recent years, too many California judges are ignorant of the law, can't be bothered to read the law or reference the law, and just adopt the worst of insurance defense industry practice standards. This is to the overall detriment to the qualify of law in California.

Importantly, if you gave a break to certain law students testing in that 1414 to 1440 area, and required 3 years of practice in law clinics, I would be in favor of allowing these lawyers into the profession, strictly contingent on fulfilling that 3 year committment. Every lawyer who practices and deals with the public for 3 years is going to be far more educated and knowledgeable at the end of that 3 years. If you just let these folks become full fledged lawyers, and their skills are questionable, then you are harming the public, whereas, the law clinic environment is fairly predictable. There are a lot of folks with similar problems who cannot afford a lawyer.

Lastly, I am disgusted with the nasty lawyers who work for the BAR. The BAR has a huge number of bureaucrats who have, in some cases, never even worked with the public. Some of these fat cat "lawyers" have never had a trial in the real courts, much less before an administrative body. This is despicable. Get rid of these BAR employees. They are not doing their jobs. They are interfering in active civil and criminal litigation. They are on nasty power trips. Clean house!!!!!!!

Susan Lea

Anonymous

The California Bar pass rate is reflective of the many unaccredited law schools that do a very poor job of teaching lawyers how to think critically. I spent years practicing law in California with attorneys, from those schools, who were simply terrible lawyers.

I found the California bar exam relatively easy. There was a circus atmosphere with proctors peeking at you in the restroom and female test takers having to carry tampons in clear baggies into the exam room because no purses were allowed due to cheaters. The Texas Bar in 1982 had 23 local subjects, far more complex and difficult than the 1990 California Bar. In Texas you get 3 chances to pass the test, not the endless do-overs that California condones. Years ago there was a story on the local news in L.A. of a man that took the bar exam annually for 20 years before he passed it. Seriously, who wants that guy representing them?

"Dumbing down" the minimum proficiency will lead inextricably to even more claims of ineffective assistance of counsel [which with appointed counsel costs the taxpayers more money] and even more ethical problems with people who have problems understanding concepts.

Anonymous

The law schools themselves are squarely to blame for this so called "crisis" of declining bar exam passage rates.

The validated cut score of 1440 has not changed in decades, and was hardly questioned in the past. However, it is well documented that law schools have put their own financial interests ahead of the profession's by dropping admissions standards and letting in unqualified students in response to declining law school applicant numbers.

The decline in bar passage rates is a logical and obvious consequence of law schools' own selfish actions, and lowering the cut score amounts to nothing more than a bail out for law schools who are reaping the consequences of what they've sown. Law schools incapable of remaining viable while attracting enough students capable of passing the bar should close.

Don't bail the law schools out! Let them close, and protect our profession from their attempts to damage it for their own pecuniary gain.

see: https://www.lawschooltransparency.com/reform/projects/investigations/2015/analysis/

Ron Cohen

As an in-house counsel with 20+years since bar passage, I am consistently dismayed with the quality of legal representation I encounter. When I look up the attorney with whom I am having trouble, there is an extremely high correlation of poor representation, inadequate ethical standards, and inappropriate conduct associated with attorneys who have graduated from non-ABA accredited law schools. These are the same law schools that are turning out heavily indebted graduates who cannot pass the Bar. The proliferation of non-ABA law schools has, in my opinion, materially diminished the quality of attorneys in California. Candidates are enticed into taking out massive loans to attend these schools, and yet bar passage rates are incredibly low, and the chance for financial success even lower. The answer is not to lower our standards. The answer is to tighten our standards, place tighter bar passage rates on law schools, and do a better job of dissuading candidates from trying to become a lawyer if their educational accomplishments are insufficient to warrant entry into a quality law school. Our profession is much maligned and our reputation of churning out unqualified and unethical attorneys is growing. From my day to day work, that reputation is being earned more and more every day.

Anonymous

What the information presented did not clarify for me is why. Why has the pass rate decreased to 43%. Is it because the scope of the material tested has increased to such an extent that students are hard pressed to master it all? Or is it because the caliber of student has decreased? Or has the test format changed since I took the exam whereby the questions are more complex and harder to dissect? I think that the cutoff should remain where it is until a full analysis of the 'why' has been completed.

Sonj Blomquist - Low, Ball & Lynch

I do not think we should make it easier to pass the bar. Setting and keeping high standards is important.
More work is needed to help people pass. That is where our efforts should be expended.

Elizabeth Eagleson - Orange County Superior Court

I am a second-generation attorney. Both my father and I took the CA Bar twice. I have no way to know why he didn't pass the first time. I can say I didn't because I personally didn't prepare well-enough to take the test. Going to the Bar offices and looking over my test papers, particularly the multi-state exam, taught me a lot about what I had to do to succeed the second time I took the test.

I went to Southwestern -- not the best. I was single mom with a toddler and needed a job as soon as I could get one. Not passing the Bar was a financial hardship. I found a job as law clerk and took two weeks off to study and take the test the second time.

Even back in 1984, legal jobs were scarce. They were particularly scarce in the market I entered in San Diego. I stuck with it, found a job and have had a very satisfying career.

As an attorney I have worked with law students as interns. There has been a distinct difference between students who attend fully accredited law schools and those who don't. I'm not sure it has to do with the teaching they are receiving or the fact that they didn't do well enough in undergraduate school to get into a better school, which reflects on their motivation. I wasn't a good student in my undergraduate years; I was smart enough, but distracted and lazy. I deserved the law school I got. Fortunately, I stuck with it and have been a much better practitioner.

I am unmoved by the idea that people take on a lot of debt and then can't get jobs. That is a choice they make, as does any student. Most of the students I have worked with can't tell me why they went to law school. They don't know if they are there to help people, make a lot of money, what. They are indifferent as to whether they are transactional or litigation lawyers. From the time I was a child, I knew I wanted to be a lawyer, even if it was just to be like my dad.

I don't think that underserved communities deserve to have barely adequate attorneys. They already do now and it is shocking.

Anonymous

I oppose lowering the bar exam passing score. Rather, the bar needs to do more to make becoming a lawyer easier financially, not easier intellectually.

One of the rationales in favor of lowering the score that I particularly disagree with is that it will increase the public's access to legal aid. This is a fallacy. The reason private lawyers are inaccessible to a large portion of the populace is the cost of legal help. That cost, in part, is increased by the fact that law school is extremely overpriced. This not only makes it difficult for attorneys to take on low-paying clients while trying to pay off student loans, it dissuades otherwise qualified candidates from pursuing a career in law. Fewer applicants to law schools mean that schools lower the bar on who gets in, and this in turn results in lower pass rates.

The current pass rate is an unsurprising repercussion of the very difficult job market attorneys faced at the turn of the decade. There were many stories of young lawyers with hundreds of thousands of dollars in debt and no jobs. This has scared many away from the profession, which forced many schools to accept less than qualified applicants.

Samuel Camp - Goldwater Institute

As a recent law graduate who passed the February 2017 California Bar Exam on the first try, I think the cut score should be kept at the same level for one main reason, which is that California attracts a large number of lawyers and in order to limit the amount of attorneys in the state, the barrier to entry in the profession needs to be high. This high barrier needs to remain to ensure that there are enough quality attorneys in the state to meet the demands of the public.

If the cut score is lowered it will not only allow unqualified attorneys from California law schools to be licensed, it will also attracted potentially unqualified attorneys from other states to come to California to take the exam. This lower cut score will also result in higher administrative costs for the State Bar because thousands of additional bar takers will likely sit for the exam if there is a lower cut score. In addition to this, it will also incentivize individuals who have failed the exam multiple times to sit for it again.

Despite the need to keep the cut score the same, the bar grading process needs to be completely overhauled. There needs to be more transparency in the entire process so that when people fail or pass the exam, they know why. This means that scores should be sent out to all bar takers so they have feedback to rely on and they can reliably tell what a "passing" answer is. Although this increased transparency will likely cost more money, those costs can be offset by making the entire grading process online. The small portion of bar takers that still handwrite their answers will have have to have someone type them up at the State Bar in the short term, but in the long term, the bar should only be offered online. This is 2017 and collecting and sorting through thousands of paper exams is not only inefficient, its an unreliable grading method. This will also speed up the grading process which is longer than in most states and puts law graduates in limbo for several months needlessly.

Thank you for providing this public forum and for everything you do, I appreciate it.

Anonymous

Please maintain the score as is.

Keith Brown - Southwest Gas Corporation

I sat for and successfully passed four state bar exams: Arizona, California, Nevada, and New Mexico. All of these on my first attempt in each jurisdiction. Of the four, California was actually among the easier exams, with Nevada being the most difficult. Even though California had more content, the time provided was longer per question than in other states and the questions were less open-ended, allowing you to focus and concentrate on the issues presented and craft appropriate response. There were also fewer subject areas for which to prepare compared to other states, so it was easier to study for the California exam than the other states.

So, unless the exam has dramatically changed since I took it, the declining pass rate is not so much a matter of the difficulty of the exam, but must be attributed to a declining quality of the candidates and their lack of preparation for the exam. This is merely a reflection of the poorer quality of education at the primary, secondary, and even undergraduate levels--not to mention the debilitating effect technology is having on common sense and ability to reason and recall. Artificially manipulating the cut line simply to improve a pass rate means more of these ill-prepared attorneys will be let loose on an unsuspecting public. This is a disservice both to those currently in the legal profession who met those prior standards and to the public to be represented by those lower cut line attorneys.

It is inappropriate to lower the standard/cut line simply because fewer candidates are passing. Securing the privilege to practice law should not be easy. It is better for the overall health and reputation of the legal profession to pass fewer, higher quality candidates than to simply lower the standard to result in higher quantity over quality.

Yes, there is an unfortunate consequence from having fewer attorneys available for pro bono work and possibly cultural and ethnic proportionate representation. But, that should be addressed by a foundational approach to create appropriate scholarships for eligible law school students.

I also earned my law school degree through an evening program, which allowed me to continue to work full-time so I could pay for school without incurring significant student loan debt. Greater emphasis should be placed on making more such evening and part-time legal education opportunities a requirement for law schools as part of the ABA-accreditation process. This would simultaneously help mitigate the need to incur student loan debt; while creating opportunity for individuals who otherwise may not be able to go to a full-time program. In turn, this would increase diversity and attract a pool of truly motivated individuals to the exam and the legal profession.

In order to improve the quality of the legal profession in California, the answer is not to treat the low pass-rate symptom by lowering the cut line, but to look at the fundamental root causes for the problem and address those. No, it is not a quick or easy solution like simply changing a single number, but it will be a better solution, with longer-lasting, positive impacts for the legal profession.

Anonymous

I strongly disagree with a score cut for the California bar exam. I have been a practicing attorney for 10 years. Almost all, if not all, of those I know that did not pass the bar examination, should not have passed the bar examination either because they were not properly prepared or because they were less likely to be competent attorneys in the first place. Especially in light of the recent changes i.e. reducing the exam to two days rather than three, making it even further easier an exam is absurd and poses a high likelihood of incompetence in the legal profession. I have spoken to many of my colleagues since becoming aware of the potential change and each and everyone of them is vehemently opposed as well. Furthermore the legal market in California is already over saturated. This will only exacerbate the problem. I urge you not to move forward with this change in the interest of the public and of those already a member of the legal profession.

Herman D Papa - Mediator/Arbitrator

Consumers of legal services in California are best served by the best educated and best qualified attorneys. The California Bar is particularly noteworthy in the quality of its practice results in large part due to the high quality of its members. I believe there is a direct correlation between the high standards of practice achieved by members of the CA Bar and the high standards of law school education preparing graduates for the CA Bar Exam. The ultimate beneficiaries of these high standards of admission to practice are California consumers of law services. There is no good purpose served to the CA law profession nor to the consumers of its services by lowering the standards for admission to law practice.

Anonymous

There are currently vastly too many attorneys practicing law in California. It is my opinion that this over-saturation leads to unhealthy, predatory and unethical practices out of the sheer necessity to make a living. And it greatly diminishes the ability of all attorneys to make a reasonable living. As an example, I know a bright, experienced attorney who is currently working for another attorney at $20 per hour. I made $19 per hour in 1982 as a legal secretary -- with no educational costs and a dramatically lower cost of living. Lowering the requirements to allow even more attorneys to practice in California is going to have unintended results.

As an attorney who did not pass the bar on the first attempt, I understand the pain and stress of that experience. However, lowering the bar to allow more attorneys to enter an already saturated field is unwise and, frankly, inherently unfair to the hundreds of thousands of attorneys who preceded them by taking, or repeatedly taking, the bar exam at its present level.

I strongly disagree with this proposal.

Ryan Newnan - Ryan Newnan, Esq.

Pressure creates diamonds. The forge of preparing for the 3 day California Bar Exam creates lawyers. I believe that anyone could have passed the old format, 3 day bar exam, with the proper preparation, dedication, and mindset.

My bar admission was hard fought. I didn't pass because of brilliance or luck. I passed because of sheer grit and directed effort. I graduated as a special student from a California accredited law school while being the sole supporter of a family of 5. After I graduated from law school in 2008 I focused on my high-tech career in software development. Nearly 8 years later I rededicated myself to passing the February 2016 bar exam - one of the last great California Bar Exams with a pass rate of 35.7. I started on December 4th and did every Bar Exam essay and practical examinations from the year 2000 through 2015. I practiced every day except for Christmas. I spent at least 550 hours preparing for the Bar. And studying for the Bar was not the only thing I did!

I also supported my family as the only worker outside the home leading a world class software development organization. I worked my typical 50-60 hour Silicon Valley work week and even got a promotion. And I'm proud to say that I didn't steal any time from my employer by studying at work.

I throw down the gauntlet to anyone to prove to the State of California, and God himself that the people that didn't pass the February 2016 bar exam worked as hard as me and deserved to pass.

The Bar wasn't too hard, and it still isn't in it's 2 day format. The candidates aren't putting in the directed and focused effort to pass. Don't lower the standards of excellence because you won’t end up diamonds.

Anonymous

The bar exam is difficult for a reason. It ensures qualified individuals are able to practice law. The fact that academic institutions that are powered by making money off of students should be the problem we focus on, not the bar exam. The pass rate is irrelevant. The number of test takers is more relevant and that is largely due to schools willing to take people's money without a care about their ability to pass the bar exam or to find gainful employment. Blaming the test is the wrong approach. Lowering the score so we can have more lawyers will not create more jobs, will not create better laws and will not better protect people in this state. If we want better protections for lawyers we should focus on holding the law schools accountable and getting better transparency as to their pass rates and job placement.

Stephen Clifford - Clifford and Brown, P.C.

The projected pass rate even with the lower cut rate would still be unimpressive. The applicants should have to meet at least the current cut rate. If they can't then they shouldn't become attorneys. The burden is on the applicant to satisfy the Bar requirement and not on the Bar to continually compromise its requirements in order to achieve perceived social objectives. The Bar Examination is just that----an examination of an applicant's qualifications or lack thereof. That should be its only purpose.

Bruce Ketron - Attorney at Law

I support assistance to enable the broadest range of persons to get into law school, to succeed in law school, to pas the bar AND SUCCESSFULLY PRACTICE. The comment of most impact to my knowledge is from Judge William F. Fahey https://www.dailyjournal.com/articles/342590. My experience is neither a shortage of lawyers nor of lawyers being overqualified.

I believe that much legal work will be computer based AI that have changed the role of lawyers from being the gate keepers to legal knowledge to having to wade through inappropriate and massive quantities of material.

There also should be consumer protection of what services can be provided that might be considered that of a lawyer, what might be from a specialist and what might be provided from some technical services (including from computers, AI, para-professionals and off shore services.

Perhaps the bar exam as the sole entry point needs to be questioned. Perhaps there would be one set of exams that would allow some levels of work to be performed (under supervision) then different levels of qualification for other services. In the health fields there is greater demands for quality and requirements to follow evidence based methods and desired results steps.

Nancy Sussman - 1951

THERE ARE TOO MANY UNETHICAL AND INEPT ATTORNEYS IN CALIFORNIA. THE BAR EXAM SHOULD BE A GOOD INDICATED OF BASIC ABILITY TO PRACTICE LAW. THE PASS RATE IS ACCEPTABLE AS IT IS. IF THEY CANT PASS THE BAR THEY SHOULD NOT BE AN ATTORNEY. IT SHOULD BE THE CURRENT SCORE. TOO MANY GET NOT LAW SCHOOL NOT BASED UPON ABILITY BUT WHO THEY KNOW.. IF IT TAKES THEM TWICE TO EVEN MORE TO PASS, IT FAIR PRACTICE.

Anonymous

The recent law school graduates and even those attorneys having passed the bar exam are substantially less well prepared and less qualified that in past years. Lowing the passing score would only bring more less that qualified attorneys into the profession and be deleterious to the public, the bar and the judiciary.

Anonymous

I passed the bar from a newly accredited school with a 9 month old baby at home. Study hard and you can pass. Don't lower the bar. You'll have attorneys practicing that are not qualified.

Anonymous

The level of incompetence and sloppiness of CA attorneys is already very high, based on a simple observation of presentations observed daily in LA Superior Court----missed deadlines, failure to appear in court for scheduled hearings, failure to calendar dates/deadlines, failure to file papers timely.

Who wants even less intelligent, less dedicated attorneys? Makes no sense to lower admission scores. Besides, there is already stiff competition for jobs and for clients/work. Having more attorneys by virtue of lowering standards means clients will be serviced by less intelligent/less competent attorneys, while the competent ones will struggle.

Lowering the passing score is a bad idea.

Anonymous

Read this article in Daily Journal. It says everything I want to say in that as a lawyer I have experienced all of it first hand:

https://www.dailyjournal.com/articles/342590

Robert Harman - Law offices of Robert M. Harman & Assoc.

As a practicing attorney (I was admitted in 1998) I have seen too many incompetent attorneys to believe that lowering the cut score (and thus adding more incompetence to the practice of law) would be a good thing for the state of California. In fact, lowering the cut score and thereby increasing the number of incompetent attorneys in our profession would serve no useful purpose and in fact, prove to be detrimental to the public interest. The public already has a negative view of attorneys and there is no need to make it worse by injecting more incompetence into the legal profession.

Anonymous

Are lawyers going to be able to represent clients more diligently, effectively, competently, and with greater integrity by a lower cut score? How will allowing more lawyers to be licensed with increased competition for fees to make a living an pay off student loans be better overall for the citizens of the State? There certainly is no shortage of attorneys. Restricting the number of attorneys may be a better way of improving the quality of the bar.

Anonymous

Lowering the cut score is a pity move for individuals who are unable to pass otherwise. California has the second highest cut score for a reason and lowering our standards for every Tom, Dick and Harry to pass is a slap in the face for those of us who studied and passed with the higher cut score. Keep the cut score the way it is. The market is already over saturated with attorneys.

Brian Davis - Law Offices of Brian M. Davis

The trend of lower passage rates is concerning, but lowering the standards is not a reasonable response. The trend is a direct result from law schools lowering admission guidelines to bring in students who are otherwise unqualified, or not as qualified as in the past. Law schools are pumping out graduates that have a lower probability of success in passing the bar, under the unfortunate cloak of "diversity" - leaving the graduates with little chance of paying off student loan debt etc. My own alma mater University of San Francisco has been guilty of this as well - and passage rates have declined greatly. If the argument for lower standards is simply to allow the lower-tier law school applicants and graduates to pass - then the bar will be flooded with incompetent attorneys.

Jeffrey Rabin - Resch Polster & Berger LLP

Ladies and Gentlemen:

I am opposed to the lowering of the cut rate:

•The fact that California has the nation's lowest bar passage rate should be considered in light of the fact that the State Bar of California is among the few (if not the only) state bar that allows people take the bar who did not study at an ABA accredited law school. I think to get a fair comparison to other states' passage rates, one should consider the passage rate California Bar applicants who studied at ABA accredited law. I haven't seen the data, but I suspect that if we remove from the data the applicants who did not study at ABA accredited schools, the California Bar passage rate would compare favorably with the passage rate of other states.

•I have also read, anectdotally, that the LSAT scores all around have been going down. It might be that the pool of qualified applicants has shrunk, as other professions and careers have grown attractive. Many people who might have become lawyers in a prior generation are now going into business, high tech, investment banking, and other intellectually demanding professions. Thus the pool of people who used to make up law school applicants may overall be of lower quality. But that should not mean we should be admitting low quality applicants to the State Bar.

•Indeed, there are, simply, a lot of bad attorneys in the State. I am concerned that lowering the cut score would admit to the practice in this State even more persons who should not be practicing law to be admitted to the practice. This will harm the public. Other arguments that were mentioned, such as increasing diversity, or to help applicants be able to pay off student loan debt, seems to suggest we should place diversity, or the applicants' debt burden, as a priority above protecting the public and maintaining the integrity of the profession; I disagree with that change of priority.

•Indeed, I would ask the Examiners: is the California Bar Exam really more difficult that the bar exams of every other state? I suspect that the Examiners endeavor to create an exam that is no more difficult that that of other states'. The Bar Exam should be designed to discern the applicant's basic ability to practice law. In California, once admitted to the Bar, there is no internship requirement - once someone passes, he or she can take on any matter. Therefore, the Bar Exam should have a standard that the Examiners can confirm that the applicant meets a minimal, reasonable level of competency. I trust that this is the objective of the Committee of Bar Examiners, and it would be counter to the interests of the public to change that objective.

In conclusion, in my opinion, the State Bar has a duty to do its best to make sure that persons licensed to practice law meet a certain minimal level of competency. The State Bar's first duty is to protect and serve the public, not to serve unqualified applicants. If an applicant is not qualified, he or she should not be unleashed onto an unsuspecting public.

C. Robert Jameson - Judicate West Mediation

As a judge I see too many unqualified attorneys as it is!

Ken Swenson

Declining passage rates is a symptom, not the problem itself. I am not sufficiently informed on the topic to be able to say with any certainty where the problem actually lies. Preparation of applicants taking the exam is obviously key, but this is only a description of the problem, not of the causes. Maybe bar exam courses are doing a less satisfactory job in preparation. Maybe a proliferation of below par or barely par law schools is part of the problem. Maybe the focus of ABA schools on almost everything other than black letter law is a contributing factor. Maybe a change in the average academic credentials of applicants has changed. Maybe language barriers contribute. Maybe there have been changes in qualitative aspects of scoring (essays, for example). Most likely there is a combination of these and possibly other factors. But that is what should be studied. Lowering the pass score is a band aid, not a solution. Let's understand what is going on with the applicant who goes into the exam, not simply adjust the result because we decide we aren't happy with it. The score is declining, meaning that in the past more people were able to reach the passing mark and we should identify why that percentage cannot reach it today.

I believe that lowering the score to support otherwise positive goals such as diversity and increasing support to underserved communities is not the right answer. Assuming that bar passage is an indicator of appropriate ability to serve the public at a high professional level (and that might itself be something to question), then it does a disservice to the public to lower the passage score and send out less professionally qualified advocates, especially if the connection to be made is that those less qualified will be the ones providing benefits to the underserved. If we want those social goals, let's make a greater effort to bring more diverse candidates and socially minded candidates into the law. Or create mandatory public service requirements. In this sense, public service could include lawyers giving time in the education of young people about law and government, a la the Constitutional Rights Foundation's programs.

And I certainly would not lower our scores just because ours are higher than other states. California has plenty of lawyers. We don't need to make more just because other states have low standards.

Fred Sette

I've been a practicing attorney continuously since 12/1994. Throughout university, law school, and the bar exam I suffered from fear knowing that if I failed, there were no alternatives. This fear actually caused me to study and prepare in a manner that resulted in success; success in passing all. I have to this date also experience arguable success in the practice of law.

Yet in today's society rather than force individuals to study and prepare in the same manner, we want to make it easier for them. The bar exam has not changed, the applicants have. This is simply feeding the entitlement. There is no entitlement to be an attorney, that must be earned and that earning is very, very difficult. Why in the world would we produce less-qualified attorneys? Is this the responsibility the State Bar is going to show the public? how about lowering the qualifications for getting a driver's license; maybe eliminate the eye chart requirement so more people can pass the test. Same for doctors; let's lower the requirement for the MCAT passing as we all want lesser qualified individual's treating us.

The fact this is even being considered is a joke.

Anonymous

The standard is currently too low. The cutting score should be maintained and only graduates of ABA accredited law schools should be allowed to sit for the bar.

Anonymous

There are far too many law schools turning out unqualified graduates. Rather than reducing our standards we need to address why law schools are granted accreditation when they cannot properly educate students. The fact that many schools have abysmal pass rates shows that they are nothing more than money designed to enrich the school and send students into debt.

Sylvia Paoli - Retired

I am a retired attorney. There are too many lawyers in CA as it is. Many of them are basically incompetent. They came out of law school, hung out their shingle, and started practicing law - without a clue as to how to do it. The public has suffered because of it. That would be like letting a doctor right out of medical school practice medicine with NO intern period. I taught law students for 30 years, and taught them what they needed to know, both to pass the Bar exam and to practice law. The exam is not that hard if a student is well-prepared. If they're not well-prepared, they shouldn't pass.

James Bader - law offices of james bader

It seems like the job market for attorneys is terrible. Law School graduates often come out of Law School with horrific debt, and even after passing the bar exam have lots of difficulty in finding work.

To lower the bar pass rate simply worsens the problem, but having even more new attorneys out there trying to find work.

The California State Bar Exam is difficult, and it should be. Lowering the bar exam score and placing more attorneys into the competition for jobs will not help the situation, but make it worse.

Stephen Leathers - Leathers and Associates

Unless the testing is MORE difficult then it has been for the last 20 years,
I see NO REASON TO CHANGE THE CUT.

If test takers can't pass, SO WHAT!!
If test takers have student loans, SO WHAT!!
If test takers demographics makes it more difficult, SO WHAT!!
Whatever the reason they don't pass, SO WHAT!!

We either have a standard or we don't.
Everybody has the same chance to get the education and pass. Same test for EVERYBODY.

If the test is broken, FIX IT. If it isn't , then I see no reason for a falling pass rate.

If it IS FALLING, then it must be because the primary, secondary, and law schools are failing to educate OR the students as a group do not have the intellectual capacity, the drive or desire, or aren't willing to make the effort and sacrifices to learn at the required level to pass.

Neither is a reason to lower the standard. There is certainly no SHORTAGE OF ATTORNEYS.

I have an 11th grade education and no college (GED Certificate). I went to a Ca. accredited school (Western State Univ in Fullerton),
took the baby bar after my 1st year and passed and went on to graduate 7th in my class. I took the bar exam TWICE (didn't
study enough the 1st time, my bad) and PASSED the 2nd time.

Yes, a lot of things happened that I thought were UNFAIR and at times I thought I was getting the short end of the stick or NOT getting a break I felt I deserved. BUT, I GOT AN OPPORTUNITY AND THAT'S ALL I HAD A RIGHT TO ASK.

So I, like many of my classmates in law school who had their own burdens to bear (like raising children, being broke,
losing jobs, getting sick, walking or riding a bus to law school, caring for relatives, etc.), did what was necessary to get the education, study and pass. Some didn't make it. SO WHAT!! Could have been me. I count my blessings I made it.
BUT if I hadn't, I would have licked my wounds, found a job, paid back my loans, and kept on trucking.

I SEE NO REASON TO CHANGE THE REQUIRED SCORE THEREBY LOWERING THE STANDARD.

Aaron Elster - Buchalter Nemer

The difficulty of passing the California bar exam is a source of pride for California attorneys and the clients they serve. It ensures that only the brightest legal minds can be admitted to practice in California. Additionally, California is saturated with attorneys. It does not do active members any good to see their pays decrease as the supply of attorneys outpaces demand for legal services. More importantly, it does not serve the public to introduce less competent attorneys. I strongly oppose any measure that would lower the passing scores. It is not the public's fault that exam takers cannot pass the exam. There is no problem with the exam. The problem is subpar law schools who accept attorneys with low LSAT scores, and with the federal government that extends loans to these students. Please do not lower the passing score. Thank you.

Shannon Van Dorn - Shannon L. Van Dorn, P.C.

There is no reason to lower the standard for admission to the California Bar, we have this standard for a reason. It would be a disservice to those who have already achieved status to the California Bar. It would be a disservice to the public by allowing attorney's into the bar who are not qualified.

Anonymous

I'm having trouble finding any coherent explanation of why the scores are low & don't see any option of addressing those causes as opposed to just lowering the score. It's all just "they're low, let's lower the cut."

Anonymous

Cutting the passing score does a disservice to the profession and to aspiring attorneys. Before lowering standards, California needs to consider allowing reciprocity to allow lawyers to practice elsewhere, and to allow qualified lawyers privileges in CA. Alternatively, California should not require examinees to take the MBE if it continues to refuse to allow reciprocity, and instead conduct a more rigorous subject-based written exam. eliminating unaccredited law schools to increase competition and quality in existing law schools would also serve to stop the "dumbing down" of the progession. In a job climate that is already strained, making the exam easier will only serve to increase the number of credentialed unemployed lawyers, it will not lessen the outrageous student debt load that most new graduates face, and creates a more competitive but intellectually diluted pool of applicants for firms to sift through. Perhaps we need to take a long hard look at the profiteering practices of the law schools and demand that tuition and associated costs be dramatically lowered.

Tamara Dehaan - Law Offices of Tamara D DeHaan

I am proud to say I am a California attorney, having taken (once) and passed the February 1984 bar exam which, as many are aware was one of the lowest passing percentage rates in recent history. I am a white female. I am the first of my family to attend college. I paid my own way through school and I was fortunate to have received a very small grant for being a white woman in law school - an anomaly at the time. I am, and have always been in private practice because I was not able to obtain employment in a firm, in part, because I did not attend an ABA accredited law school. Over the course of my legal career, I served as a judge pro-tem for 11 years, I taught UCC at a law school for six semesters, I judged moot court competitions, I participated as a speaker in continuing eduction courses, and I undertook representation for no fewer than six clients over the years whose prior attorneys had been DISBARRED.

California does not need more attorneys for the purpose of diversity, nor for under-representation of the disadvantaged. California needs more attorneys who care deeply about the legal profession and the obligations that go along with it, who do not put their egos above civility and competence, and who do not require $400 per hour in their first year of practice just to pay their education debts. Not everyone can or should attend a law school where the tuition expenses will likely greatly exceed their future financial resources. The goal is to pass the bar exam. If an Ivy League school cannot get someone there, we certainly shouldn't be lowering the cut score as an "accommodation."

California and Federal laws are extremely complex and complicated; not everyone is able to successfully navigate through these murky waters. There are many other professions in which one may utilize their law degree without passing the bar exam. Lowering the cut score, in my opinion, is not a proper way to serve the public.

Respectfully submitted.

David Berger

The answer to falling bar passage rates is not to lower the standard. Even with the current cut score, there is no shortage of complaints about poor performance from practicing attorneys who managed, at some time, to pass the bar with the current rate. Lower the cut score and you will simply ensure an increase in complaints and incompetent attorneys. As someone who works in the courtroom almost every day, I frequently see attorneys and wonder how on earth they passed the bar. Lower the standard and I'm certain I will see more.

Perhaps the focus of the State Bar should be to look at the reasons why those individuals were incapable of passing the bar. Were they people with little or no concept of what it takes to be an attorney? Were they people who have a 'rose tinted' notion of the practice of law, perhaps motivated by fictional portrayals of attorneys in movies, tv shows and books.

California does not have a shortage of lawyers. We have, I understand, one of the highest ratios of attorneys to citizens of all the states. There is no need to swell the already swollen ranks by making it easier to pass the bar.

The role an attorney plays in representing clients is similar to that of other professions. Would anyone seriously agree with the suggestion that professional standards for doctors, surgeons, or airline pilots, be lowered so as to accommodate more of them? The standard for the practice of law in the state of California has long been established and should not be changed.

Anonymous

It is not a good idea to reduce standards. The quality and professionalism of California attorney's needs to be assured.

Anonymous

The declining pass rate for the bar should not be remedied by arbitrarily lowering the cut score. In my opinion, the biggest contributor to declining pass rates is the number of unaccredited, fly-by-night law schools proliferating in this state (and others). Lowering the cut score merely ensures that there are increasing numbers of attorneys competing for jobs, and the overall quality of attorneys in this state will decline. If the committee wants to improve the pass rate, they should take greater steps to ensure that law schools provide better education, training, and resources to their students. Better yet, they could provide a free comprehensive bar exam preparation course similar to Themis or Barbri so students of lesser means can receive similar training for the bar exam.

A person should not be guaranteed a bar card just for graduating from law school. Rather, they should have to prove their fitness and ability in the same manner and to the same degree that all other attorneys do: by achieving a passing score on the bar. Lowering the cut score simply gives new applicants an advantage and dilutes the quality of attorneys in this state.

C.Zadik Shapuro - Retired from sole practice

The problem is not with the cut score. It should be left alone. The problem is that the law schools are so anxious for money that they accept anyone. If they were more selective less people would graduate and take the bar resulting in less people failing and owing a tremendous debt. We also need more incentivize to get top rate people to go into legal aid and other fields serving the disadvantaged.scholarships with promised jobs would be helpful.

Avery Lee Adair

I am semi-retired, still with a few long time clients. I am very much in favor of keeping the standards to become an Attorney high in California. That is necessary to insure the highest quality of attorneys admitted to the Bar. Over the 54 years of my Practice of Law I have seen too many times what I considered unqualified, and inferior individuals calling themselves Attorneys. It made me sad every time I saw it because I knew those types of individuals would give the general public a bad impression of our profession.
Keep the standards high, and only accept the qualified. Lee Adair

John Scalia - retired

It seems as if the problem is defined as the decline in the pass rate of the bar exam, then there are two logical alternatives. Either the law schools are failing to educate properly or the examiners are of lesser legal acumen. So, if the ABA accredited law schools have maintained a consistent pass rate (less than one standard deviation), the answer, while perhaps politically unpalatable, is clear.

Anonymous

I strongly disagree that it is necessary to drop the cut off score to fix the declining pass rates of the bar exam. It is not the score, or the exam that is the problem. It is the schools, as I'll expand on below. Also, the ramifications of lowering the scores for current attorneys is heavy without further regulations in areas such as minimum pay and gainful employment.

First, it does not make sense that there are CBA schools in addition to the ABA schools. California is already too highly saturated with law schools before you even factor in the CBA schools. It is often, though perhaps not always, students that were unable to gain admittance into an ABA accredited school or who were unable to pass in this schools, who end up entering CBA schools. These CBA schools are pumping out loads of unqualified candidates who sit for the bar and then contribute to falling pass rates. This speaks of the larger problems with all law schools in California, that they are first businesses and second educational institutions. Education is a money making scheme, and accepting unqualified candidates a way to line their pockets. They make money, but what they fail to do is prepare their students for the bar exam or to be attorneys. My husbands tort professor never taught intentional torts! My law career never required learning remedies, one of the most important aspects of the bar exam and legal practice. The schools are failing the students and they are failing the legal community. They pump out massive quantities of students into an already far too saturated market and without the necessary skills.

Second, lowering the score does harm to current attorneys in two ways. The first being that it floods a saturated market where gainful employment often evades attorney for years. The big firms only hire out of Harvard and Stanford, with the occasional bolt student thrown in. For the rest, there is a hierarchy depending on nepotism, contacts and law school, regardless of how many times it takes to pass the bar. Many attorneys are relegated to taking contract positions that used to pay $40-$50 an hour, but with the saturated market only offer $20-$30 an hour. Search job listings and you'll see that everyone wants a few years of experience. Entry level jobs are unicorns and typically pay as low as $50,000/year. Attorneys are having a hard time making a living, much less a career. Despite this, the loans are never ending, crippling to many, and the rich get richer. Without first setting regulations for hiring of attorneys (taking all schools and entry level) and for minimum salary (at least $40 an hour for contract attorneys and at least $80,000/year for salary), lowering the pass score and further saturating the market only drives salaries lower and the lack of gainful employment for current attorneys.

As a final thought, I was lucky enough to pass the bar exam on the first try, but what about those who eventually passed after many tries at the current score? I know people who took it as many as ten times. The amount of money sunk into the bar exam and all its inflated prices, not to mention hotel rooms during all three days and cost of travel. Also, computer fees. Why is there an extra fee to use a computer when the cost of the exam is already so high. Not to mention the cost of prep classes and tutors. People have sunk thousands of dollars, multiple times into the bar exam. If you lower the score and someone who took 5 times to pass the bar finds that they could have passed after only 2 times with the current score will feel rather cheated. Are you going to return those expenses? Are you going to pay out tens of thousands of dollars to each person who could have passed in less times had you lowered the score earlier? How will you remedy not only the cost they have incurred, but the hardship they will now face with an even more saturated market. It just highlights that the Ca bar is a money making business just like law schools, and they make their money on the backs of people who can't afford it.

Does there need to be changes? Yes, absolutely. There need to be changes regulating pay, hiring practices, admittance in to law schools and cost. Does lowering the test score help? No, it does not. It further drives the problem for the average attorney. Ironically, the extent of incapable and inept attorneys who did pass the bar exam at the current score is alarming. Lowering the score could potentially add to furthering the amount of unqualified attorneys that are letting their clients down every day.

If you want to fix things, go to the source. Lowering the score will only further the problem.

Philip Ward - Hassard Bonnington LLP

I was admitted to the State Bar in January, 1972. For the next fourteen years, I was a reader for the Committee of Bar Examiners. For several years thereafter, I "tutored" first-time bar takers who had failed to reach the "cut score" then in effect. For whatever reasons, every person I assisted passed the examination the second time around. Suffice it to say, I am quite familiar with the ways of the bar exam.

It appears to me, although I way be wrong, that the primary impetus for lowering California's cut score seems to be coming from law school deans. And their principal motivation in advocating for a lower passing score seems to reflect their desire to continue marketing their schools to a steadily increasing number of students (Hastings seemingly not included in this judgment). Put another way, in-state law school deans seem concerned about students going elsewhere (either into another profession or law practice in another state) than with the so-called "protection of the public" which is the mission of both the State Bar and the Committee of Bar Examiners.

If the current cut score is more or less arbitrarily set (which I hope is not the case) and/or it has little to do with predicting the quality of once and future practitioners, then it should indeed be revisited and scrutinized. If the second highest in the nation cut score is on shaky ground with testing professionals and it also contributes inequitably to a lack of racial or ethnic diversity in the profession (I think white women are doing fine whatever the cut score), then that too calls for carefully reviewing its validity. If, however, the main "problem" with maintaining the current passing score is its effect on the size of incoming law school classes, or on the problems law schools are experiencing with recent changes in ABA accreditation standards (e.g. reporting on how many graduates actually end up with employment in a job that requires a law degree), then in my view making changes for changes sake is neither wise nor prudent.

Jon Jekel

We do not need more unqualified attorneys in California. Anyone who has practiced law here knows that the Bar is already rife with incompetence. What we need is for the State Bar to stop shirking its responsibilities in favor of making a buck off of exam fees and stop allowing: (1) unaccredited law schools; (2) California Bar accredited law schools that have woefully lower success rates than their ABA counterparts; or (3) taking the exam without completing a proper legal education. It is an absolute joke that you would suggest lowering the bar for passage while still allowing universities to operate that have few, if any, graduates pass the exam on the first try, let alone successive tries. Further, it is a shame that the California Bar hasn't used its vast resources to pursue legal action against unaccredited law schools or law schools with extremely low passage rates that routinely misrepresent and falsely advertise the quality and characteristics of their services. Don't make excuses for exam takers, accept responsibility for your own incompetence at policing the underlying legal education system.

Gilbert Stein - ROL&M

There is no reason to reduce the score. The answer to the low pass rate is to improve the quality of law schools and law students. I don't want to see a doctor who passed her exams because standards were lowered, nor do I want the public to have attorneys who are practicing when they are not qualified. Diversity is fine as a goal but it is not a substitute for quality legal representation.

Dan Sullivan

It's not a problem with the CBX. It's a problem with the candidates.

I mentored a recent admittee for 2 years. His lack of motivation to practice law was appalling. There was no desire to research law, or formulate a theory, or learn how to practice. He wanted the answers to the questions, without engaging his lawyer brain to seek the answers himself. I had a similar experience with supervising a different associate several years ago. Basic things, such as how to cite a case in a brief, were not in her repertoire - although she insisted that she had learned her method in law school. Both of them passed the CBX with the current cut score - which may be an indictment of the current scheme, but it illuminates a potential that the current threshold may already be too low.

Today's new lawyers and candidates are great with social media and networking and "reaching out," but when it comes to the motivation and desire to practice law, they fall short. That lack of motivation carries back to their preparation for the CBX - it's a trait. It's not a problem with the CBX. They spend more time flicking at the phone screen and not enough time rubbing their 3 IQ digits together.

The CBX is the gate through which all must pass in order to be sworn in. To make the gate easier to get through will not improve the profession. A lower cut score It will not increase access to competent attorneys. A lower cut score would be akin to changing the rules of baseball to place outfield fences at 200 feet from home plate - it will make for more home runs, but it won't make for more Hall of Fame players. A lower cut score will allow more marginal candidates to enter the profession - and almost guarantee more State Bar complaints for incompetence. The failure of "Equal Opportunity" should serve as a sufficient reminder - lowering the bar for admission does not improve the pool of new admittees.

I can't emphasize enough what damage to the profession will be caused by lowering the cut score. I'm concerned that the State Bar would be considering "lowering the bar." If a candidate isn't motivated, diligent and dedicated enough to attain the skill set needed to pass an examination for a professional license, then he shouldn't be rewarded for that lack of motivation, diligence and dedication by an easier threshold to cross. Years ago I knew a fellow who passed the CBX on his 6th try. He finally got sworn in. A great lawyer? I don't know, but he's still active, and has no public record of discipline.

Lowering the cut score would also undermine and diminish the accomplishment of those who successfully passed the CBX with the current cut score. It's similar to one our current social issues - relating to "lowering the bar" for citizenship. If an immigrant legally enters the country, accomplishes all of the prerequisites to citizenship and is ultimately sworn in, and then the government creates an easy pathway for those who ILLEGALLY entered the country, it would raise the question of the value of citizenship. Why would anyone work hard to accomplish a goal, when the bar to success could be lowered simply because some candidates were unsuccessful at accomplishing a goal? Why would the State Bar even consider making it easier to be sworn in? The Bar should continue with the same difficult (but certainly not impossible by any measure) standard which has been in place for years.

From an employer's perspective, I can say that it's hard enough to find competent and conscientious new admittees. If the bar is lowered, it's going to be even harder. Don't do this to me, and don't do this to those similarly situated.

If a candidate wants an easy threshold, then the candidate should go to a state where the bar is lower. Don't make California be one of the states where "anybody can pass the bar" by lowering the bar. Anybody already CAN pass the bar here, if they possess the education, training, motivation, diligence and desire to do so. Lowering the bar cut score, or "making easier questions" is not the answer to improving the pass rate. It's not a problem with the CBX - it's a problem with the candidates.

Place the burden where it properly belongs - on the schools that churn out unprepared graduates, and on the graduates themselves for failing to have enough focus on a goal to attain it. If it's important enough for them to pass the bar, then they'll have to apply themselves to something other than Facebook, Instagram, Snapchat, Pinterest, Twitter, You Tube, and the other time wasters.

Do people really want their lawyer to know how to post to Facebook, or do they want the lawyer to know how to resolve a civil dispute, or keep them from going to prison? I find the thought of the State Bar proposing to increase the pool of Facebook lawyers to be disgusting. That proposal makes the goal of improving the image of the profession a cruel, ironic joke - because the IMAGE is all it is. The image is an illusion.

Lowering the cut score creates an illusion - an illusion that more lawyers means increased access to justice and more diversity. That illusion has nothing to do with BETTER LAWYERS. More lawyers crossing a lowered threshold is not equivalent to more competent, conscientious lawyers. Lowering the cut scores cheapens the profession as a whole. Just give them a trophy for participating, and then swear them in - the New California State Bar.

If you lower the standards, you diminish the profession. No one in their right mind would propose or agree to that.

Craig Page - General Counsel

Rather than diluting the minimum passage requirements of students taking the State Bar exam, the focus should be in surveying why most law schools in California are failing to provide the necessary education the students need in order to pass the bar in the first place. The trend is to push social agendas and theoretical aspects of the law in these schools and the legal profession is suffering from it. Lowering expectations on the cut score equals a lowering of standards, period.

Having a less qualified group of new attorneys entering the work force means their clients will suffer. The focus should be on (1) Forcing law schools to teach something of value so that the bar exam passage rates improve, (2) Protecting the integrity of the law profession, and, most importantly, (3) Protecting consumers who seek legal services by ensuring the highest qualified students and exam takers pass the exam.

Sometimes, it really is that simple.

Steve Pepe

There is nothing wrong with having a tough bar examination. I think the Bar is overreacting. A couple of years is not a sufficient period of time to make this decision. There are a lot of other possible explanations for the low scores. If it continues for a couple of decades then perhaps an adjustment is warranted.

Jeri Tabback - Law Offices of Jeri E. Tabback, APC

In reality, the consideration for reducing the cut score should relate to WHY the pass rate has been declining. Is the problem with the cut score, is the problem with the substance of the test itself, a decline in the quality of education (both undergraduate and law school), a decline in the standards for acceptance into law school, a lack of supportive resources --- or something else? I do not think the cut score should change just because fewer people are passing the bar exam. Address the problem, not the symptom.

Michael Yeager - Yeager Law APC

I support keeping the cut score where it currently is. Although this means fewer will pass, my experience has been that those unable to pass are not ready to represent California clients. Since California permits those who attend a wide variety and quality of law schools to sit for the bar, there needs to be a way of separating those who are capable of representing clients and those who are not. The exam is already a test of minimal competence. By lowering the score, we will be allowing those who are even less qualified to get out and practice. We already have issues with new attorneys finding gainful employment and poorly trained attorneys cluttering the field and taking jobs/clients from those who are better prepared. The State Bar of California should take pride that their attorneys represent the best in the nation, in part because of this rigorous exam process. Instead, this talk of lowering scores is just another form of grade inflation.

Josef "Marc" Dion - Dion Law Group, APLC

You seriously want to lower the standards even more to become an attorney in the State of California?

If anything, the standards should be higher (e.g. eliminate unaccredited / state accredited schools, make admission standards higher, etc...).

We already have too many unethical attorneys who are damaging the public in this state. From my personal observations most of those are coming out of non-ABA schools.

Lowering the standards for admission will make that problem worse, not better.

Anonymous

The cut score is not the problem--the quality (or lack thereof) of current law school students is the problem. Lowering our standards is doing a great disservice to all of those who have taken the bar examination in the past and passed under the current cut score. There may also be a snowball effect: the bar examiners claims that this option is temporary; however, what will happen if the trend in declining pass rates continues despite the reduced cut score? Would there be a further reduction and compromise in standards? When would be an appropriate time to raise the cut score? All of these issues need to be considered.

Anonymous

To protect the public and the integrity of our profession, the cut score should never be lowered.

Richard Sooy - Sooy & Schlichting, APC

I concur with many of the points articulated by Judge William Fahey in the article published August 8, 2017 by the Daily Journal. I particularly concur that practice training and standards should be RAISED for new admittees before being turned loose on an unsuspecting public. After nearly 40 years in the courtroom and ADR forums, it is quite apparent that basic practice and litigation skills have substantially declined in recent years. Student debt, underserved groups, diversity, etc., seem to me to be self-serving, end-justifies-the -means types of rationales that do not solve the problem. And lowering the standards can only serve to exacerbate the problem. Judge Fahey correctly points out that no one seems to complain that there aren't enough lawyers in California. Judging by the lengthier and lengthier lists of attorneys disciplined by the State Bar each month, it seems there may be too many unqualified lawyers. Why make that situation worse? Lowering standards will not increase the public's confidence in the profession. There are too many bad lawyer jokes as it is.

Anonymous

It seems that the following have been offered as potential justifications for lowering the cut score (i) expanding diversity in the legal profession and (ii) making legal services more available to underserved communities. As much as I strongly agree that those are two goals that we should pursue as a legal community (and I place diversity and serving underserved communities at the top of my list of important initiatives that we should be pursuing), I also strongly disagree that lowering our standards for bar admission should be the way we pursue those goals. If we want to (a) increase bar admission rates, (b) make it easier for students of a diverse background to get admitted to the bar and (c) increase the likelihood that attorneys will serve the underserved communities when they are admitted, then we don't need to make it easier to pass the bar exam - we need to make it easier for students to pay for law school and attend high caliber law schools without having to choose between taking on extreme debt or settling for attending sub-par law schools. The fix we need to pursue should not be at the point of passing the bar exam, it should be at the point of admission to law school. If we can make it easier for students of diverse backgrounds to attend high caliber law schools and for all students to leave law school without the immense burden of law school debt, then we will have a higher bar passage rate among all students (including students of diverse backgrounds) and more will have the freedom to serve the communities they wish to serve rather than being forced into corporate practice just to cover their debt responsibilities.

Devin Bissman - Swords to Plowshares

As an introductory note, I am not affiliated with any California Bar Exam Prep program.

I feel strongly that viewing past student answers and understanding the difference between a 60, 65 and 70 point exam is a vital component to California Bar preparation. After failing the exam, I was introduced to a website which purchases and compiles actual student answers to prior California bar exam questions. I found these sample answers to be immensely helpful in understanding the difference between a 60, 65 and 70 point answer. I wish I would have been introduced to this resource prior to taking the bar the first time. When studying for the exam the second time, I would write an essay then compare my answer to other student answers. It was immediately clear where my answer fell and where I needed to improve.

I passed the bar after using this resource and have since helped multiple other prior California bar failures pass the exam using this resource. Obviously this resource of compiled past exam answers is a supplement, rather than a replacement, to bar study programs. However, I believe that passage rates would rise significantly if all students had past answers (with a range of scores) available to them for review, prior to taking the exam.

I would be happy to answer any follow up questions regarding my statements above,

Regards,

Anonymous

Unless there is very clear evidence that the lower Bar pass rate has been caused by some sort of unfair circumstances, it should not be adjusted to simply allow people who did not meet the standards to pass.

Anonymous

California is already saturated with under-qualified lawyers as it is. This is no doubt hard to quantify. I am a bar member in two states. The other state had a high caliber of lawyering, that the difference in skills and ethics varies only across a fairly narrow band. California's legal profession is already riddled with problems, let's not exacerbate the problems by lowering the bar to admission. Quite honestly, if anything, the score should be slightly raised. Over time, the bar takers will lessen and the passage rate will increase. Anytime the criteria for a job which requires a certain level of integrity is lowered, consequences can be dire. For example, this happened during the mass hiring of boarder patrol agents, and frequently happens in law enforcement when there is a shortage. But the irony here is, there is no shortage of lawyers. Instead, there's a super-saturation of them.

Robert Spitz

The integrity of the bar and maintaining the quality of attorneys is the most important factor in determining the cut score. The other factors that are being used to justify lowering the cut score are just excuses for allowing unqualified persons to pass the bar.

There is no shortage of attorneys in California. It is hard enough for those who do pass to find a job. Allowing more attorneys to pass the bar will only mean many more less qualified persons competing for that small pool of jobs.

Allowing less competent to pass the bar will only serve to lessen the public perception of attorneys. There is no demand or need for more attorneys in California, we already have enough to serve the needs of the public.

None of the reasons being given for lowering the standards have any merit. These are justifications, not good reasons.

This is a knee jerk reaction to a recent drop in the pass rate. Give this some time for the law schools to react and improve their preparations.

I am unaware of any other industry where lowering the quality of the product is a good solution.

Brendan Rochford

The solution to the debt burden on students isn't to lower standards and expose the public to poorly trained lawyers who are demonstrably incapable of practicing law to the standard this state has come to expect.

The solution is to direct the focus onto the schools themselves. They are irresponsibly admitting students who do not have the talent, drive, etc to make a return on the student loan investment. We need to cap class sizes, mandate minimums on GPA and LSAT scores, and increase access to scholarships. Admitting more lawyers will only serve to further dilute the legal market with unprepared attorneys, injuring competent new attorneys who must compete with unprepared attorneys in the scarce job market, injuring the public, and injuring California's reputation for admitting only the best attorneys to the bar.

We need to staunch the bleeding. Irresponsible law schools are selling a false dream to hundreds of students every year. That needs to be addressed long before we can begin to consider opening up an already anemic legal market to more people who are arguably less qualified. The two day bar was bad enough. We don't need to make it even easier before we've had the chance to see what kinds of attorneys we will be dealing with who didn't pass the real bar. The pass will almost certainly skyrocket as of July 2017.

Todd Martin - Eagar & Martin

While it is concerning that the bar pass rates are declining, this may very well be due to the declining caliber of candidates. A consequence of lowering the cut score is that one day you might have to consider reciprocity with other states since California's standards will not be as tough. That could result in a flood of applicants transferring in from other states.

Steven Gourley - malek & malek

The "cut score" should remain where it is or INCREASED. The quality of lawyers I have seen over the years is pitiful and is getting worse. I recently appeared in a case with two night school attorneys. It is the first time in 40 years of practice that the other attorneys were so stupid and so unethical that I asked: "Where the heck did you go to law school?" They refused to tell me. They had no idea of where they were (court) or what they were doing. They had no chance of winning their argument, but they tied up the court and opposing lawyers (me) for over two weeks on something that any qualified lawyer would know was nonsense. I looked them up. Both were night school graduates from about 4 years ago, practicing together without any supervision: a recipe for disaster. Why are we producing all of these unqualified lawyers? Why are we asking unqualified people to go in to debt to be unqualified attorneys?

Anonymous

#1440OrBust

I passed the exam on my 1st try in July of 2008.

Now we are saying let's dumb down the exam because enough people can't pass it.

Imagine if we did this in medicine?

#NeverLowerTheBar

Anonymous

I'm not entirely sure I understand the reason California maintains such a low passage rate. It was about 40% when I passed the exam. I am certain that a significant proportion of examinees are capable of practicing law. At a certain point (long since passed, in my opinion), the low passage rate looks a whole lot more like protectionism and a whole lot less like maintaining minimum standards. I don't think the problem is the number rating' I think it's the way exams are graded.

Anonymous

What is the point of having a bar exam? I bet that if it were limited to simply writing your name on the paper, upwards of 90% would pass!

Jeffrey Stern - Pearlman, Borska

There is always the need for public access to high quality legal assistance. Lowering the pass cut score may well fly in the face of the need by placing less qualified lawyers in the legal market place. I am not concerned or impressed by the fact our cut score is the second highest in the United States. I am more concerned by there being any thought to lowering standards. Perhaps, it is time for our Bar to put the screws to the non ABA accredited institutions. It may also be the time for the ABA schools to think twice about who is admitted. I give credit to those schools which lowered class size and in turn suffered significant cuts to their income. Their passage rates seemed to stay strong as compared to the other schools which made no such effort. Just because students are not passing does not mean the examination is not fair or the pass cut score is too high....it may simply mean the general quality of student is not what it should be. As for cost of a legal education....far too high given job prospects (let alone passage prospects). But then again, the applicants are going to school with eyes wide open and should know enough about their prospects (given scores and schools).
I am in favour of keeping the cut score as is.
Thank you

Kenneth Meyer - Law Office of Kenneth E Meyer

Why on earth would the State Bar want less apt attorneys ? There already are plenty of bad lawyers who passed the exam, why open it up for more? The only reason that there is pressure to lower the score is because law schools want to advertise that they graduate more students who pass. This is pure marketing PR for the law schools. There is no point in lowering the score --- if anything it should be raised.

Anonymous

Go back to the 3 hour performance exams. Increase the amount of essays and get rid of the MBE multiple choice.

The performance exams and the essays are directly applicable to the practice of law.

The MBE is not applicable to the practice of law. No part of practicing law is a multiple choice exam.

Anonymous

The right option is to RAISE the cut score.

The Bar has many objectives, one of which is to ensure competent services are provided to the public (COMPETENCY). A key way of doing this regarding new attorneys is the licensing exam (cut score). Another way regarding practicing attorneys is identifying and publishing less than competent/bad attorneys.

Achieve objectives other than COMPETENCY by ways other than the licensing exam. At least maintain the current cut score, don't lower it!

Anonymous

I am a government lawyer. My experience with opposing counsel is that there are already far too many incompetent lawyers in California. I believe that diversity should be increased and access to lawyers for underserved communities should be increased, but not at the expense of competence. The California Bar should maintain the highest standards so that those who place their trust in attorneys can be confident that their attorney is of the highest competence.

Anonymous

Simply because lawschools lower their standards and accept unqualified law school applicants for the purpose of generating revenue through tuition it does not therefore follow that these unqualified individuals should be given an easy bar exam. Last schools should accept and keep only those students who are fit to practice law. Flooding the market with unqualified lawyers who do not possess the skill necessary for the job is a huge disservice to the public. A law school's interest in self preservation is not a legitimate reason to make it easier to pass the bar.

Anonymous

It would be a travesty to lower the "cut score" thus making the exam easier to pass. Students who do not pass are either unqualified or not properly prepared.

Abolish the CA accredited and non-accredited law schools and the pass rates will sky-rocket.

Anonymous

I firmly believe we need to maintain the integrity of the profession. We need to maintain a high standard for this profession.

Anonymous

I believe the current standards now in place at 1440 help insure that the most qualified applicants will be permitted to practice law in California.

Eugene Schneider - eugene schneider

Integrity, knowledge and basic skills are the hallmark of a good attorney. What would you do if the pass rate continues to decline once you lower the cut score - lower it again?

No, standards are standards. I don't want to sound superior, but rather than arbitrarily reducing the cut score, it is necessary to know why the pass rate is low. If it is an index of the dumbing down of the population as a whole, we do not need to reward rate - we need to take a stand. I cannot help but suspect that to a certain extent this may be the result of the financial circumstances this state finds itself in owing to Prop. 13. As we have less and less money to pay our bills, and as the cost of goods and services required by public entities climbs faster that the rate at which money can be taken in to pay those bills, we should not be surprised the cutbacks in our educational system may be contributing to changes such as in the pass rate.

If the reason is endemic, lowering the cut score will not solve the problem.

Anonymous

I oppose lowering the cut score on the California bar exam.

I am disappointed many law school deans have, based on the continued decline in pass rates for the CA bar exam, concluded that the cut score should be lowered. California should not lower its standards for admission to the bar because aspiring lawyers are failing. Higher failure rates mean that fewer students are adequately prepared for the bar exam.

Student preparation the responsibility of (1) the student; and (2) the student's law school. If a law school does not adequately prepare its students for the bar exam, those students should not become licensed to practice law in California. Similarly, if a student does not study enough, and as a consequence fails the bar, that student is not yet ready to practice law in California.

There is no shortage of unprepared lawyers in California. Lowering the cut score will not increase access to the caliber of attorneys that is needed in this state. Rather, lowering the cut score will increase the number of unprepared attorneys and will degrade the membership of the bar.

If the purpose of lowering the cut score is to increase diversity among attorneys in California and/or to increase the number of attorneys available to the indigent (goals I espouse), there are better, more direct methods for achieving such goals than lowering the cut score. For example, scholarships could be established and provided to law students of color, and bar foundation funds could be directed to serving the indigent.

Communities of color and of low economic means need attorneys to represent them, but they do not need attorneys who are ill-prepared to do so.

Anonymous

I disagree with lowering the cut score, especially if lowering the cut score is in response to decreased lawyer pass rates. In the years prior, all California lawyers have been held to the same standard and have had to pass at the score indicated. It would not only be unfair to all practicing attorneys who have passed, but also all attorneys who have previously failed and had to retake the bar exam.

Furthermore, the lowering of cut score would dilute the legal market and would allow previously non-competent parties to practice law. Most lawyers already face an uphill battle with client perceptions based on their competency and pricing. Allowing additional lawyers who are demonstrably less competent (and currently not allowed to practice) will do no favors for the legal field. The State Bar should look at increasing education requirements and test prep readiness instead of looking to lower the bar pass score. This discussion needs to be had with the law schools to ensure they are not admitting persons who are incapable of passing the bar or to ensure that they are properly educating their students.

The only benefits I see for this is an increase in test exam fees due to increased attendance and increase in bar fees due to more lawyers being admitted ie more profits for the State Bar, which has nothing to do with upholding the standards of the legal profession or ensuring that bar members are competent.

Anonymous

California already has more attorneys than it can employ. While the goal of providing attorneys to under-served communities is laudable, it should not (and realistically cannot) be achieved by lowering minimum standards for practice. Student loan debt is real. Attorneys hoping to repay those loans need employment that pays a sufficient wage, which realistically precludes much of the public interest work that this Committee hopes to serve. Those are the market forces we attorneys deal with. Lowering admission requirements will only produce more attorneys unable to secure full-time employment, not increase the pool of attorneys available to take public interest work. Certainly not in any of the state's metropolitan areas. As an attorney living in the Bay Area, all but the city agencies do not pay enough for a single person to repay their loans while also paying rent. While the burden of repayment is especially daunting for graduates unable to pass the Bar, if a person cannot pass the bar after the second or third time, perhaps that is for the best. There is real opportunity cost faced by these applicants that delay seeking alternative careers. Ultimately, these negative passage rates reflect a greater drop in admissions requirements by many of the nation's law schools following the recession. A lesser pool of students have predictably produced lesser bar takers. The State Bar has a responsibility to its attorneys and the public to resist watering down its own standards in the response to the unethical behavior of law schools seeking to make a profit at any cost.

Anonymous

number of factors to affect the passing scores, economy may be one of the factors where the law schools see applicants dropping and hard to find a good job after graduation.

It is not just California, in table 4 of the report entitled "Conducting a Standard Setting Study for the California Bar Exam," Florida, Illinois, New York, and Texas all see different level of downward trend, which shows that this is national issue, which may be a caused by other social factors. Simply for the purpose of increasing the pass rate wonot solve the problem, what if the passing rate keeps declining, will the score be further reduced??

Anonymous

Instead of "dumbing down" the exam to admit more graduates, it would seem more appropriate to me to conduct a study to determine WHY pass rates have been dropping in relation to the quality of education, the type of preparation students are receiving etc. Query whether the younger generation of law students is affected by their reliance on technology, their attitudes or other factors that ultimately impact their ability to successfully pass the bar. If student loans are a factor for those who fail, perhaps law schools should take a hard look at whether current tuition rates are humane or reasonable. Perhaps some legislation could be proposed to guarantee those who do not pass a forbearance until they do.

Anonymous

Why on God's green earth would the State Bar consider LOWERING the bar score when the State has TOO MANY bad lawyers????????? Doesn't make any sense unless the Bar wants to DUMB DOWN our bar pass rate mainly for political correctness and diversity. Lets be reasonable here, we need qualified lawyers to protect public interest in competent lawyers, lets not dump down our profession...please.

Anonymous

I would like to see data on the relationship between low bar scores and disciplinary proceedings. In other words, is a lawyer with lower bar passing scores more like to violate the rules of professional responsibility.

Anonymous

Other than the cut score, what other factors has the Bar looked at with regard to why the passage rate has been declining? What type of law schools are non-passers attending? Have law schools reduced their admission standards creating a trickle down effect? Our profession is already experiencing market saturation and I don't think lowering the score will help with that.

Anonymous

Slippery slope! The last thing this occupation needs is lower standards!

Anonymous

Lowering the cut score would reduce the quality of lawyers and result in a disservice to the public.

Anonymous

It's important to keep the score as is. The market is saturated with attorneys and we want to maintain a competitive market for those that qualify at the 1440 mark. The importance of having competent attorneys practicing law is extremely important to the trust of the profession. To reduce the cut off score would mean that more bar takers who may not be ready to become attorneys would nonetheless pass and be admitted. My experience is very individualized in terms of success, but for the people who have failed, there are many more that have passed without issue. The bar does not need to be lowered in the state of California. Thank you.

Randy Melendez - Law office of Randolph R Melendez

I feel that lowering the score would be an insult to all those who endured the grueling process of trying to pass the bar. Anyone trying to pass should not be given a lower standard just because of lowered pass numbers. It is quite an accomplishment to pass and to lower the passing score is cheapening the profession.

It has been my long held view that the Bar wants to keep the pass rate as low as they can. I would guess because there is that presumption that there are to many California attorneys now. I say leave it be and keep it the most difficult test to pass in the country. I did it, so can anyone else.

Anonymous

We must maintain the integrity of the legal profession in California.

Scott Davenport - Manning & Kass

I am a former Chair of the Committee of Bar Examiners. I strongly believe that no alterations should be made to the cut score which has been in place for a number of years.

The California State Bar Exam is remarkably consistent due to the hard work of professional psychometricians and the use of "equator" questions which help maintain consistent quality. Although the overall pass rate may have temporarily decreased over the last few administrations, this is not an indictment on the exam itself; it has to do with the quality of the applicants.

The simple fact is that top students tend to gravitate to particular professions in a cyclical fashion. At one time in the not so recent past, the "best and the brightest" all headed to medical school. Then, for a time, they all went to law school. Currently, they are heading into computers and engineering. However, the pendulum will eventually start to swing the other way and the quality of applicants will increase. This is a temporary, cyclical situation which will self-correct.

I believe that every effort should be made to maintain consistent professional standards. Simply stated, no changes need to be made to the cut score, and no changes should be made to the cut score.

John Gilmore - cregger and charfant

I am somewhat familiar with current law students through membership in an Inn of Court (Schwartz-Levi). These young people are no less focused or motivated than my 1961 Hastings class. The fundamental difference is then Hastings was known as a "survival" school. We had a good sense of our strengths and weaknesses and prepared for the bar exam accordingly. As I recall, we finished third on the exam following Stanford and Boalt. During my early years in practice, I realized what an excellent law school experience we had received. Our performances were as good as those graduating from elite schools. Our class started with roughly 300 and ended with about 100. Four of us were elected to the American College of Trial Lawyers and ten plus to the American Board of Trial Advocates. I tend to agree with those who believe there are too many law schools trying to teach many persons who want to become members of the bar. That is a huge issue. How can we provide the appropriate tools for all those who seek admission.? I am not certain everyone who is admitted to law school should be a practicing attorney. It is not an easy profession and requires a sense of professionalism to establish a decent reputation..

Lowering the bar passing standards does not make better attorneys. Plenty of well educated lawyers from good schools have served the poor and disadvantaged for years. The profession has promoted volunteering generally and specifically. We spend hours each year assisting the public in various roles.

What is the general public going to think if the bar exam pass minimum is lowered? Personally, I believe it will be a public relations nightmare. Defend spending more time and effort on discipline versus lowering standards for the entry level examination.

My view is the law school deans will crack down on performance in bar exam courses. If they do not, they should.

Thank you,

John Gilmore, 3249`

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Rafi Mottahedeh

I am strongly against lowering the passing score for a number of reasons, two of which I outline below:

1) Unlike other states, California has numerous exam takers who have not attended an ABA accredited law school. While there are many benefits to California's unique system of letting so many take the bar exam, the individuals who have not attended an ABA accredited law school do not have the benefit of the same high-quality legal education that an ABA accredited school can offer. In fact, many individuals who take the California bar exam have no substantive training in US law at all. Because of this, California has to have a higher score for passing the bar than other states. The point of the legal profession is to provide service to the public, not to help attorneys get ahead.

2) Bar exam graders grade according to an instructed or psychological curve. In many states, they are taught to grade materials within a tight range. The subjective manner in which essays are graded does not mean that other states are comparable to California when viewing passing scores.

Daphne Lin

While setting ab arbitrary cut score may not be fair since some bar exams may be harder than others, it does not make sense to lower the cut score simply because bar passing rates have been low recently. Rather than asking Cal Bar Association to lower the cut score, maybe law schools should think more about why law students are not passing bar exams at the same (or better) rate in recent years. As it is, there seem to already be many attorneys that are not so qualified and should not be practicing law. Lowering the cut score may not only allow more unqualified people to practice law, but also create a public perception (rightfully or not) that the admitting standard to practice law is low.

Jonathan Levy

California does not need more attorneys and especially does not need more marginal attorneys in the name of diversity.

Anonymous

"Dumbing down" of California attorneys will do nothing for the people who need them. There is no reason to lower the standards. If anything, the standards should be raised.

Anonymous

I believe that the integrity of the profession and protection of client interests should be the paramount concerns of the Bar Association, and I fail to see how lowering the cut score furthers these goals. I believe that one of the primary causes of the low pass rate is the unfounded belief that anyone can become an attorney in California, often perpetrated by non accredited schools more interested in profits than protecting clients and the profession.

Anonymous

California is the only state I know of that has unaccredited schools pumping out would be lawyers. That represents a significant portion of the people who fail the exam. The pass rate for those who attend accredited schools is much higher than the mid-40% pass rate experienced by the population as a whole.

I took the CA exam twice. At the time I was admitted in two other jurisdictions and did not take the CA exam very seriously the first time. I made no specific preparations. The second time I prepared by reviewing materials provided by a third party vendor and was successful. The exam itself was not as difficult as the WA state bar exam, which tested for a longer period of time on several more subjects.

If the exam results are to be improved focus should be on those who grade the exams. Don't have people who take the exams to baseball game and then leave them behind by mistake. Have people who know something about grading academic work and will take the exercise seriously. That way those who perform will not be on the wrong side of the pass point due to sloppy marking procedures.

Anonymous

I believe the bar exam cut score should remain the same for the following reasons.

When I took the bar exam, many of the students in my bar review course did not make the bar exam their priority, and therefore they did not pass. These students would study for an hour or two a day, take weekends off, party, go on vacation, skydiving, rock climbing etc. If they cannot devote a few months of their time to studying for an exam, they are not qualified to be part of the legal profession, in my opinion.

I also know many students who, despite having little interest in the law, decided to go to law school after undergrad because they didn't know what to do with their lives. Many of these students are also the ones that did not pass the exam. If they are now saddled with debt, it is not because the bar is too difficult; it is because they are not meant to be attorneys.

To me, the declining pass rate seems to be more of a millennial problem (I say this as a millennial). Students don't want to work hard for anything, they expect it to be given to them. If they're not willing to put in the work, they should not be admitted as lawyers.

When I took the bar exam, I was also working on my husband's (then fiance) fiance visa, as well as planning a wedding. We got married a two weeks after the bar exam. I was also in another wedding while studying for the exam. Further, I went to law school in Connecticut, so I had a lot of catching up to do. The point is, I made the exam my priority and I passed the first time, despite having other obligations. All of the tools someone needs in order to pass the bar exam are available, you just need to use them.

We should not compromise the integrity of the profession in order to placate millennials who don't want to put in the work.

I feel the problem of diversity would be better addressed at the undergrad and law school levels. If minorities do not go to college, they will never be in a place to attend law school or sit for the bar exam. We need to focus more on getting minorities and diverse populations into college and then law schools, via scholarships, etc.

Robert Ferrier - Ferber Law Firm

I have taken two Bar Exams, Arizona and California. When I took both, I was a father, and employed full-time. When I took California's Bar Exam, I was working full-time as an attorney for the Federal government. I also have four children.

In my experience, bar examinations demand preparation and study far more than they demand innate genius. When I prepared to take California's 2016 examination, I set aside time to study every day, reviewed past questions, and traveled with a stack of flashcards. Despite being a decade removed from law school, I was adequately prepared by the day the examination arrived, and I passed. Not because I am a genius. But because I studied.

The attorneys to the left and right of me did not pass. And, as I found out by talking to them, they had not adequately prepared.

To be blunt, there are already enough bad, or subpar lawyers, practicing law. The bar exam as it stands is not a guarantee of competence. The problem, as I see it, is too many law schools churning out too many lawyers, who are simply not suited to the profession, or who have been inadequately prepared for practice. Perhaps as a symptom of a once weak economy, many liberal arts graduates who are having trouble finding employment, decide to head to law school. If they can't get the LSAT score to get into the school of their choice, they enroll in whatever school will take them. If additional regulation is needed, it is there.

If the Bar is truly committed to producing more lawyers for public service jobs, or to serve underserved communities, there are other ways to do it besides lowering standards. For instance, the Bar itself could offer student loan assistance. But arguing that we should lower standards so we could have more Legal Aid lawyers is frankly asinine. I do not see the American Medical Association arguing that standards for physicians should be eased so that free clinics can have doctors. And they should not.

I do not believe that lowering standards will automatically create a better, more civicly minded, more diverse Bar. I believe it will simply produce more subpar lawyers.

If you want more people to pass the Bar, more closely regulate law schools and law school admissions. The practice of law. like the practice of accountancy, or medicine, or carpentry, is simply not for everyone. Lowering admission standards will concurrently lower the standards of practice. I think those are low enough as it is.

Richard Dayton - Dayton Law Firm, P.C.

I've been in practice for 20 years; in 1998 we had around a 50% pass rate in the July bar and lower in the February bar.

If the standard is going to be changed it needs to be for non-political, non-social, non-cost reasons. The fact that any given race or economic level cannot make the cut level does not the mean the cut level is wrong. Maybe it means they are not equipped to handle the demands of the profession.

We, as attorney's, affect people's lives. A poor handling of a case can have major impact on a client. Allowing someone to practice law that is not able to meet a well thought out standard just so we have a higher bar passing rate isn't justified when you consider the damage an unqualified attorney can do.

Even with the existing cut rate all someone needs to do is review the discipline records to see we have a high cut rate and still have attorneys that cannot be trusted to do good jobs. Lowering the standard sound like a good way to increase the discipline rates.

I'm concerned that lowering the cut rate will allow more unqualified attorneys into the system which in turn affects all of us. It can also result in an disaster for our clients.

Joshua Brechtel - Law Office of Joshua Brechtel

As the State Bar Examination has recently been shortened from three days to two, it would seem to be in the interests of prudence to wait and see the effects of a drastically shortened testing period have on the scores before making any modifications to the cut line. Any modifications of the cut line at this time would make it difficult, if not impossible to determine the cause of increasing or decreasing pass rates..

Paul Tauger - Law Offices of Paul N. Tauger

Neither the difficulty of the bar exam nor the scope of material it covers has changed significantly over the past decades. Law schools haven't changed their teaching methodology, and faculty positions remain highly competitive. Accordingly, the only thing that could have changed to account for the lower bar pass rate is the students themselves. I've worked for law firms that provided seminars on how we should manage millennial hires given a shift in graduates' attitudes towards work ethic, responsibility and priorities. Though I've been privileged to work with many exceptional junior associates, the lack of focus, quality and output of many others has been noticeable and disturbing (and these were lawyers who PASSED the bar). This deterioration was not restricted to any particular ethnic group or social class. Indeed, quite the contrary, those young lawyers representing traditionally-disadvantaged minorities and economically-depressed social classes consistently maintained a substantially higher work than their non-minority, more privileged peers.

Law is a particularly challenging profession that owes the highest duty of competence to the clients that we serve. Lowering the cut score will simply allow less competent attorneys into a field that is already overcrowded with practitioners who, given the sharp economic downturn ten years ago, the consolidation and elimination of many large firms, and the limited budgets of smaller businesses, have enough difficulty finding work as it is.

"Dumbing down" the bar exam provides no benefit to either clients or the profession. I would note, too, that the first-time pass rate for the better law schools remains exceptionally high. If the bar wishes to increase the pass right, it should focus on law schools with historically low ("dismal" would be a more accurate modifier) pass rates, pull their accreditation, or require adjustment of their admission standards and teaching methodologies to ensure that their graduates are capable of performing to the highest standards that we set for ourselves.

Jean Hobler - Jean M. Hobler, Esq., P.C.

The cut score should not be changed to address issues with law schools accepting students with lower academic credentials or in an attempt to encourage more barred lawyers for some interest of social justice. First, the goal is and must be QUALIFIED lawyers who can perform excellent legal work. Unless there is a problem shown with the examination itself, we should expect exam takers to be able to pass the exam consistent with the standards already set. If there is a problem with the exam itself, that problem should be fixed. Such a problem would not be fixed by simply lowering the cut score.

Second, assuming more bar passers will equate to better resources for social justice is a baseless assumption. The 'additional' passers will not necessarily engage in representing the underserved. And if they cannot qualify under existing standards, lowering the standards will simply provide poor legal representation to the underserved.

If there is a problem with the exam, then we need to fix the exam. From the materials presented on this survey, it appears the concerns are that the cut score is one of the highest in the nation (and I'm not sure why anyone cares about that - our standards are high, good) and there are declining pass rates for reasons other than problems with the exam itself. Efforts to improve the pass rates should focus on those problems, not the cut score.

Patrick Kelvie

The presented issue and this poll are wrong from the get-go.

If anything, there is fodder for the argument that the cut score should be raised given the many poor-to-mediocre attorneys practicing now. To be sure, that is not to say the existing pass rate is the best one or changing it the solution. There are many other points to consider, from what law schools teach, what makes a good lawyer, what the bar tests, the legal system's foundations, etc. What is truly needed is that our legal system be reviewed to its core and that changes be made based on deeper thinking and sound evidence None has been presented yet.

The proposed pass-rate lowering appears to be for the wrong reasons, i.e., the trend of lower-caliber students applying to law schools and taking the bar. As well, the many law schools exploiting law students should not be the lobbyists to promote their exploitative agenda. Those law schools do not speak for society. Note that many students who already do pass the bar still cannot find suitable employment and abandon the field. There are lawyers, but not the market.

To the extent the concern is inadequate access to necessary legal services, an assumption that is only that at this point, several follow-up questions need answers.

First, would not society benefit more by moving towards a legal system that is not so dependent upon lawyers, as is the case in many other cultures? Fix the core problem, don't treat only the statistic of a lower pass rate.

Second, does the assumed issue of access to legal services stem from not having enough attorneys, or, more likely, is it a matter of affordability? The strong evidence is the latter. As such, there are a number of solutions to address the true issue at hand. More lower-quality lawyers is a bad one.

Third, if the issue is access to certain types of legal services, what are they and let's understand that problem better before designing solutions.

Approach the issue from a rigorous scientific-rational view of critical thinking. Start with trying to understand the bigger picture, questioning the assumptions, and seeking good data on the issue and proposed solutions, including contra-indications that society will suffer. Above all, don't have decisions in this regard be based on polls or the gut-reactions of a bar committee or group of judges who regularly abandon the critical thinking applied in science. Yes, sadly and shamefully, legal reasoning, judicial opinions, executive orders, legislative statutes, and other rule-making and rule-application remain largely faith-based on precedent and/or gut thinking. Let's do better. We can, and owe it to society to proceed more intelligently.

When you start by asking the wrong questions and establish the wrong process, your fate will be providing the wrong answers.

Patrick Stokes - Hinshaw, Marsh, Still & Hinshaw, LLP

The declining bar exam pass rate is not a 'problem' to be solved by lowering the cut score.

Anyone having to practice alongside new licensees will agree: the standards for licensing are already low enough. California is infested by incompetent attorneys, many of whom have failed to become competent even after decades of practice.

The declining pass rate is a symptom of two much greater problems: 1) too many applicants are unfit to practice law; and 2) these same unfit applicants are permitted to take the examination an unlimited number of times. Lowering the cut score will certainly appear to solve the 'problem' of the low pass rate, but this solution will come at the cost of passing greater numbers of even less fit applicants into practice.

There are appropriate solutions that would both maintain the integrity of the profession and raise the pass rate. Applicants could be limited to two attempts to pass the examination. If a strict limit on examination attempts is considered too harsh, applicants who fail the examination could be required to undergo remedial training prior to attempting the examination a third and final time. All applicants should be required to complete at least one year of postgraduate practical training. Applicants passing the examination below the 25th percentile should be required to complete at least two years of postgraduate practical training.

If the Supreme Court is absolutely determined to lower the cut score, then it should at least take appropriate measures to protect the public from the potentially unfit applicants who will be passed into practice. Any applicant passing with a score below 1440 could be required to take remedial continuing legal education courses during their first year of practice. The courses required for each applicant should be specific to deficiencies identified by the examination.

Gerard Davey - Davey Law Corporation

The fundamental purpose of the Bar Exam is to establish a metric to assure the public of the minimum proficiency and professionalism of licensed attorneys.
The fact that there is a current debate as to whether the cut score should be lowered raises a more seminal question as to the validity of the Bar Exam. I assume that the current cut score was established after careful and comprehensive review and analysis by the State Bar testing professionals. Has the current cut score level raised the bar beyond the minimum level of proficiency and professionalism, upon which the public has the right to rely? Has there been adduced valid evidence with underlying statistical analysis that demonstrates that the current cut score is higher than the score that is reasonably necessary to fulfill the mission of the State Bar of California to assure the public that only competent attorneys may hold themselves out to the public?
Have there been any comprehensive studies that have identified with a level of confidence that the declining pass rates for the bar exam are attributable to changes in the content and/or complexity of the bar exam? Or are there other factors, such as a decline in the credentials of the applicants or a decline in the curriculum and content of accredited schools offering law degrees? Before the State Bar of California lowers the cut score for the bar exam, I believe there should be a careful examination of the accreditation of the law schools that are offering legal education and the curricula that each school is using. I believe that most interested parties would agree that a 43% pass rate is a problem that requires a careful review. Before any decision is made, there should be a critical determination as to the underlying causes. If the standard is artificially too high, then the solution may be to lower the cut score. However, if the problem relates to the minimum level of proficiency and professionalism of the candidates for admission to the bar, then the solution is not to lower the cut score, but rather to address the problems with legal education in California. The challenges to encourage greater diversity within the California Bar and the personal tragedies of unsuccessful bar applicants who have worked hard for years and have incurred significant law school debt are important issues that we need to address and to find creative solutions.
My belief is that the over-arching responsibility to the public in assuring the minimum proficiency and professionalism must take precedence over the other issues that confront the California legal community. Hopefully, the American Association of Neurological Surgeons will never lower the cut score for neurosurgeons because a socially-unacceptable high number of candidates with enormous student loans do not meet the objective standards to be Board Certified.
Thank You,
Gerard P. Davey

Alyce Minsky

I believe it is important to preserve the high standards maintained by the State Bar for admissions to the practice.

When I passed the Bar in 2000, I took the winter Bar allegedly said to be graded more strictly than the July Bar
That year, the Bar passage rate was 40%, the lowest it had been in 10 years
I am also dyslexic and yet I managed to pass

I do not believe that lowering the current standards would enhance the profession

Anonymous

Passing the bar is such a low standard for allowing someone to represent another in the very complex society that we live in today. Why would we want to lower the standard? Thank you for asking the bar for their comments.

Anonymous

People learn differently. Access to private tutoring would help those who did not pass. Unfortunately, only rich kids with rich parents can afford such services. It's a travesty.

Anonymous

The State Bar should keep the current cut score of 1440 until it has completed more data studies on whether a lower pass score truly "protects" the California public from "unqualified" attorneys. In that regard, the State Bar should look at its own record of disciplining attorneys. Judging from the public records of discipline, when attorneys fall short of professional standards, it is not because they do not know the law, but because they are disorganized, overwhelmed, struggling with personal difficulties, and/or unscrupulous. The bar exam does not test for the personal qualities that would guard against those failings. (And to a certain extent, neither does the MPRE.)

Furthermore, the State Bar should be mindful of the low cut scores' disparate impact on racial and ethnic minorities and on persons who are at a socioeconomic disadvantage. Speaking from personal experience, we are often shouldering greater personal and financial burdens than students with more privileged backgrounds, and we are less likely to have the support of mentors, personal networks, etc. to manage the stressors leading up to the bar. Although I was fortunate enough to pass the bar on the first try, a disproportionate number of my minority law school classmates did not. As we were Stanford Law School graduates, I can assure you that this was not due to a lack of ability or commitment to excellence.

Anonymous

Why are bar scores dropping? Have California law schools lowered their admissions standards? I would think the underlying problems need to be addressed. Lowering the cut score will simply lower the caliber of people entering the profession, which will not benefit anyone.

Poorly educated, less qualified attorneys will provide inferior service. People fighting criminal charges, litigating personal injury claims, fighting for redress for discrimination or workplace hazards, defending against spurious claims, etc., have a lot at stake. Quality legal representation matters more than "diversity." If lowering the bar is seen (somehow) as a mechanism for making the legal system more accessible for the poor, I think we can come up with better policies for making that happen. The law is a tough profession; students need to be encouraged to be realistic about how they're doing in law school and the likelihood that they'll pass the bar given their grades, etc., and also to be realistic about the job market. The answer to any of these issues is not to permit unqualified people to become lawyers. It just matters too much that we have good lawyers -- just as it matters that we have good physicians.

John Laughlin - KIPP: San Francisco College Prep

This isn't a problem with the bar exam. Predatory low quality law schools should be identified and closed. Established and respected law schools attached to Universities should be responsible for identifying and training lawyers from all socio economic backgrounds.

Anonymous

Keep the cut score but get rid of the multistate. It has no application to the practice of law.

John Dough - Class of 1991

Lowering the score to 1414 would be like the EPA approving Volkswagen's cheating on emission standards.

If the score were lowered to 1414, every successful bar candidate from this class would be forever tainted as a potentially less qualified attorney, including those who passed with 1440 and higher. This is not only unfair to the unsuspecting public, it is particularly unfair to the candidates who scored 1440 and above in the class.

We can all agree that more access to legal services is an admirable goal. This is not the way to achieve it. If lowering qualifications was the answer to creating greater access, then why not let paralegals practice law.

Rachel Coleman - David Lehr Law

To Whom It May Concern:

In order to protect the integrity of the legal profession here in California, I do not believe that the State Bar should lower the current cut score. I feel enough efforts have been made by the State Bar already in allowing a 2 day exam instead of a 3 day exam.

I went to a non-ABA accredited law school at night and worked full time during the day and passed the bar exam on the first try. One of my classmates, took the bar exam 5 times and still has not passed. There is a reason this person has not passed. This person was a marginal student in law school and quite frankly, should not be an attorney. I sat through 3 1/2 years of law school with this person and I would be very afraid for the public if this person practiced law.

Just because a person goes to law school, it does not mean that they are qualified to be an attorney. Likewise, if a person goes to medical school, that does not mean they are qualified to be a doctor. That is why there are state exams and licensing boards to keep people not qualified from practicing in certain fields, even though they went through the motions of getting a piece of paper to hang on the wall.

The State Bar of California is the gatekeeper between inadequate and incompetent representation and the public at large who would be done grave harms and disservices if attorneys who cannot meet the minimum requirements to pass the bar exam are allowed a bar card by lowering the current cut score.

Maybe the State Bar should instead offer bar study programs free of charge for first time bar takers to increase the number of people who pass the exam rather than lowering the current cut score. Or they should consider lowering the fee charged to take the bar exam and for the Moral Character application so law students can focus on studying rather than working to pay the fees to take the exam, their travel accommodations to take the exam and for taking months off from work to prepare for the exam. I believe these ideas would be more helpful in obtaining a higher pass rate than lowering the cut score.

Wes Hansen - MMWBR

A few concerns. First, I think something that should be considered is the potential issue with over-saturation of the legal services market. In the aftermath of the 2008 Financial Crisis, we saw the disastrous effects of an abundance of attorneys with too few job opportunities. The California Bar should be among the most difficult in the nation because there is tremendous competition to be an attorney in California. Qualified attorneys are attracted to California. Lowering the Bar standards may open the flood gates, and have a tremendous negative impact on the legal job market. In sum, my thoughts are, although the Bar is difficult, but there is no shortage of attorneys in California, and have not had a shortage of attorneys in California for at least the past 20 years. Demand for lawyers should be paramount to the issue, and the Bar should only be lowered to meet a shortage.

Perhaps my biggest concern is a structural issue regarding the survey being conducted in conjunction with this topic. The directions are vague and confusing, and I am concerned the questions are ill suited for their intended purpose. I am skeptical that asking members of the Bar to rank the importance of generic value propositions will shed light on their opinion - or the utility - of lowering Bar standards. For instance, consider the statement regarding the importance of providing underserved communities with legal services. I think this is a tremendously important issue and ranked it a 10, but I am also skeptical that lowering the Bar exam pass rate would would have an impact on underserved communities. More lawyers does not necessarily mean those lawyers will work with underserved communities. I think this is especially true given the skyrocketing cost of attending law school. I doubt there are many new attorneys that can afford to take on such work, regardless of their Bar score. Please consider this in reviewing the survey results.

Thank you for considering my comments.

Katharina Arnhold - King & Spalding

It is important to maintain the highest integrity of the California Bar. As an out of state attorney, the California Bar exam was attainable, even if it took a few tries. The distractions of modern technology and the inability for students to hone their study skills, is no reason to lower the score. Nor are the reasons to diversify the legal population and/or the goal to represent underrepresented minorities any reason to lower the score.

Patrick Murphy - Law Office of Patrick Murphy

(1) Shortening the bar exam to two days was the start of a slippery slope to mediocrity, this proposal takes it one step further. Becoming an attorney isn't supposed to be easy.

(2) We can discuss lowering the standards to be an attorney in California when there is full employment for current attorneys. Current admittees are already having a historically difficult time finding work.

(3) A low pass rate is surely aggravated by the over supply of unqualified law grads. We should be tightening accreditation standards of California law schools, not lowering scores. How much better off would an unqualified law student be if he/she weren't accepted into a school to start with and not wasted three years and incurred hundreds of thousands of dollars in debt they cannot hope to repay.

(4) Consumers are worse off for being represented by less qualified attorneys.

Anonymous

While I sympathize with my associates who are unable to pass the bar with the current cut score, I still believe it best to keep the score at the current rate. Despite the low pass rate, it is still VERY possible to pass the California bar. I do not believe the high score discriminates against people based on race, gender, or socio-economic background. I believe it makes it more difficult for people who attend non-accredited schools and lack the necessary discipline to pass.

I am an African American female and a first generation college graduate, but I still passed the bar on my first attempt. I did this because I attended an ABA accredited law school and killed myself over the summer to pass. In fact, the only people I know who did not pass, all went to unaccredited schools, or did not understand the amount of discipline needed to study for this test (once they buckled down and attended fewer family BBQ's they did pass).

I believe that the best way to improve the pass scores is to prevent those students who attended non-accredited schools to sit for the exam, since they are the primary individuals left with debt and no license. I also think that putting more pressure on law schools to be more selective with their students and better prepare them for the test would also help.I believe that many law schools are preying on students by accepting individuals into law school that do not have the qualifications to become a lawyer. Because schools are not adequately vetting their students, they are making a fortune in tuition and other school fees and churning out people who lack the qualifications to be an attorney.

I also believe that schools should offer graduating students more bar review classes. I graduated from Howard University School of law, a historically black college, with a low passage rate for the California bar. To combat this, the administration partnered with bar review companies (like Kaplan, and Barbri) to offer bar review classes during the school year and discounted bar review courses for the summer; it worked. The year before my class, none of the graduates passed the California bar, the year I graduated, I believe at least half of us passed on our first attempt.

I don't believe that there is any value in lowering standards. I believe that the legal field would be better served by better selecting candidates for law school and providing those students with the practical tools they need to pass. No impoverished community will benefit from increasing the number of less qualified lawyers. If anything, it is these communities that need the most qualified attorneys. And as someone from a community of color I find it a bit insulting that the bar would consider lowering the pass rate to help us pass the bar. What we need are more resources to prepare us for the test and the rigors associated with practicing law.

Lawyers in this state already have a bad reputation for scheming and lacking ethics, it will not improve the profession to increase the amount of unqualified or less qualified attorneys. The focus should be on improving the integrity of the profession so that the best and the brightest college graduates actually WANT to be lawyers and enter communities of need.

Karolyn Kovtun - Law Office of Karolyn E. Kovtun

Really? Why would you want to lower the bar at this point? Unless you're practicing civil with a high dollar firm, the quality of legal writing and reasoning out there is atrocious, for the most part. Maybe the law schools will have to reign in the political rhetoric and start teaching these people how to be lawyers. Or maybe they could just teach them how to write a clear, concise, and well-reasoned legal brief? The bar exam just isn't that hard anymore, didn't they already dumb it down once within the last 20 years? Maybe all the current members of the bar would be better served by requiring the applicants to pass the exam. What is this? Everybody gets a trophy syndrome? Lower the bar so more people could pass? How about, demanding that people pass the exam, and if they can't, did it ever occur to anyone, that maybe those people aren't qualified to be attorneys in the first place? The low pass rate is indicative of laziness, or lack of aptitude, or lack of qualifications, or insufficient use and command of the English language. This is exactly the outcome you would expect from a generation of people who were taught that trying your best didn't matter, because "it's insensitive to rank students by their performance." Now you've reaped the seeds you've sown. Time for all the little snowflakes to put on their big boy pants and their big girl panties and learn that in the real world, not everyone gets a trophy.

Ross Greenman - Vista Investments

Lowering the bar for admission is not the solution to the problem you are trying to address. There are already too many incompetent and under qualified lawyers in California and unfortunately there continue to be too many poor quality law schools happily taking the money of law students who, frankly, the legal market in the state does not have enough jobs for. To be clear we DO NOT have a shortage of lawyers in this state but we do continue to have a shortage of high-quality legal jobs. There simply is not enough demand for all of the lawyers the state's law schools are producing. I am sympathetic to the plight of these students, but lowering the bar for admission is not the solution. As more prospective law students realize that the lower quality law schools are not producing graduates with a high degree of success in passing the bar they will no doubt start to look to other opportunities and some of those schools will (hopefully) close their doors and stop preying on unsuspecting and unqualified students. We need to protect the integrity of the profession and especially the public and the declining pass rate is an indication that the bar exam is serving it's purpose of only allowing the most qualified applicants to practice law. Lowering the pass rate will only lead to more unqualified lawyers practicing law and, most importantly, will lead to more unemployed lawyers as we do not even have enough jobs for the current attorneys that do pass the exam. Lowering the cut score is a bad idea.

Claine Snow - McDermott Will & Emery

I would prefer that the cutoff score remains the same, but that the MBE portion has a higher weight percentage. What would the pass rates have looked like for July 2016 if the MBE was weighted as 40%, 45%, or 50% of the exam? One of the problems that I perceive is the subjectivity that graders of essays are afforded. The MBE is a more objective means for measuring competency. If this is unacceptable, I would agree with Option 2.

Gretchen Von Gustlin - Penzi Consulting

Lowering the score to allow more attorneys in California is not in the best interest of the public or the Bar. California has 22 unaccredited law, schools, more than it has ABA accredited law schools. Moreover, California has 62 law schools in total. More than any other state in the nation. The bar passage rate for unaccredited schools is abysmal, in the single digits for almost all of them. The top 14 ABA accredited law schools have a passage rate within the State average. With the best of these schools students passing on average in the 91 percent to 88 percent range. The issue is not with the difficulty of the test, but with the quality of the school, the quantity of schools and the students at the schools. Law school applications have gone down in recent years as jobs for lawyers have become more scarce. The quality of applicants to schools has decreased, yet the schools keep filling themselves up with lower quality students.

Lowering the the bar cut score to allow more students to pass might appease the faculty and trustees of these schools, which are under pressure by the ABA to increase their passage rates to 75 percent, but it will only hurt the California consumer and the Bar as a whole. The California consumer has a right to a competent attorney. Given that California allows unaccredited law schools the test must be challenging and difficult to pass. It stands as a gatekeeper when schools are not kept to a standard.

It is not in the best interest of the Bar as a whole to lower the set score. We have approximately 190,000 active members of the California Bar. Many are struggling for employment/clients. In this age of automation, Legal Zoom, and increased competition adding more members who are less qualified seems unnecessary at best and self destructive at worst.

It is argued that by allowing the cut score to be lowered there will be more access to legal representation to the poor and underserved. This is a fallacious argument. The change in the cut score will do nothing to address the cost of law school. Full financial aid is most likely to be given to students at the highest ranking schools, those with the greatest endowments. These schools also have the highest pass rates. These are the students that can afford to go into public service jobs, not the students at the California accredited or unaccredited schools. Students from those schools are most likely to come burdened with hundreds of thousands of dollars worth of debt. How can they afford to help underserved populations?

Lowering the set score in California is not in the best interest of the public or the Bar. The test must remain challenging to discern which of the students from our 62 law schools are fit to practice. To lower it would reduce the level of competency of the attorneys in California. Lowering it will not help the poor or underserved, it will only help the law schools (and their students) look better.

Anonymous

I'm a licensed attorney in CA. While I think California absolutely needs to diversify members of the bar and makes legal services accessible to underserved populations, I don't think lowering the cut score is the answer. One, I think the entire CA bar exam should be reviewed. The bar exam does not test a person's competency to be a good attorney. It's about test taking skills and your ability to memorize a bunch of information. In practice, we look up cases, statutes, whatever info we need for a case. Memorization isn't a measure of how good of a lawyer you will be. Secondly, the bar needs to look at the cause(s) of the lower passage rate. Has the test gotten harder? Have law schools changed their admissions standards which in turn changed the caliber of law graduates taking the exam or are law schools not doing what they need to do to prepare students for the exam? Lastly, what's the purpose of lowering the cut score? To allow more lawyers to be licensed? Does CA in general need more lawyers? Or perhaps CA needs more of certain type of lawyers, like those who are able to serve lower income, underserved populations who have traditionally had difficulty accessing legal services. I think more focus should be on whether new lawyers are actually prepared for the practice of law. Law school focus so much time on bar courses. I think more time should be focused on clinical training and being mentored by licensed attorneys.

Anonymous

Do not lower the standard. It is unfair to the attorneys, profession and the public.

Anonymous

We need to protect the integrity of the profession, and the public interest of not potentially being harmed by unqualified lawyers.

David Antonez

1) Lowering the score to achieve a "social" goal is not appropriate. Citizens of all social classes deserve to be served by the same quality of attorney. Attorneys licensed in California rightfully have earned a degree of respect nationwide as passing the exam is not easy, not should it be.
2) Lowering the score would do a disservice to those that passed at the higher score and perhaps even more so to those that fell short of 1440 but exceeded 1414 in prior years. Is the Bar prepared to go back and admit those applicants? Are they less deserving of such consideration than those now taking the exam? If not, is the Bar going to help those that failed to pass with their loans? Lowering the cut score is not the solution and is fundamentally unfair to prior applicants.
3) Perhaps the Bar should crack down on schools that admit students and encourage them to take on substantial debt when the school knows there is no real possibility of the students securing a legal position that pays well enough to pay off the debt. That has been and remains a problem at many schools in California non-accredited and accredited. If a particular school cannot demonstrate that its students are capable of not only passing the Bar but of gaining meaningful employment in the legal field then those schools should not be allowed to have their students sit for the bar exam.

Anonymous

I have been a trial attorney since 1985. I failed the exam the first time i took it, and passed the second time. i candidly was not prepared well enough the first time I took the exam, and my failing score caused me to study harder, learn more, and i am absolutely convinced that setting a high standard was the correct thing for the Bar to do then,as it should now. I became a better attorney because of my experience. in recent years, i have been shocked by the lack of knowledge and poor quality of work performed by new attorneys - and these are the people that passed the Bar Exam! I have not stayed up with recent developments in the way the exam is administered, but i am confident that changes have been made, and for the worse. Lowering the score needed to pass the exam is a terrible idea. additionally, I have seen no shortage in the number of attorneys. In fact, it appears that there are too many attorneys - needing to create work, rather than looking after the best interests of their clients. i regularly hear these same complaints from other attorneys. Also, the general public often comments that there are too many attorneys, and this results in unwarranted lawsuits.

I maintain that the cut score should not be lowered. the cut score should be maintained, and return the difficulty level of the Bar Exam to where it used to be. Anybody that says that the exam is just as hard now as it was 30 years ago is lying or misinformed (this is the only explanation i can come to given the lower quality of attorneys being unleashed on the public in recent years). .

Matthew Roy - Law Offices of Matthew D. Roy

I remain mystified that the State Bar and/or the Supreme Court of California would bow to public pressure regarding the decreasing passage rates of individuals taking the California Bar Exam. This exam serves as a mechanism to ensure the minimum competence of individuals qualified to render legal advice in the State. People's so called "opinions" or decreasing passage rates are ultimately irrelevant with regard to the determination of qualifications and minimum competence. I firmly believe that one of the major problems facing our society today is the gradual and continued lowering of minimum standards in order to accommodate the continued decline of time tested and long established protocols. I am completely opposed to any changes that would serve to lower those standards in order to promote the flawed reasoning that bolster the reduction of the existing standards. Let's not allow the underlying integrity of the legal profession become one of the casualties of this well intended but highly irrational and ultimately dangerous construct. If the goal of the bar exam and the State Bar is to protect the public and promote the integrity of the legal profession in California, then they need to remain steadfast against the whim and caprice of the moment to correct what is perceived to be an exam that is "too hard" then allow those individuals who remain worthy to call themselves champion of the law to rise to the occasion and continue to prove themselves worthy of that very unique position a member of this profession is placed.

Amy Vahdat

In the past few years, so many unaccredited law and online law schools have opened, allowing CA applicants to sit for the CA bar with very minimal legal education (especially as compared to ABA and accredited law schools). When you have less educated applicants sitting for the bar, there is no doubt that there will be lower passing rate. The drop in passing rate does not reflect that the CA bar exam has become more difficult. On the contrary, it is a reflection of the larger number of less prepared applicants who are allowed to sit for the bar. In fact, the passing rate for accredited and ABA schools have remained mostly the same. It is the passing rate for the OTHER applicants that has dropped and has caused the overall passing rate to drop as well.

Lowering the cut score would only saturate the attorney pool in CA further - especially with individuals who may not be as prepared to practice law. Applicants have been passing the CA bar (with the "higher" standards) for years. Why is it that we need to all of a sudden lower the standards just because less educated applicants are allowed to sit for the bar after taking "on-line law school" courses??? Why saturate the market with so-called attorneys who pass the bar just because the cut score has been lowered. This is not fair to the attorneys who were forced to take the same bar and pass it with higher standards!!

George Shers - solo practice, semi retired

The question is why scores are declining. If the exam has become more difficult, then a reduction in the passing score is logical. But, if as many of us more senior people think, the intellectual quality of students has gone down, the cut score clearly should not be reduced. You do not "dumb down" a test or passing grade because the people taking it are less capable.

However, there should be a review of whether particular questions are appropriate or not. When I took the Bar Exam, there was one question on a pre-publication injunction against a particular book. The correct legal response was the First Amendment barred such judicial actions, which would take less than a minute to write down. Instead, we had to go through all the requirements of an injunction to then make the same conclusion. A law professor would give the first answer, an attorney in a big firm having to meet billable hour requirements would write a five page memo. Is the purpose of the Bar Exam to see whether the person knows the law or whether they will make enough money to be considered successful?

Anonymous

The legal profession has been losing the prestige and respect it was previously afforded quite rapidly over the past few years. This is NOT because of the drop in the bar exam pass rate. Rather, this is a result of the deplorable drop in standards for admission to law schools. This is also due to the exorbitant rise in the number of affordable "law schools" that are not ABA accredited, but instead, only California accredited or not accredited at all. It is no secret that non-ABA schools tend to perform far below average, and certainly far below ABA-schools. There has been a huge influx of law students into these schools. Absent the existence of these schools, these students would not be able to meet the academic requirements to enter ABA-approved law schools, or ever sit for the bar exam. While this may be "unfair," to some, becoming an attorney is a privilege, not a right. If a student is not able to academically perform such that he or she is able to attend an ABA-approved school, then perhaps law is not the appropriate career path. At the same time, even ABA schools have dropped their standards in an effort to attract more unqualified students into endless debt and repeated bar exam failures. We would not ask the medical field to lower its standards, just so more unqualified individuals could become cardiac surgeons. Similarly, we should not drop the standards for becoming an attorney, just because more individuals who are not qualified want to attend law school.

In addition, by lowering the cut score, the state would be treating the EFFECT, and not the CAUSE of the passage rate drop. Again, the pass rate has dropped due to the increase in students attending substandard law schools that are admitting below average students, training these students in a below average manner, and then feigning shock when the school has an abysmal pass rate. These students repeatedly sit for and fail the bar exam, pulling down the pass rate as more enter these schools with each passing year. The problem is not the bar exam. The problem is all the money to be made prior to the bar exam. Law schools, both ABA and non-ABAB approved, charge outrageous tuitions. Due to the prestige associated with being an attorney, there is high demand to enter the profession. Subpar schools with cheaper tuitions are havens for students who cannot otherwise qualify to attend an ABA school. These schools, as a result, stand to make tons of profit from students who do not belong in law school, are not academically able to meet the standards of the State Bar, and are unlikely to pass the bar exam without several attempts, if at all. The more students attend these schools, the more money is made. The more students attend these schools, the more the ABA stands to gain in terms of bar exam registration fees and potential bar dues for any students who pass. It is a never ending cycle fueled by the desire for profit, at the expense of the dignity of the profession and the caliber of attorneys sworn in to practice in this state.

Additionally, the promotion of diversity in the profession is a valuable endeavor. However, while dropping the cut score may have some impact in terms of diversity, it will have a much more significant adverse consequence of allowing unqualified individuals to enter the practice, regardless of their race or gender. ABA-approved schools should be encouraged to foster diversity in the students that they accept. It would be acceptable for such schools to take race or gender into account during the admissions process. However, again, it is vital to pay attention to the significant unintended consequences of dropping the cut score.

To lower the cut score would be a glaring and obvious effort to treat the symptom, rather than the actual problem. To lower the cut score would be blatant evidence of the state favoring profit over qualification. The bar exam has already been modified from the rigorous 3 day exam to a much more manageable 2 day affair. How much lower do the standards need to be dropped, just because there has been an increase in unqualified individuals desiring to become attorneys?

Santosh Narayan - Narayan Law, APC

There is no reason to reduce the cut score. The current bar cut score makes sure only individuals who are well-versed in different aspects of the law are admitted to practice.

Anonymous

I (somewhat) recently took the Bar Exam. I took the July 2014 Bar Exam and passed on my first attempt. Now, two years later, I'm unemployed and have been looking for a job for six months. Almost all of the jobs that I apply for don't even pay enough to cover the monthly payments on my $250,000 law school student loan. Many of my friends who passed the Bar on their first attempt are also unemployed (or under-employed)... I just don't understand why there is push to make the Bar easier when there clearly is a shortage of legal jobs. The exam has already been decreased to two days, there really isn't any need to make it even easier to become an attorney in California.

Lucian Khan - self employed

The obvious reason why the passage rate has gone down is because less qualified candidates have been getting into law school, and taking the exam. When I went to law school I worked full time, and passed the bar exam the first time. Critical thinking skills are not longer emphasized in education. Today's average student cannot reason or write as well as he or she should be able to, and the standards have become so relaxed, that everyone passes. Just because other states have set the bar lower, does not mean we should do the same? Of course not. If someone was operating on you, wouldn't you want them to be a qualified doctor? Or, would you settle for less, just to make them feel good?

If someone wants to practice law they should be able to pass the exam without lowering the standards, because it only get tougher from there.

Anonymous

Keeping the current cut score is the right thing to do. Being a member of the CA State Bar is prestigious and one of the most acclaimed accomplishments one may have and to undermine those who have struggled, sacrificed and devoted their lives to pass the bar with the present cut score would be devastating. I am proud to be a member of the CA Bar and do not want the score to be changed as this will send a message to those that may not be making the sacrifices, and that may not be devoting the appropriate amount of time to the study of law - that they don't have too. Worse yet, this will also have the negative impact of allowing for those who are less devoted to becoming lawyers serving members of the public in that esteemed capacity as an attorney at law and officers of the court - and this is dangerous! We need to uphold rigorous standards for lawyers and those within the legal profession because without such standards there is a risk to the public at large in our state.

Donna Carlson - Retired

Sirs:

I disagree strongly with any plan to lower the passing bar exam score required for licensure in California. If anything, it should be raised.

Despite the fact California has the second highest required passing score for attorney licensure, we still have a glut of attorneys many of whom, as seen from my vantage point as an appellate court research attorney for several years, are less than qualified.

Moreover, the ratio of attorneys-per-capita rankings here put us at 4th or 5th among the states, behind only places like New York, Massachusetts, and Illinois. (The District of Columbia has roughly 10 times more attorneys per capita than any state.)

Further diluting the quality of licensed attorneys will simultaneously further damage the reputation of the profession and will not serve the public interest. It will simply generate more "frivolous" lawsuits, adding legal debt to those least able to bear it.

Theodore Horton-Billard - THB Consulting Services

It doesn't take extraordinary powers of observation to quickly appreciate lowering the cut score for passage of the California Bar Exam would be a huge mistake.

California statics suggest that our State's population growth has slowed to approximately 350,000 per year. Many of our residents are fleeing this State's liberal politics, ever increasing taxes, and unfriendly business environment. Between 1990 and 2015 the California population reportedly increased from 29.8 million to 39.1 million (approximately 24% growth in the past 25 years).

Between 2005 and 2015, our State's resident active attorney population grew from 139,371 active members, to 165,952. In other words, over the past 10 years the population of resident attorneys who are active grew by approximately 19%.

Clearly, there appears to be no shortage of practicing attorneys in California, and newly admitted lawyers with obscene student loans are finding it increasingly difficult to find gainful employment. Many unfortunate young lawyers are setting up their own solo practices right out of law school with little or no support and/or experience. This is a formula for disaster, and Bar disciplinary statics unquestionably prove.

What is worse, the schools where these students incurred such ridiculous debts, did not even properly prepare them to practice law. So most graduates are ill prepared to hang-up their own shingles to practice law until they have spent at least a few years working under the guidance of more experienced practitioners.

I believe the effect of lowering the admission score would result in more unqualified, unemployed, and debt ridden attorneys struggling to survive in California. If those inexperienced new attorneys do try to fill a need in the under-served communities, the Bar is really doing those communities a tremendous disservice by pushing these neophyte attorneys, who can't find work elsewhere, into practice situations they are not experienced to handle. The result, is a harm to the very communities the Bar seeks to help by flooding our State with poorly qualified and under-performing attorneys who can't even pass the current cut score of 1440.

Personally, I think we should be talking about raising the cut score, not lowering it. Having taught at an ABA law school as an adjunct professor for over a decade (1994- 2005), I saw the quality of students steadily decline over those years. We should also be looking at law school admission practices, and our education system in general, to ascertain whether we are really doing a good job of preparing our future lawyers (I don't believe law schools and

colleges in general are currently doing a good job). And, until we can honestly say we are preparing our law students to practice law competently right out the gate, we should not be lowering the passing score as that only exacerbates an existing problem by increasing the population of unqualified/unprepared attorneys.

In addition, I would ask you to consider what the future holds for the legal profession. Currently, the availability of self-help legal programs on the internet are increasing at an incredible rate. This means California lawyers are already facing stiff competition from non-attorney, out of state businesses, with legal self-help websites. And, with advances in Artificial Intelligence and other technologies, the legal profession will be displacing many experienced practicing lawyers in the next decade. This means, we'll need less lawyers, not more.

Finally, I would ask you to consider, when have you ever seen lowering the standards improve performance? And frankly, as someone who has been practicing law for more than 30 years, it is all about performance!!!

Thank you for the opportunity to comment on this important issue.

Anonymous

There is no shortage of attorneys. Lowering the score results in lowering standards of excellence. If the policy is to help the underserved or underrepresented,There are better ways to accomplish these goals.

Anonymous

I am an attorney, however, I no longer practice law. It took me three times to pass the bar exam, even though I went to an accredited law school. There are too many unqualified attorneys in California already. The fact that this state has non-aba schools contributes greatly to the low passage rate. The score should not be lowered.

Peter Cuttitta - Porter Simon, P.C.

After having been in active practice for 40 years, and observing the caliber of attorneys in practice over that time period, I have several observations:
(1) most lawyers are basically well trained and well prepared; presumably that has some relationship to the rigor of the bar exam;
(2) if the purpose of the Bar Exam is to identify those who have mastered the minimum skills necessary to become a practicing member of the bar, reducing the cut score, even by 10%, would not appear to help achieve that purpose;
(3) if the purpose of lowering the cut score is to increase the number of successful examinees, and thus to assist those same examinees begin the process of paying off large student loan obligations, how can this possibly be in the public interest? Are even marginally less qualified attorneys good for the public whose matters will be handled by those same less qualified attorneys?
(4) If the purpose of reducing the cut score is to allow law schools to continue to churn out potential applicants for the bar exam, knowing that some who would not have passed otherwise now will, and thus allowing law schools to continue to profit from accepting such students, how is that in the public interest?
(5) if the purpose of reducing the cut score is to improve diversity, are we not implicitly saying that female, or non-white, applicants are apparently less qualified than their male, white, counterparts - even if they attend and graduate from the very same schools as those white, male, applicants, and need a lower score to gain admission?
(6) if the purpose of reducing the cut score is as identified above in #5, and the implicit basis is correct, who will be most harmed by reducing the cut score? Will it not be the communities which the Bar's survey identifies as under served? Are we telling those communities "Your problems are less important, and deserve only less qualified legal representation?"
(7) if the population of attorneys in California is already roughly 170,000, meaning that there is one lawyer for every 229 people in the state, what possible benefit could result from what would already appear to be an over-abundance of lawyers? Are starving lawyers good for the system?

Anonymous

There are better ways of spending money than looking for ways to allow those inadequately prepared to pass.

Hemant Sharma - SIPC

I strongly agree that the cut score should remain the same for the following reasons:

1. The number of California Bar members is more than sufficient.
2. Lowering the cut score would increase the number of lawyers and dilute the value of a bar membership.
3. Lowering the cut score would not increase the number of legal jobs.
4. The law schools and deans pushing for a lower cut score are seeking to improve their school bar passage numbers. Acquiescing would be a disservice to law school applicants lured by higher bar passage numbers. This stands to increase law school enrollment, which mainly benefits the schools.
5. Assuming a correlation between bar score and quality of lawyer, lowering the cut score would provide less qualified individuals to become bar members and lower the quality of lawyers in the state.
6. Lowering the cut score is unfair and a disservice to all the current bar members, all of whom met the previous standards and would be negatively affected by an increase in the supply of lawyers, many of whom will compete for jobs and clients. With no increase in legal jobs, lawyer unemployment and wage suppression would increase.
7. The real issue appears to be a larger share of law school graduates who are unable to pass the bar exam. Lowering the standard is not the proper response to that issue.
8. The better response, which stands no chance of happening, would be limit limit law school enrollment to those with the academic standards comparable to years past. The GPAs and LSAT score averages of those admitted to law schools has fallen in proportion to bar passage rates three-years later.

Bo Yang

California already has the second highest number of lawyers in the country, man of whom are unemployed, under-employed, or simply do not practice law due to the unreasonable demands and customs of this arcane, self-important profession. Lowering the pass score would accomplish one or both of the following: 1) increase the number of lawyers, thus further lowering the likelihood that a bar-passer would find acceptable employment, or find any employment at all; and 2) encourage yet another batch of hopeful students who, with their heads filled with romanticized, unrealistic representations this profession, dive into this path headlong only to find that the law is not about justice, service, or nowadays even profit - it's simply a masochistic exercise in either defending the status quo established by the historically wealthy and powerful, or engaging in a near-futile, drawn-out fight agains said status quo while living life in near-poverty. Let's do everyone a favor and either maintain or raise the pass score.

Elizabeth Pappy - Burke Williams & Sorensen, LLP

It is inappropriate to reduce the cut score without knowing why the pass rate has gone down. Has the pass rate done down because law schools are not doing a good job? Are there enough good bar preparation courses available? Maybe law schools should stop admitting candidates that are not qualified, thereby putting those people in debt without a good chance of passing the bar exam. If law schools are to blame for improperly admitting people who are not qualified, then lowering the pass rate will do nothing but admit unqualified people who will likely ultimately fail at the practice leaving them worse off than not having been admitted to law school.

It is contrary to the very ideals behind the practice of law to arbitrarily lower the cut rate without knowing the reasons for declining pass rate. The ends does not justify the means and you are risking the licensing of people who should not be attorneys with the public suffering the consequences and further harming the already tarnished reputation of the profession.

Anonymous

I am an African American attorney who passed the California Bar in 2000. The. Pass rate for African Americans was low at that time. There was neve a discussion of modifying the score. Now, the rate is low for White Asian and others, it is time to change the score. Old American Proverb, when a rule starts to nagatively impact White people, they will change the rule.. I worked my ass off to pass in 2000. I have not sympathy for. Those who do not.

Anonymous

If anything, I would raise the score. Just because California has one of the highest cutoff rates and the pass rate is low is not grounds for lowering the standards for being a professional. The state bar is in place to protect the public. Increasing access to attorneys by having the greater pool of attorneys be made up of those that could not previously meet the minimum requirement to be an attorney is akin to putting tainted food on the market to ensure that there is enough supply to keep the prices down.

California already has too many attorneys that are not qualified to do the job.

Ross Franson - Woolf Farming & Processing

As it currently stands the bar examine is not unduly difficult. It is far from perfect, but I question the competence of anyone who cannot pass (especially after multiple attempts).

Anonymous

The quality of lawyers joining the bar appears to have consistently declined over the last few years. We have recently struggled with hiring young attorneys for several positions - despite offering a significant salary and benefits that far exceeds most of the other options for newer attorneys, the applicants are surprisingly unqualified to practice law. Reducing the cut score any further will further diminish the quality of lawyers that join the bar. Allowing even less qualified candidates to become members of the bar will further diminish how we as lawyers serve our communities and clients.

Reg Bedell - Law offices of Reginald Bedell

I obtained my degree from Golden Gate University and immediately took the bar exam the summer of 1991 and admitted to the Bar in February 1992 at the age of 42 years old. Subsequently I passed the bar in Virginia and also admitted in NY where I currently practice. I believed law school was too focused on Bar results but I am not in favor of lowering the cut. The burden of law school debt affects not only those who file the bar but also those who pass the bar for finding employment in the legal field is extremely difficult especially if one does not graduate from a top tier school.

A possible better way to deal with the problem is too have students realistically understand the changing nature of the law field, the law degree in and by itself is a valuable degree. I would be curious to learn how the Stanford, Hasting, Boalt pass rate compare with the lower tier schools. If I can pass the bar on the first try and my inability to get into a top law school due to average LSAT scores would indicate the cut rate is not the problem,

The endemic problem is the structural changes in the law profession making it extremely difficult for law students to gain any experience or mentoring after graduation unless they graduate from the ivy lease law schools.

Ryan Mcateer - Polsinelli

The California Bar Exam pass rate is a reflection of the current state of legal education in California and the candidates applying for the California Bar, not the difficulty of exam itself. Lowering the cut score will result in less qualified lawyers and will allow substandard law schools to continue taking money from students in exchange for a poor quality legal education. Law schools that cannot properly prepare students to pass the exam should not be rewarded with lower Bar Exam pass rates; instead, they should be forced to improve and face public scrutiny. The practice of law is challenging and there is no reason to lower the bar for what is already an overpopulated pool of licensed attorneys in California.

Anonymous

It makes ZERO SENSE to "lower the bar" just because a lower percentage of entrants are taking the bar!!! What is happening to our world where we make exams easier just so more can pass! Then we are lowering the standard to account for people who cannot pass the bar. There is already a procedure in place within the bar exam process to individually evaluate bar exam scores that are a hairline within the pass rate (but who technically failed). That is good enough to catch those who might be on the borderline.

But to lower standards just so more people can pass??? What happened to maintaining the integrity of our profession?? We already have over 160,000 attorneys in California! There's no dire need to let more pass simply because we want more to pass!

Please do not lower the standards of practice in California. Many believe it is already too low.

Barbara Lam - STEPHENSON, ACQUISTO & COLMAN

Why do we keep lowering performance expectation nowadays?

Anonymous

I agree with Option 1. I do not think the Bar should lower the quality of attorneys that are admitted to the Bar. It is not fair to the public who depend on the State Bar to admit the best qualified attorneys.

I think the issue can be better managed through ways other than lowering the cut score. For example, why is the bar passage rate lower? Does there need to be a better, more effective way to prepare for the Bar exam? Does there need to be a better way to identify those students who might be learning-disabled and thus need accommodations on the bar exam, e.g.,extra time on the exam? (I remember at least two students from law school who failed the bar exam several times before giving up -- they were smart students and studied hard, but in retrospect I suspect they had learning disabilities and needed extra time on the exam as an accommodation. I think law schools should identify those students and suggest they be tested in order to give them a better chance to succeed. Btw, learning-disabled does not mean less smart -- it means a slightly longer processing time is needed, and those students should be accommodated with more time on exams.) Also, law schools could give more feedback to those students who are not doing well on their law school exams. I remember that many students who rose to the top of the class had parents or relatives who were attorneys and could guide them along the way. If we want diversity in the profession, students who do not have an attorney in the family may need extra feedback. Go over exams with students -- help them understand where they could have gained extra points in an answer, help them understand why they underscored on a question.

Regarding student loans that come due, yes, that is a real problem, but perhaps the Bar could work with those entities that offer student loans and try to work out a compromise in terms of student loans coming due.

Brenda Hook - LAW OFFICES OF BRENDA CANTU HOOK

When I started law school, I was a single, 36-year-old, Hispanic female with young children at home and no familial support as my family all lived in Texas. No, the in-laws did not live near by either as they live in Florida. The children's father was in Alabama and never returned to California to assist me in my quest for my Juris Doctorate.

I only had an Associates Degree from West Hills College in Lemoore, Ca that I had obtained ten years prior to applying to law school. I attended SJCL in Clovis, CA in their four-year program. I did not work the first year of law school but worked full-time for the following three years.

I studied as much as possible considering all the barriers against me. I took the Barbri bar prep class. I studied my heart out. I wrote the exam in Basketball Town, near Sacramento. I passed the bar the first time.

I would be highly offended if the current cut score of 1440 were lowered. I worked hard, and I still struggle in my profession, but with lots of hard work and sacrifice I am now a successful sole practitioner with more clients than I can handle that I recently had to hire two staff persons.

By lowering the cut score, I believe would undermine the profession. If I can pass the bar exam the first time with all the odds against me, then the cut score should not be lowered and I strongly object to such a move by the State Bar of California.

Anonymous

As a practitioner for 39 years I have seen general business trends and cycles. My understanding of the current state of affairs is that gradute students are fining it extremely hard to get jobs. We don't need more lawyers. Keep the passage rate low to give those who do achieve an opportunity to get jobs and repay their loans.

JLC

Anonymous

I'm confused. Is the purpose of decreasing the pass rate to increase the number of bar passing attorneys?

You are talking about lowering the bar pass score 4%. 4%, really? So, now what 50 new attorneys can make it in. Woah watch out. Don't try to do too much at once here. How much money did you guys waste studying that?

You are looking at the wrong end of the stick here.

This is what happens when older attorneys make policy when they are totally out of base with reality with people are are studying to be attorneys these days. Maybe you should consider the fact that it's not the bar exam at all.

Maybe if you looked at the fact that these for profit law schools, and let's just assume they basically all are, are just CHURNING out would be attorneys and charging them astronomical tuition that they will never be able to repay. NEVER.

Just maybe if people weren't suffocating and staying up all night trying to work out how they are going to re-pay their student loans, and trying to find a job when they didn't go to a top tier school and weren't the top 3 people in their classes, they would be able to focus on studying for the test. Because do you think all these law schools actually tell you when you start that 95% of you aren't going to get a job at a top firm where you can actually pay your bills and pay your loans? No, because if they told you the truth, you probably wouldn't be an attorney. You would go to grad school or be a dr. where you can actually get a decent return on your investment.

And news flash, law school DOESN'T prepare to actually take the test, so then you have to spend MORE money on classes to teach you how to actually TAKE the test. But then those classes don't really teach you either cause the bar graders just sit around and laugh about all the techniques you're taught in those classes and how wrong they are.

And then you can't get a job when you graduate anyways that will pay your bills and your student loans. So, what is so great about being an attorney after all? Is it all the life changing you are doing? Yeah except most people don't get those jobs, right? Is it the prestige of being an attorney? Ha, do you think people actually LIKE attorneys? I am an attorney and I don't even like other attorneys.

Maybe instead of wasting your time trying to fix the bar exam, you should spend more time figuring out how to help people actually pass the test and survive.

Anonymous

The failure or our elected officials to provide appropriate public education that prepares students for rigorous professions is where the problem lies. Students need to be taught basic civics and critical thinking skills. CA has too many bad lawyers already. No need to move the goal post to allow more ill-equipped non-thinkers into the profession.

Anonymous

The cut score must remain at 1440. It would be an injustice for all applicants that have had to take and pass th exam before. I find it unbelievable that the standard must be lowered so that this new generations can feel less stress, less burdensome? Come on, you already catered to them by making it a 2 day instead of a 3 day exam...now you want to lower the cut? If the State is bending over backwards for this new generation well than l demand a refund for my retake exams and my laptop fees for taking the exams and l also demand compensation for the jobs l didnt take while studying for the bar..,oh yeah and can l also get a reimbursement for the bar prep course? Oh and can you refund me for the bar application? How about the moral character application can l get reimbursed for that as well? Listen no one, no one said law school was cheap or easy, no one said the bar exam was easy and no one said youd get a job automatically when gettting a bar card, everyone know ps the law profession is tuff AND if you cannot handle it (it being the hard test, the debt) then this is not for you. If you the applicant really really want to be an attorney then handle it just like l did! I worked full time and went to law school part time in the night for four years because l had a family to support and l am a woman! I fought and beat down the bar. I didnt have the funds and l do not come from a privileged family and l did it. The struggle is real but so is life. I am a woman, l am a minority and l am of working class and l de
ont ask for an easy way out. You want to be an attorney than study your ass off borrow money and pass the damn test just like everyone else. Keep the cut!

Anonymous

I'm not sure why reducing the cut score is even on the table. Nothing has changed, except that the pass rate has dropped. Shouldn't we be looking at the quality of the schools and the quality of the education they're providing to the people who fail rather than arbitrarily reducing the cut score? And wouldn't reducing the cut score allow unqualified individuals to become licensed attorneys? We already have a flood of attorneys in CA--more than the market needs or demands. I just don't see how this benefits the profession or the clients.

Robert Cohen

The dumbing down of America and the once great USA continues and now for some reason the California Bar wants to dumb itself down by lowering the standards for admission. Really!?!?!?!?!? Computers and technology are supposed to make it easier to learn however they seem to have done the opposite. Make the applicants study harder or get rid of "online" schools that teach nothing. The profession needs to stay strong and the brighter the attorneys the better off the public will be. Allowing dimwit attorneys to join because they have student loans should not be allowed. They should study harder and pass the bar.

Anonymous

The integrity of our profession and the quality of attorney's that are practicing in California will be compromised if the cut score is reduced. Reducing the cut score will allow those who have not worked hard enough through law school and those who have not studied hard enough for the bar exam to pass. The examination is not meant to be easy. The purpose of the bar examination is to make sure those that are qualified enter our profession. If the cut score is reduced people who did not earn the right to enter our amazing and respected profession will be a part of it when they shouldn't. The bar examination is already easier. It is only 2 days rather than 3. This should never have occurred. Anyone that wants to be a part of this elite profession should be required to earn it. It is not appropriate to make it easier for people to be a part of our profession when they are not qualified. We as practicing attorney's are then going to be forced to deal with these people as opposing counsel when they are not qualified to do the job. It will make our jobs much harder. Reducing the cut score will jeopardize this profession. This profession is earned. It should not be given away.

Anonymous

The cut score should be higher. With the modification from a 3 day to a 2 day format, we need to ensure that the public is protected and only the highest qualifying attorneys are practicing. The focus is wrong, it should not be how many applicants pass the bar, but the focus should be in ensuring that only the most qualified are practicing.

Tiffany Hsieh - San Bernadino District Attorney

It is important to maintain the integrity of the profession. Over the last few years, law schools have experienced a decline in applications. In response, law schools have tried to keep up with such a decline by admitting those who would have otherwise not been admitted had they applied years back. With a lower standard for law school admits, this produces a greater number of unqualified law school grads. By lowering the cut school and making it easier and catering to those you may be unfit and unqualified, the entire profession will suffer, especially since standards have already been severely cut by the change from a 3 day exam to a 2 day exam.

Jonathan Schnal - The Schnal Law Group

California has a unique system of requirements for eligibility to take the bar exam, differing markedly from other jurisdictions. Most states require candidates to have graduated from an ABA approved law school, thus requiring the minimum possession of a bachelor degree. California does not have such requirements. Also, other jurisdictions limited the number of times an applicant may take its bar exam. Therefore, not to seem insensitive, I believe the infamously low bar passage rate in California rests more with applicants with unconventional legal educations than with the exam itself, and applicants who do not possess the requisite legal knowledge and who unsuccessfully repeat the exam numerous times thereby reducing overall exam passage rates.

California is reputed to have the most difficult bar exam in the country. However, if one mines the data regarding passage rates California falls within the averages across the country: first-time test takers who graduated from ABA accredited schools have a passage rate in the mid to upper 70% (at least when I looked into it nine years ago). My personal experience is that I have sat for and passed on the first sitting three bar exams during my legal career, Washington state (2003), California (2008) and Wyoming (2011). By far Washington was the most rigorous, followed by Wyoming then California. Additionally, when I sat for the California exam I had been out of school for five years, had never practiced law up to that point, and the five years in between school and the exam had allowed my legal skills and knowledge to atrophy. However, I was able to pass the exam with moderate effort with the help of a bar review course. To be candid, of the three bar exams I sat for California's was the least difficult.

Therefore, I recommend retaining the current pass line for the exam and investigating other reasons behind California's notoriously low passage rate.

Randy Hornibrook - Bay Area Law Associates

Declining Bar Exam results are not a problem that the State Bar need address. The problem lies with law schools and prior college and secondary education not preparing people properly. Lowering standards to make up for poor preparation harms the public in at least three ways.

1. Unqualified/unprepared attorneys cannot properly represent clients. I see this often, with young attorneys who somehow passed the Bar but lack basic understanding of civil procedure, research skills, and knowledge of basic areas such as discovery and argument. An unqualified attorney will often talk a great representation to their client but fail to achieve adequate results because of a lack of knowledge and skill. Lowering the standards will only increase the imposition of unqualified attorneys whose lack of training and ability will harm their client's interests.

2. Unqualified/unprepared attorneys impose unnecessary burdens on the overwhelmed judicial system. An unqualified attorney generally will consume more judicial resources than a qualified attorney by filing unnecessary motions, failing to properly meet and confer for settlement, and make claims that cannot be supported which require judicial intervention.

3. Unqualified/unprepared attorneys cost the opposing party, both in failing to understand the process and desirability of settlement and filing motions/responses with unsubstantiated claims which require time and expense to answer. I would much rather be against a skilled, experienced opposing counsel because I know we will not be wasting our client's money on avoidable conflicts.

"Dumbing down" standards in an effort to redustribute results is racially destructive - the existing standards were set for a reason, and that reason has not changed. There are more than enough licensed attorneys to represent all groups of people in CA; we don't need more, unqualified lawyers when there is such a high unemployment rate among licensed attorneys as well as attorneys struggling to survive with a light client load.

I do not believe the State Bar's role is to make it easier for someone to practice law - you are the guardians of the integrity of the system, and serve as the initial defense of unsophisticated clients needing astute representation.

For me, lowering test standards to achieve a greater pass rate would be like changing professional conduct rules to allow an allowable amount of misuse of client trust funds because so many attorneys get in trouble for doing just that. The rules - and standards - exist for a reason borne of experience.

Please do not abondon common sense and the responsibility to protect the public out of some misguided attempt to normalize lower admission and graduation standards at law schools.

Thanks.

Vadim Nebuchin - Callaway and Wolf

Protecting public from potentially unqualified lawyers and keeping the integrity of legal profession are two most important goal of the Bar. The decline of passing rate is caused by an influx of sub-par candidates and lowering the cut score is in essence lowering the bar, both literally and figuratively speaking.

Anonymous

The number of lawyers in California has dramatically increased since 1981 when I passed the Bar Exam. My concern is that law schools are churning out students with huge debt and there are not enough jobs for many lawyers in California already. I think we need to do something so we don't have so many lawyers out of work. I am all for diversity and encouraging lawyers to serve under represented populations. I was appalled when I met a 2014 graduate from my law school, University of California, Davis known as Martin Luther King Hall, students were told not to consider employment in the public sector because they couldn't possibly pay their student debt. When students from King Hall are discouraged from taking jobs to make the world a better place, we as a society are in trouble. We need to focus on changing the bar exam to make sure we have diversity and lawyers to represent less affluent communities and not concern ourselves with adding more unemployed attorneys.

Richard Pietrofeso - federal government

I find it appalling that you are even considering lowering the score because the applicants cannot pass the exam. Lowering the curve is a horrible idea.

Anonymous

I have been practicing law in this great State of California since 1985. I worked and paid my own way through college and law school. I have worked with, for and against thousands of licensed California attorneys. Many competent attorneys and a few judges that I know took more than one effort to pass the California Bar Exam. They did what it took to successfully pass that exam.

Lowering the passing cut score to allow even less qualified individuals to practice law makes no sense. If anything, what this great State needs is better quality attorneys to represent its diverse citizens, business entities and governmental agencies.

The proposal does not support and further social justice. In my opinion, it will do the opposite. How does the advice and counsel of an unqualified or underqualified attorney help a person in need?

Additionally, any argument supporting a lower cut score based upon the burden of student loan debt on a law school student that failed to pass the bar makes even less sense. Even if they cannot practice law, the education and experience that they could and should have absorbed from a law school education can be applied to a vast multitude of employment opportunities.

Respectfully submitted.

Anonymous

I believe that falling pass rates for the bar exam are the result of the multiplying plethora of unaccredited schools including certain on line schools, a falling set of educational standards that in some cases emphasize access over merit after admission to school, to the detriment of the education, and advertising that convinces people, who should not really be studying law at all, to take on enormous debt to try and then expects the standards to be lowered to give them a chance to pass and pay off their debts. Lowering the threshold for passing the bar exam assures that more marginal attorneys will enter the workforce and the esteem in which attorneys are or should be held will deteriorate further.

I appreciate the importance of diversity in the composition of the State Bar and for that reason, I understand that law schools may utilize certain admission standards that give advantage to persons who come from disadvantaged backgrounds to get them into good schools, but once having been admitted, those students, to get through school and to pass the Bar Exam, should be held to the same academic and testing standards as anyone else. I am in favor of tutoring programs, scholarships, and other forms of assistance to help students from disadvantaged backgrounds to catch up in any deficient areas so that they may compete fairly with their peers. But if after such assistance, they cannot keep up or they cannot pass the test, then we are doing them no favors by giving them a license to fail as an attorney.

We have always had the fifty-one percentile attorneys. Even now, those who are barely able to pass have trouble finding and keeping jobs and practicing at an acceptable level. Increasing the pool of the marginal will not help and there is no reason whatsoever to believe that adding those attorneys to the mix will increase access to justice in any way. To fix the problem by lowering the cut score is putting a band-aid on the symptom without addressing the root cause. In my view, if you want to increase the pass rates, improve the education and apply better standards for those who can sit for the test.

Anonymous

Do not change the bar at which lawyers are judged. Individuals need to study and work hard to pass the bar. Lowering the requirement will only serve to dilute the quality of the profession. I am a 3x bar taker and I felt like the test was fair - I was the issue and not studying enough.

Anonymous

Comments for Option 1:

I believe that the cut score should remain the same at 1440. CA is the largest bar in the country and there are already enough bad lawyers. Maintaining a high score is crucial in maintaining the integrity of the profession. Although it is concerning that the passage rate is declining, perhaps we should look to other areas for sources of improvement, such as accredited schools that do not live up to their standard or weeding out bad professors. I agree that law school is a substantial investment that carries significant student loan debt, but we should be ensuring that schools are doing everything they can to prepare students to pass the bar exam while also giving students the practical skills necessary to become successful lawyers.

Nevertheless, I would be OK with lowering the cut score if it meant lowering the score necessary to pass the MBE portion of the exam. Although the MBE is objective, I don't believe the skills required to pass the MBE (rote memorization of the law and application) are as important as the writing portion of the exam. In real life, attorneys are expected to research and check up on black letter law before proceeding forward; there is no expectation for one to memorize the law. However, the ability to write concisely under time pressure and use critical thinking skills is important in the legal profession.

Comments for Option 2:

I believe it would be a bad idea to lower the cut score to 1414 for the July 2017 exam. This was the first 2-day bar exam as opposed to the 3-day and I would be interested in learning how that affects the passage rate. Applying a lowered score for that exam would introduce a new variable into the mix so that one could not definitively say whether or how a shortened exam length impacts the passage rate.

John Jennings - CMVBS

Per the bar's own figures, exam passage rates in CA tend to be on-trend for people who attend fully accredited law schools, in the 60-80% range. The fact that the CA Bar lets people from non-ABA and unaccredited law schools sit for the bar accounts for most, if not all of the disparity between CA and non-CA passage rates. It would also help if you capped attempts at the exam at 3-4 times. If you're actually worried about people graduating from law school and not being able to get licensed(*), you should stop letting people from non-ABA-accredited law schools sit for the bar, like most states. If, on the other hand, we want to give non-ABA-accredited students a shot at passage, we must be willing to accept the high failure rates.

*In any case, law graduates might be better off seeking non-licensed jobs if they're concerned about student debt. I'm not sure there's a need for the Bar to be concerned about job choices of unlicensed potential applicants when the wages and job placement of licensed attorneys is still playing catch-up from the repeated systemic crashes in the legal job market over the past 15 years.

Sandy Perez

You have already shorten the exam to two days. Now you want to lower the score? I think we need to wait and see how people with the two day exam do. This way you can see if the problem was the length of the exam or the score. You are changing too many variables at the same time. The problem comes from predatory law schools that admit students who have weaknesses. If law schools are going to take these students in then they need to live up to their end of the deal and actually find them the help they need while in law school to address the weakness prior to taking the bar exam. These schools take students money and then provide no assistance in finding employment after law school.

Anonymous

It is my understanding that this study was performed because of the decline in bar exam passage rates. It seems as if the question was whether we should lower our standards as California standards are higher than other states, and that in recent years the students taking the bar are unable to pass the bar at the same rate. Has the difficulty of the bar exam increased in recent years, or have less students simply been unable to pass the same level of difficulty? If the level of difficulty of the test is essentially the same, it makes no sense to lower the standards for passage.

Repeatedly I have heard professors at college and law school discuss how the students coming into college and law school now are less prepared than in prior years. I have heard these professors discuss how the students are not able to write or think critically. Certainly one solution is to make tests easier so students can pass them, or lower grading standards so a student can pass as long as they get over 50% correct. However, if you follow that logic, when students become less prepared you would need to lower your standards even lower, and then as years pass, even lower.

I would suggest that instead of lowering standards, action is taken so that law schools increase knowledge, skills, and resources, so more students can meet the same standard as has been expected in the past. If one simply lowers the standards for passage, schools lower their expectations as well, leaving future students less prepared than before.

There is no shortage of attorneys in California so we do not need to worry about not having enough to meet the needs of the potential clients. As to the needs of indigent persons referenced in the State Bar survey, perhaps further legislation should be explored allowing assistance of law school graduates under supervision of law professors or attorneys who would be able to assist in such circumstances. As to the needs of students with student loans who cannot pass the bar, that is certainly an issue of concern, but instead of lowering standards, perhaps the students' law schools should be held somewhat responsible for this issue.

It is my opinion that lowering the standards for bar passage just reduces the quality of attorneys in California, and will only be a temporary fix as it encourages a system in which further reduction will eventually be needed.

Anonymous

I have several friends who consider themselves, "Of Color" who are distressed at talk of lowering. They believe they will be looked upon as attorneys who got a break. Will clients wonder if the attorney they approach passed the "hard" exam or did they pass the easier one.
California has a good reputation for a reason.

Colin Gibson - Law Offices of Colin J. Gibson

While the debt burden of graduates who can't pass the bar is a serious problem and very regrettable, it has nothing to do with the appropriate cut score. Lowering the cut score so that overindebted graduates can pass isn't a solution. What we need in that regard is a broad-based change in public policy regarding student loans and tuition. The way things are now, predatory and irresponsible lending practices cause tuition to rise, which gives students an incentive to borrow even more. I speak here broadly of undergraduate as well as graduate education throughout the United States. Borrowing by law students is only a symptom of the broader problem. I have encountered not a few California attorneys whose reasoning skills and general knowledge suggest that 1440 is too low. We certainly shouldn't be lowering it.

Anonymous

Imagine if we proposed lowering the passing score for the medical boards to become a licensed doctor. Would you want a surgeon who couldn't score 1440, but was admitted to the profession anyway, thanks to a lowered standard? How about your pilot? Or your children's teachers?

As an admitted California attorney for 16 years, it makes me positively ILL that the state is even considering lowering the passing score. California is currently facing a massive bubble from the number of admitted attorneys flooding the market; there are one-third MORE attorneys seeking work than there are full-time legal jobs. (Source: "The Lawyer Bubble: A Profession in crisis," Stephen J. Harper) Simply put, California has too many law schools, pumping out too many graduates, who are allowed to take the bar exam a limitless number of times. This ridiculous tide needs to be stemmed, NOT made worse. California should absolutely not lower its cut score by a single point. It would only increase the number of unqualified/incompetent test-takers competing for jobs against those who passed with a competent score. It would also make California's bar a national laughingstock.

Ken Tennen - Law Offices of Ken Tennen & Associates

In every child's education there comes a point where he or she grasps how to communicate ideas in written form. It's both structure and rhythm. Not everyone manages to obtain that grasp. That does not mean s/he isn't smart or properly educated; it just means that that skill remains unavailable.

In my practice, I work with several excellent attorneys who understand persuasive writing and can lay out research and argumentation perfectly. But their written work isn't absorbed by judges or other attorneys naturally. Recipients read their work with knitted eyebrows wondering if they, the reader, might have missed something.

The people I know who have taken the bar exam several times before passing rarely have any problems with the non-essay portions of the exam. One such attorney eventually passed the exam, but only after spending a lot of extra time trying to be able to complete the essays in a well-organized and timely manner. Many are now quite successful lawyers doing a find job for their clients. But they still can't write! A fair portion of my income over the years has come from re-writing briefs and other written materials for them.

While I believe that the cut score should remain as it is, I am concerned that the weighting of the essay portion of the exam might be culling out excellent candidates unnecessarily or, in the case of second-language candidates, unfairly.

I have no suggestions as to a remedy for this situation, other than encouraging law schools to emphasize organization and presentation of written legal expression in their schools. The only idea that might be worthy of consideration is to weight the multi-state (or whatever they call it now) portion of the exam and give less weight to the essay portions. It's not a perfect solution, but in my opinion it's far better than abruptly lowing the cut score to tweak the passing flow.

Anonymous

There is weak demand for new attorneys in California, especially in coastal cities. The decline in bar pass rates reflect outside forces completely unrelated to the difficulty of the bar exam, most notably a struggle by California's many 4th Tier law schools to admit students who can pass the bar exam after the Great Legal Recession of 2007 (to 2050+). Their law school deans want to continue to charge high tuition to educate many persons who are not only bad at standardized testing but who also lack the requisite aptitude to practice law. It is an unproven myth that less-qualified graduates from these schools increase access to justice for the poor. Graduating debt-laden bar passers creates a lower-middle class of struggling attorneys advertising on Craigslist to attract clients that do not exist. T4 schools try to argue diversity because its all they can muster in explaining poor test results. Why should resistance to adapt legal education (there are still too many law schools and law students) to the new legal economy be passed on to the profession? If anything the qualifying score should be RAISED, not lowered. And law schools should face severe consequences for low bar pass rates. The very first year that a school cannot pass 50% of graduates, it should be placed on probation for five years. If the school hits a sub-50 pass rate again during that time, their students should not be allowed to take the bar exam. The feds will knock out their ability to issue subsidized loans under the "inability to benefit" from the education standard.

Norman Berris - retired-but still lLicensed

in spite of the current score at 1440 there are more attorneys on the market then there are jobs or clients available. Lowering the score would simply add more attorneys than are necessary today. Also in spite of the score being at 1440 there are many attorneys that are not as qualified as they should be. Lowering the score would add more unqualified attorneys into a marketplace where there are presently a surplus of attorneys.

Frank Willis Jr - Law Offices of Willis & Willis

I have been practicing for over 45 years counting my intern time as a certified law student. The current generation of students in general seem to whine too much when they don't get their way. California has never been an easy place to become a lawyer, yet we have bar numbers into the 300 thousands. We do not need more lawyers in general and even less marginally competent ones. I have seen too much of that over my career as it is. Everyone seems to complain about the explosion in litigation and it would appear that at least one cause is too many marginally competent underemployed lawyers. I am not aware of any meaningful cut off in the number of times that a person can take the bar or the amount of help that is available to pass it if the person seeks to reach out and improve their score. I know a number of quite competent attorneys who failed the bar one or more times, took that as an incentive and usually passed on the second try when they chose to take the preparation seriously.

Ralph Goldsen

I had the good fortune to attend Boalt Hall and to pass the bar exam on my first effort, thanks largely to Professor Josephson's bar review course in 1980. In retrospect, I could have passed the bar exam without going to law school, based on that law review course. I do not believe that the Bar Exam tests legal knowledge as much as it tests intelligence and critical thinking skills and familiarity with a predetermined set of rules (like hearsay exceptions, AdamPBopp See ICI).

I specialize in criminal appeals and writs. In the past 37 years, I have heard thousands of clients and prisoners caught up in the criminal justice process express the view that the results of trials are purely a function of money. I agree only partially with that viewpoint. I do not believe obviously guilty people can be acquitted through skillful lawyering except in rare cases with other explanations But on the other side of the coin, many innocent people, or people whose guilt could not be proved beyond a reasonable doubt in a fair trial, are convicted because of bad lawyering.

Speaking as one who would know, the legal system does not provide adequate remedies to persons who are convicted and sentenced to prison or to death because their attorneys did a deplorable job of defending them. The problem is systemic. In criminal cases, 97% of lawyers are public defenders or persons appointed from a panel. These lawyers are compensated for going through the motions of representing the client, whether they win or lose, and no one in the compensation claim process cares whether they tried hard. Appellate court justices have far more concern for the finality of judgments than for the quality of representation, despite the words of the Sixth Amendment. A lawyer could be drunk, mute, blind, and suffering from Alzheimer's disease, and the only thing a court would look at is whether he or she passed the bar exam and sat at counsel table. There are some great criminal defense attorneys, even in the ranks of public defenders and appointed counsel, but they are great because they take pride in their work. No test or quasi-governmental agency can make an attorney take pride in his or her work.

I raise ineffective assistance claims frequently because trial attorneys fail to take obvious and crucial measures to protect their clients' rights. These attorneys all passed the bar exam. So the bar exam is not screening out dump trucks.

Since there is no real post-trial remedy for bad lawyering, the least that can be done is to maintain some requirement of skill and intelligence as a condition of practicing law. I am not an elitist snob. I would be all for lowering the standards and opening the door to people who score lower than the current cut-off, if there was a remedy for the errors they will surely make. If there was a way to measure commitment to clients prospectively, I would incorporate that into the bar exam. The bottom line remains that the public is best protected, under current legal standards, by maintaining the quality of admittees. If a person is not smart enough to pass the bar exam, he or she can find equally lucrative work that does not require bar passing skills.

Passing the professional responsibility exam, which was implemented the year I graduated, is a separate hurdle from the bar exam. It tests knowledge of ethical constraints. It does not test commitment to those constraints. We live in an era when cheating is expected, among businesspeople, lawyers, and politicians. You know who I'm talking about. If it was up to me, attorneys who cause a wrongful conviction once should be disciplined, and disbarred on a second offense. As far as I can tell, the California State Bar could care less whether bad lawyering has caused the lifetime confinement of an innocent person.

Sean Mcguckian - Law Office of Sean P. McGuckian

To the Committee of Bar Examiners:

In response to decreased school enrollment and lower bar passage rates, the California Bar is considering lowering standards for newly admitted attorneys.

I believe these developments are simply a reflection of market driven factors. Robust competition already exists in the legal industry, and increased automation of legal services has naturally had an effect. Artificially tinkering with the bar passage will not have a positive effect, if anything it is likely to have even more harmful results for the industry as a whole.

Decreasing standards is not the solution here. Doing so will create a wider disparity in the quality of legal service providers, in an already glutted marketplace. I believe that nothing less than the well-being of our profession, and the public trust, is at stake here.

Best,
Sean Patrick McGuckian
Attorney at Law

Richard Seely - Skane Wilcox LLP

Apparently, there are still plenty of attorneys being admitted into California. It is a shame that the test was reduced to 2 days. The bar, literally, should not be lowered any further.

S Shafi - Juárez & Associates

California needs to maintain its standards for passage of the bar exam to assure that only competent lawyers will be licensed to practice. While keeping the pass rate as it is currently may result in some competent persons being disqualified, the risk of licensing unqualified/incompetent persons if the standard is lowered would have greater negative implications for the public. Those who are competent can retake the exam and most probably pass on subsequent attempts.

Anonymous

California is a prestigious legal market exactly because of its rigorous bar. I not only think that the cut score needs to remain in place, I also think the third day needs to be brought back.

California has the right to demand such intense obstacles from those wanting to practice here because every top law school in America will be sending their best and brightest to practice here.

California will not be hurting for lawyers even with this recent drop in the pass rate, we are an over saturated market.

I do agree that the testing needs to be examined and re worked in some way. We all hear and witness horror stories of incompetence from fellow practitioners. However, making the test both shorter and easier is not going to curtail malpractice and increase the public's access to justice.

Meredith Schensul - Los Angeles County Public Defender

There are already too many attorneys in this state. We don't need to make it easier.

Donato Leombruni - Roquemore, Pringle & Moore, Inc

Please do not dummy down the bar exam.

Alan Fenton - LAW OFFICES OF ALAN FENTON

I passed the bar in 1986, the year with the 2 lowest bar pass rates ever. It wasn't easy but I did it. If the current crop of potential attorneys can't make the grade then they weren't meant to be attorneys. This is like the school class where everyone is a winner and everyone gets a medal. Real life is not like that and it is better that someone learn it before some real responsibility is thrust on them. What happens when these "cut" rate attorneys figure out they can't handle it in the middle of a criminal or civil trial and the client is left to swing in the wind?

Anonymous

Changing the cut score is completely unfair. As a person who failed the June 2016 bar exam by 2 points and has lost out on substantial job opportunities due to my failure to pass the BAR the first time, I would be extremely upset. It should be noted that the June 2016 pass rate was also 43%. The state bar has hurt my chances of employment when I would have been in the pass rate with this new lower cut score and probably landed a better paying job. Completely unfair. I don't think the standards for the bar exam should be lowered just because people aren't performing as well on it.

Anonymous

The legal profession is self regulating and the integrity of the profession must not be jeopardized by admitting unqualified attorneys just because many of them have difficulty passing a standardized exam.
The argument for allowing more people to pass in order to serve underserved communities is weak because providing underrepresented people with incompetent or under qualified attorneys will do more harm than good. Not to mention, it makes competent attorneys look bad when they get lumped in with the rest.

John Newport - John Newport Attorney at Law

When are we going to stop "dumbing down" our standards? Lots of college freshman already have to take remedial Englishe, math, etc that should have been learned in high school. Whatever happened to Accountability? Lowering standards only hurts all of us in the long run in the phony notion of "compassion". We are posing our greatness as a society inch by inch.

Anonymous

California already has too many questionable law schools and too many questionable attorneys. Lowering the cut score will only make the problem worse.

Sarah Sorensen

The number of attorneys should not be regulated primarily through making the bar exam more difficult or raising the pass rate for the purpose of keeping attorneys out. Rather, regulation of the number of attorneys in a state needs to be done at the outset: limiting the number of people admitted to law school.

California created the problem of an over supply of attorneys because it allows students who attend unaccredited and apprenticeship programs to sit for the bar. Eighty some percent of students who attend those programs do not pass. I think it is wrong that the way in which the state bar is addressing the problem it created is to make the bar exam harder or to increase the pass score for the purpose of regulating the number of attorneys licensed in the state.

I believe California should only allow those students who attend ABA accredited schools to sit for the bar exam and keep the pass rate the same. I think this can be done by announcing that in 5 years, for example, someone has to have a JD from an accredited law school to sit for the bar. Those who go to an unaccredited program now will be able to sit for the bar before the rule goes into effect (or switch over if they think they will have a hard time passing), and those who are considering law school can really evaluate whether law school is worth the time and expense.

Non-ABA accredited law school tuition is a tiny fraction of the full sticker price of an ABA school. Many people will forego law school if they are forced to take out $150,000 in loans to attend. I do not think this is a problem. People have to make decisions based upon what makes sense to them. Today we are fortunate to have a lot of resources for those with lower socioeconomic standing to attend college and professional schools. I do not think this change would disproportionately affect minorities and lower income individuals to attend school.

This is why I do not believe we should lower the pass rate despite my heavy disapproval of the way the state bar has been addressing the problem of regulating the number of attorneys in the state.

Anonymous

I do not believe that lowering the cut score is the appropriate vehicle to address the declining pass rates on the California Bar Exam. First, it seems inappropriate to do this so quickly after the first two-day bar examination. Surely we should at least wait to see how the elimination of one day of testing affects the passage rates before changing something else. Second, the appropriate vehicle to address is unaccredited and for-profit law schools. They are causing the declining passage rates. Lowering the bar for licensing attorneys is not the answer.

Anonymous

The California bar exam has always been an exceptionally difficult exam. Those who have passed this test, no matter how many times taken, and those who have been admitted in this great state pride themselves on their ability to pass this exam. It is not for the weak. It is a tough, rigorous exam that challenges students of the law, just as the real world practice does.

As a member of the California bar, I consider it a great honor to have passed this exam and be amongst attorneys in the profession who have done so as well. Lowering the score, out of a swarm of backlash is not the answer. The answer is for programs and students alike to better prepare. Additionally, with California being the only state permitting non-accredited students to take the exam, it must continue to be rigorous.

I have taken the exam twice. I was incredibly close to passing the initial time and given this new cut, if I recall, I would have passed the exam. However, I still do not believe we should lower the score. I fought hard in my studies and in my work to pass this exam and to become a California attorney. There is no reason others cannot or should not be held to the same standard. The heartbreak was undoubtedly severe, but it made me a better attorney.

Please do not change the longstanding history of the California bar exam. This is not the time to sit by and reduce our standards. This is a time to continue to show that California attorneys are put through a challenging examination, which will prepare them for life as an attorney- where not everyday is sunshine and where failure is unfortunately a reality to grow stronger.

Speaking frankly, if California is inclined to change any policy, I would suggest that California attorneys (after being put through the most difficult exam in the country) be provided with reciprocity in as many jurisdictions as possible.

Anonymous

There are already too many attorneys in the market and many attorneys who passed the bar exam on the first try who are unemployed. We do not need more attorneys to add to the unemployment rate. If we can't employ all the attorneys already passing, then why would we pass additional ones by lowering the requirement?

Sierra Nelson

Lowering the requirements to admission will not make anything better and will continue to degrade the quality of legal professionals in this state. The State of California must realize that the approximately 41 schools not accredited by the ABA but allowed to enroll students (and eventually send them to sit for the bar) are the reason for our low passage rate. California allows the most people to SIT for the bar exam and not surprisingly, has one of the lowest bar passage rates in the country. We continue to see reports that law schools - even the best ones - are lowering their admissions standards in order to maintain their enrollment numbers (and profits). It is an affront to the profession to lower the burden to become an attorney just because the crop of incoming attorneys cannot meet the standard so many of us before have (over 300,000 people).

As someone who took the 3-day bar exam July 2015 and passed, I am insulted that the California Supreme Court has already reduced the number of exam days AND is now considering lowering the threshold to pass. Lowering the standard will only further lower the quality of lawyers allowed to enter the profession.

It appears to me that the state places the highest value on profits from allowing law schools that are not and will never be accredited by the ABA. Everything else, including ensuring the lawyers representing the people of California meet the highest quality, falls behind.

Marina Meyere - California Court of Appeal Sixth Appellate District

The reason for the declining pass rate is not the high score requirement, but the increased number of unqualified students being admitted to law schools, in the first instance, by schools only interested in increasing their bottom line. After the economic crash, many more people applied to law schools and schools expanded their programs to fit the need. The now expanded law schools need to fill their seats and are admitting more and more less qualified applicants, who in turn do not pass the bar.

Lowering the pass score in response to this economically motivated behavior on the part of law schools will do a disservice to the public, by lowering the standard of professional competence. The answer is to once again restrict the quality of applicants admitted into law school in the first place.

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Kendall Jones - Kendall T. Jones P.A.

I have been a licensed, practicing attorney since 1995. I am licensed and have practiced in four different states -- California, Florida, Georgia, and Alabama. I was licensed and began practicing in California nearly 15 years after I began practicing law and had been practicing in those other states.

I must say that, in my opinion, compared to every other state in which I have practiced, California has, by far, the highest number of incompetent, idiotic, borderline unethical attorneys I have ever seen. It is remarkable and shocking. I have seen blatant acts of malpractice by other attorneys -- many of whom have been involved in cases in which I also represent clients (sometimes the same side, sometimes other sides). I can think of at least three different cases where the incompetence of other attorneys have cost their clients a LOT of money and their entire case. One particular attorney cost his clients literally millions of dollars in damages that could have been avoided had he been competent -- my clients were on the winning side of that judgment, but I am still deeply bothered by the result because I know I won that award as much due to the other attorney's incompetence as to my own skills.

As the result of the teeming numbers of incompetent attorneys out there, we have two problems unique to California (at least far more here than anywhere else I have ever practiced): (1) Clients with extraordinarily unreasonable expectations, and (2) Overly aggressive attorney conduct that often borders on unethical behavior that should be sanctioned. Clients have unreasonable expectations because they heard of someone else who got "millions" in a vaguely similar case and they think they should too ... when in reality, as with my own personal experience, above, the winner of millions only won that much because the opposing counsel failed to provide competent representation. Many attorneys here -- especially the young or incompetent ones -- act like overly aggressive bulldogs, costing all parties unnecessary money, because they err on the side of acting like brats instead of doing their homework and research and working with opposing counsel in a collegial way. Every time they don't get their way, they haul everyone into court for ex parte and other hearings and the judges have to spend time scolding them and often sanctioning them. It's beyond frustrating.

Amazingly, the bar pass rate in California is low and STILL these incompetent morons are getting through. If you lower the cut score, even MORE incompetent boobs will be unleashed on the public and on the rest of us attorneys who actually know what we are doing. The result is higher legal expenses for EVERYONE and even more overcrowding of the courts with unnecessary motions. It is often very frustrating to practice law in California due to the frequency with which I have to deal with idiots. PLEASE do not make it even easier for idiots to become lawyers in California!

Frankly, I would say that if you haven't passed the bar by the third try, you need to go find another career path. It's most often the folks who passed after multiple tries that are the problem lawyers. But that's not an option on the table....

Carl Blick - Law Offices of C. Samuel Blick

The Bar Exam should be more difficult, not less.

Practicing law in California is a privilege, one which must be earned, not granted for reasons unrelated to legal competence.

The California Bar Exam (CBE) is designed to test the competency of applicants and should be difficult and passed by few. Easing the difficulty means lessening its value in determining an applicant's worthiness to practice law in California.

The CBE could be improved, however, by increasing the tests of written communication skills. Knowledge of the law is of little use to one who cannot communicate well.

Anonymous

I have encountered too many recent exam passers lacking in basic writing and legal analysis skill. I suspect the problem is in the law schools and not in the exam. Lowering the cut score lets law schools of the hook, it allows them to escape any consequences of producing unprepared graduates. Let the problem fall where it should, to the law schools. Once they face the market realities of a shrinking applicant pool due to low bar passage rates and even the threatened loss of accreditation, we will see an upswing in scores.

I am not aware of any attorney shortage in this state. There are plenty of new licensed attorneys who struggle to find employment. Flooding the field with more ill-prepared attorneys is of no positive value to the bar or to the people of California.

Anonymous

The integrity of our profession rest on the cut score being left at 1440. In the short time I've ben practicing, I've seen too many lawyers with questionable ethical integrity practicing law. Combine that with the number of lawyers providing sub-par service, a lower score allowing more attorneys into this profession will impact the quality of lawyers in the marketplace. Given that a test taker cannot provide adequate critical thinking on an exam, it can be argued that that same person will likely provide inadequate legal counsel. Exams are meant to protect the public by ensuring that the license holder is certified to practice. Lowering the passing threshold will dilute the pool of critical thinkers capable of providing legal counsel and erode public confidence in our profession.

Kelli Kennaday - Kennaday Leavitt Owensby PC

1. California does not need more lawyers. There is already a glut of young lawyers who have passed the bar but who cannot find jobs. There is no reason to churn out additional, less qualified, lawyers. Doing so is a disservice to the bar and to the public.
2. I hire, train and supervise young lawyers. Many of them lack the ability to engage in basic legal analysis and most of them have no practical skills. Clients often will not pay for very young lawyers to work on their files, making them increasingly unattractive to hire. You would be doing more to help young lawyers succeed if you required law schools in the state to provide more practical skills training.

Anonymous

In my current practice as a full-time litigator, it is not uncommon to encounter licensed attorneys who lack the skills to adequately represent their clients. Lowering the bar score will likely exasperate this already potent problem. Moreover, lowering the bar examination score will lead to an increase in the number of practicing attorneys. At current, the demand for legal representation is nearing an all-time low; by increasing the supply of legal practitioners in a stagnant market, the profitability of legal representation will be further depressed. Lower profitability means even lower hourly rates and lower salaries, which effectively lowers the value of a law degree. By lowering the value of a legal education and degree, talented individuals will forgo a law degree for other more lucrative professions. The resulting "brain-drain" from the pool of practicing attorneys will lead to further requests to lower the bar passage rate, thus repeating the problem currently before this body. Finally, it should be noted that current market rate for salaries for lawyers with less than 10 years experience is barely sufficient to service the considerable student loan debt load required to finance a legal education, degree and licensing. By lowering the bar passage rate and increasing the supply of practitioners, salaries will be further depressed leading to practicing attorneys who must resort to second or third jobs and/or less than legal avenues to service their debt. The public will suffer the consequences of these practitioners in both general representation, and any less-than-legal activities; the practitioners will suffer the consequences of 7+ years of training to enter an untenable career; and, finally, the profession will suffer from a tarnished image to an ancient profession. The solution lies not in permitting less able practitioners to practice law--the solution lies in the legal education industry which has abused the ease of obtaining federal student loans to oversupply the public with unqualified students.

Linda Nguyen

To the extent that a low or declining bar pass rate is a problem that needs to be fixed, the solution to the problem is not lowering the cut score. The real problem is the proliferation of fly-by-night law schools and the real solution is raising the standards for accreditation by the ABA and California and/or requiring more accurate and transparent representations regarding legal employment placement statistics by the fly-by-night law schools.

Anonymous

Lowering the Bar pass score would "dumb-down" the quality of attorneys practicing in California. While the State has one of the highest non-pass rates in the country do not forget it also the easiest state to attend some sort of law school. When I was in law school, the State accredited a law school that had a dean who was, himself , a law student and had an extremely low pass rate. My school had a pass rate slightly lower than the University of Santa Clara and a full time dean who was an attorney.

Lowering the passing score would admit less qualified persons to practice law. If legal services to under-served populations, why not just let para legals provide more services that are now provided by attorneys but make them pass a certification exam and require a minimum amount of education.

Anonymous

California is flooded with attorneys, this is resulting in the raising of disputes and lawsuits that would not happen if these attorneys were not desperate for work. As a legal employer, I've found that too many new attorneys are coming out of law schools without the skills needed to contribute to firm activities and are needing to be trained by the firms that are highering them for an extended period of time before they are useful in providing legal representation. Whenever we seek to higher a new paralegal, we receive more new attorney resumes than we do experienced paralegal resumes. With a flood of unemployed and underemployed practitioners, we should be licensing only the best and discouraging the rest from pursuing a legal career in California. A high cut score discourages potential law school students who lack a passion for legal service. I favor maintaining the high standard and even adding additional experiential components before full licensing.

Anonymous

There are plenty of people who currently pass the bar who are, in reality, unable to competently practice law. The better approach would be to provide more of a practical education in law school so that people can understand what it takes to become a good lawyer, and then, in any event, to address the suffocating amount of debt incurred in going to law school regardless of pass rate. I have worked as a public defender for more than ten years, often in great financial difficulty because of law school debt.

Susan Stearns

Are there not enough attorneys in California? Back in 1990, I worked my behind off to take and pass the Bar Exam on my first try. Please don't dumb down the Bar just to get more dues-paying members. As a collective Bar and as individual members, we have the responsibility to see that only fully qualified individuals are turned out into the state to practice law. Just because law schools are getting far less selective in who is admitted doesn't mean these students should be turned loose on a public that needs the best and brightest, perhaps more now than ever. Whether it is a criminal case or civil litigation, it likely will be one of the single most impactful episodes in a plaintiff or defendant's life. Who wants a "minimally competent candidate" doing the heavy lifting for your life or livlihood? Ask yourself -- would you want a surgeon who only is practicing (on you or a loved one) because the state lowered the requirements for medical licensing? I thought not.

Matt Mclaughlin

Can't guess (((who's))) behind this stupid ideal. You "whinorities" are a plague.
Why be so timid with your agenda? Cut the score to zero, disqualify all Straight White Christian Males, pass the all remaining applicants who can recite the Communist Manifesto. The State Bar of California is run by idiots.

Anonymous

The legal profession is not suffering from a shortage of attorneys. I interface with attorneys every day in my current practice and at times I have been alarmed by the quality of and integrity of some of those individuals. In order to maintain the high level of service and to serve the public interest it is imperative that those who are being trained and admitted to practice within this state meet the highest standards. In addition, more attention should be paid to the accreditation of law schools within the states. They are responsible for admitting and matriculating our next generation of lawyers and bear a shared responsibility of ensuring that those who decide to become lawyers are prepared.

Nina Decker - Kramer Radin LLP

Lowering the cut score might make the pass rate look better, but it does not mean that more qualified attorneys are entering the profession. Especially now that the California Bar has been reduced to two days.

The truth is that the bar is supposed to be rigorous to ensure that the people that enter our profession have the work ethic, wherewithal, and ability to do the work that it takes to be a practicing attorney. Making the bar easier to pass is compensating for unaccredited and/or low tier law schools that are pumping out graduates and oversaturating the job market over the last 10 years. The bar should continue to be the final, and most difficult, hurdle to pass before becoming an attorney. The stakes are too high to allow people that aren't qualified to become attorneys. When a person's liberty is on the line, or their house, or their life savings, people need the best advocates that California has to offer. I've seen the alternative, and it can be devastating to the people we are trying to help.

Anonymous

this is very easy. there are already too many attorneys in CA who have passed the bar and don't have jobs and cant get jobs and should not have gone to law school in the first place and not incurred all that debt. They should have focused on another profession.

If you make it easier, more people will pass, more people will not have jobs and more people will think they can go to law school, incur debt, pass the bar and get jobs, but this wont happen and they will not get jobs and instead will have big debt forever.

keep scores the same, less attorneys will pass, those who pass will have better chance at getting jobs and be able to pay off the debt and serve all kinds of people. I don't think there is a shortage of attorneys who would work at clinics for undeserved people.

Jared Walker - Law Office of Jared T. Walker, PC

Long term, I believe lowering admissions standards to the bar will have catastrophic effects for the legal profession. Technology has changed the delivery of legal services and placed downward pressure on the demand for attorneys, especially with respect to transactional work. This will no doubt continue - see, e.g. emerging blockchain technology, smart contracts, writings from people like Richard Susskind relating to artificial intelligence innovating law practice, etc. In the face of this changed market, the single greatest competitive advantage attorneys maintain to differentiate ourselves from other methods of delivering legal services is (in my view) the ethical standards by which we conduct ourselves. Included among these standards is, of course, the duty of competence. The State Bar should defend fiercely the ethical standards of our profession; not only to protect the public, but just as importantly as a means to preserve market share for attorneys within the legal services industry. Lowering admissions standards moves us in the opposite direction. The proposal threatens to impose another downward force on demand for attorneys; this time self imposed.

Also, consider how radical a notion the current proposal represents. What other industry can we point to where the remedy for failing to meet standards is lowering standards? There is an offensive illogic to the proposal, the acceptance of which should require sound empirical evidence (i.e. data acquired through long term studies, using accepted methodologies, accounting for known variables) rather than speculative arguments in favor. Is there reliable data that shows lowering standards will not diminish the quality of attorney representation in California? If not, I don't think the burden needed to impose such a drastic change has been met.

Larry Darden - Non-profit entities

I agree with the evaluation of Judge William F. Fahey (from the Daily Journal article dated August 10,'17).

We do not have a lack of attorneys in CA--in fact, just the opposite!! I think there are now over 250K members of the CA State Bar with at least 168K active --our attorney population is above the U.S. average/ population @ 42/ 100,000 (only New York and DC being higher--for obvious reasons).
Isn't there already enough litigation in CA (where we don't have enough $ for the Courts as it is?).

CA attorneys already have enough trouble attracting clients. What is needed are competent attorneys, not more competition from mediocre or sub-standard attorneys who are willing to charge less, but who can't even pass the State Bar exam and should not be practicing at all!

Leave CA's current Bar passage standards alone (maybe even increase them!) and let people who can't make it here go somewhere else to practice (or get into some other business)!!

Please don't create some sort of "affirmative action" for incompetence. CA clients deserve the best and brightest, not the wanna bees (or to help out bad law school passage rates) or to have the CA public become part of an emotional experiment by "do gooders" --on them!

If scores are lowered it will be inevitable that discipline rates will increase for the incompetents who are allowed practice--they will need to cut corners in order to compete with more intelligent and better prepared counsel.

Please don't lower standards just to please people who should not be attorneys (or the law schools who need more students!!).

L. Darden

Anonymous

The practice of law takes hard work.

One has to balance many things (cases, personal life activities, etc.) and at the same time be diligent in the performance of the practice of law to properly represent the interests of a client.

The unfortunate reality, and not acknowledged by many in this society, the practice of law is very competitive. By lowering the admission standards (i.e., "cut score") for these prospective attorneys they may be doomed to failure.

Additionally, by lowering the admission standards, the public will know that the attorneys for the 2017 and 2018 bar admission years are substandard as compared to their predecessors. Therefore, why would any consumer hire a California attorney from these classes?

The answer is not lowering the "cut score." The focus should be placed on the law schools and their admission standards as well as how they are preparing law students. The answer maybe the use of the "baby bar" at the conclusion of the first year of law study, as required of unaccredited law schools, to all law schools in California. That way, prospective future bar applicants may get a realistic evaluation of their potential qualification to become a lawyer in California before undertaking additional student loan debt.

Anonymous

Because people are not performing and demonstrating their competence is not a valid or good reason to make the exam easier to pass.

William Davies - State of CA - CDCR

I have a niece at Harvard Law School right now and it sounds like law school, at least that one, has dramatically changed since the '80s and that is a good thing. New lawyers I cross paths with seem exceptionally smart and well-trained. I don't see that anything is "broken" about the current system. (And I would add I learned more on my mid-law-school externship with a judge than I ever learned in law school, and I'm hoping that the type of things Harvard and others are doing are designed to address all that.)

My speculation is that there are under-served populations, and that many lawyers don't want the low-hanging fruit, and want to go after the big dollars. That is a social issue, not one fixed by lowering the "cut" score on the bar exam.

I understand the pain of not passing the bar exam, and I understand the huge debt load. That burden should be negotiated between the law schools and their students. I don't think the State Bar needs to get into that. If the schools have an intention that all whom they admit will pass the bar, and the school is willing to support those students, then this is a non-issue. If the schools just want to churn out diplomas regardless of who passes and who does not, then this is a conversation the state, and the state bar, need to have with the schools.

Do not dilute the high-quality pool by looking for a quick fix to this issue. People pass the bar when it is their time to pass. We live in a world where kids stare at screens, don't read books, and don't really analyze or ask hard questions. The next generation of leaders for California need to be able to hold their own and dig deep. No benefit to anyone by cutting corners.

Jim Baker - Retired

First determine WHY there is a lower passage rate!

Are those failing from nonABA accredited law schools?

Are those who are failing not able to afford Bar Review courses?

- If that is the reason then provide subsidized access to said courses instead of reducing standards.
- I actually learned a lot from the Bar Review Course which finally put all law together in a logical manner.

Anonymous

I had to take the bar exam more than once. Working hard to get over the 1440 made me a better lawyer because instead of memorizing the law for the bar exam I learned the law which made my analysis stronger, better and concise. There is nothing wrong with California having the hardest or second hardest exam to pass. Submitting Mt. Everest is more of a challenge and more rewarding than walking up a hill in the park.

Law student loan debt should not be a factor in considering whether to make it easier to be admitted into the California Bar Association. In fact, making it easier to pass the bar will do nothing to curb the extreme inflation associated with the current cost of a college education, it could exacerbate the problem. And, believing that some persons don't have the ability to pass the bar because of their ethnicity and therefore accommodations should be made for them is actually racist thinking; all human beings have the ability to achieve equally. And future lawyers should have to achieve a bar admission on the same playing field that those already California lawyers did. If bar exam scores are lower, maybe it is the quality of the law school education they are receiving, for the cost of an arm and a leg, than it is the bar exam itself.

Lowering the cut score dilutes the profession.

And another thing, I know several California lawyers who graduated law school and passed the bar exam with the 1440 cut score in which English was not their native language. The Bar Association does those achievers, who figuratively summitted Everest without the aid of oxygen in a canister, a disservice by lowering the cut score.

Anonymous

I do not believe we have been presented with adequate empirical information to make such a determination. If it exists I have not seen it, nor, admittedly, had the time to review it.

Standards of admission should not be cut simply for the reason we should have a higher passage rate, or need more attorneys for some perceived assumption or argument it is for the common good. I would like to see that demonstrated first. It certainly should not occur because law school students are overwhelmed with student debt and it is in the pecuniary and institutional interests of law schools that the passing rate is higher. Perhaps an observation as to the positions of the law schools as to the cutting of the score would be revealing.

Who is taking the Bar Exam. What are the admission requirements of the law schools and how does the undergraduate level of education relate to passage. Has there been an increase in unaccredited law school students taking exam (with minimal, even non existent standards of admission i,.e. LSAT scores. In simpler terms, have the standards of the exam, the requisite knowledge etc. remained essentially the same but the pool of applicants been simply enlarged and not able to pass the exam.

I understood the implications of questions as to factors of diversity and servicing certain communities. However, (1) is there any evidence of persons of certain cultural diversity having problems navigating and interpreting the bar exam questions. This is a linguistic, hermeneutical and cultural problem (addressed for instance in studies on IQ tests). Is the problem with the tests. If so, how does lowering the passage rate accomplish this end? The problem is not with the intelligence or competence of this culturally diverse individual but the misalignment between their cognitive capacity and potential competence as a lawyer and the language or style of the Exam as written causing the problem.

Is there some presumption that those who may be deemed "less qualified" (because the cut score is lowered) will devote themselves to communities not well served. I don't think so.

This begs the question as to whether a higher passage rate is desirable for its own sake. I for one, am not worried that there will be too many attorneys. There were too many attorneys and certainly not enough jobs, so everyone feared and said, 40 years ago when I was admitted to the Bar.. So, the beneficent effects of scarcity to we who made it through and remain, due to a lower admission rate (fewer attorneys) should not be a factor.

These are a few random comments on the matter.

Anonymous

The solution is not dumbing down the criteria for passing.
The solution for raising scores is not allowing people to take it unless they either:
(1) went to law school, or
(2) at least went to an accredited law school.
Unqualified people are walking in, failing, and complaining it's too hard.
If California wants to let people shoot for the moon, that's fine, but they shouldn't feel entitled to a bar card.
And California shouldn't lower its standards just because they keep failing

Anonymous

minimum standards are just that. If you cannot clear that hurdle, you simply just don't qualify to be on the other side. It has always been that way and with good reason. It protects so many who are entitled to quality representation. Even with the current standard, many existing attorneys leave much to be desired. Dropping the standard will only worsen that.

All enter law school knowing that the pass rate in California is among the most difficult. That is a known risk and gamble to entering and there is nothing unfair about that. If you don't pass the bar after graduation, you try until you do or you move on. That has always been the landscape. There is no competent reason to change that. If law school grads cannot meet the time tested standard, then they need to keep trying. Dropping the standard to appease them as in all pee-wee league participants get a trophy is wrong. Just Wrong!

Bonnie Ann Baker - Retired from private practice

It's important that California keep up its high standards by retaining the current cut, I went to law school full time (1973-76) and was in the top 10% during my first year, but my class standing decreased to top 60% during my second year because I had to work. While preparing for the bar, I took a review course, and studied every day non-stop (no days off) for two months. I passed the first time. I followed the same procedure when I moved to NY two years later and passed that one on the first attempt as well. NY was easier. Some years later, I became a Certified Family Law Lawyer. I was AV rated. You have to be prepared, just like you'll have to do when you practice law. You have to be able to write. If you don't like to work hard, perhaps try another less demanding profession.

Anonymous

The direction for a lower pass rate comes conveniently supported by Deans of law schools with falling pass rates. Perhaps the issue is driven by the fact that lower pass rates could mean lower enrollment for law schools - a reason not so much focused on the students but on the universities with lower enrollment and subsequently less tuition and less money being funneled into the schools.

Perhaps the focus should be on making law school more affordable for all students. Tuition rates continue to rise and I know many friends who have sought to work in a corporate setting their first few years out of law school to pay their staggering law school debts upon graduation. They have no choice in paying off their debts. Additionally, based on sacrifices they may have made during the time they were enrolled in school, they may need to "make up" for the unpaid period in law school to accept high-paying positions at law firms.

The argument for the lower pass rate appears to be focused on the fact that there were lower public interest jobs being taken by new attorneys, however, this may not be because of lower bar pass rates, but because of mounting tuition costs and an inability to pay those debts with a public interest job that pays substantially lower than the corporate law firms high first year salaries. Additionally, once ingrained in the lifestyle of large firms with the large salaries, it may be difficult for some to justify leaving that environment to accept lower salaries to work in public interest. The so called "golden handcuffs" is a real concept in application especially in large law firms.

The focus is misdirected and I am not convinced that the cause - a difficult bar exam and high pass rates - leads to the effect being argued - less public interest jobs. Perhaps the real cause is high tuition rates and mounting law school debt and the effect is more corporate/high-paying salary jobs and less public interest jobs.

Anonymous

We've recently gone from 3 to 2 days. CA is well-known as one of the hardest exams to pass in the country. If people don't like it, they can take the exam somewhere else; please don't continue to water down my accomplishment of passing one of the hardest-to-pass 3-day exams in the country by continually making it easier and easier. It was awful passing the 3-day exam and it was hard then. If someone cannot get those few extra points, that person needs to study harder.

Aaron Munoz

First, if the California bar lacks diversity within our organization, then a legitimate attempt to understand the serious issues leading to less diversity within our profession should be conducted. Yet, to say the reason a lack of diversity exists is because the cut score is too high seems reckless. Perhaps more women and people of color are entering different industries, like medicine or technology, instead of law. Perhaps other thriving industries, like the finance and energy, are now more attractive then they were several years ago during the economic recession, which then pushed people out of those industries and funneled those individuals into the legal profession. Perhaps the best women and people of color from California law schools are pursuing attorney careers outside of California, and they never sat for the California bar, hence diluting a diverse applicant base. Until an in-depth investigation is conducted, we will not truly understand the cause of a lack of diversity within our organization. Thus, an attempt to lower the current cut score would be a reactionary move, which endangers the public, solely for the purpose of increasing diversity, even though such an action may not be an appropriate remedy.

Further, it is disrespectful to persons like myself, to indicate that more women and persons of color will be admitted to the bar if the cut score was lowered. This sends a message to us that we are less likely to pass the California bar exam because of some inherent biological factor beyond our control. The message is that me, and others like me, are less likely of joining our prestigious profession, unless the bar accommodates such ill-perceived deficiencies.

Additionally, the high cut score should be considered an honor. As California, we choose to accept the best possible attorneys in the world. If others who feel they are incapable of passing the California bar -- which in my opinion any adequately prepared applicant can reasonably pass -- these individuals have the opportunity to pass the bar in Arizona, Nevada, Oregon, Washington, or any other state with a lower cut score. Opponents will say that these applicants have invested in being an attorney in California, thus they should have an easier opportunity to pass the California bar.

However, these applicants will always have the opportunity to pass the bar exam regardless of how many times they fail. The opportunity will always be there. The hope should be that an applicant should get closer to passing the bar -- and eventually pass -- the more times the applicant takes the exam. If an applicant has a difficult time passing the exam, they should consider the option of sitting for the bar in another state. Moreover, once they are certified in another state, they are still eligible to apply for plenty of jobs in the private sector and the federal government within the state of California. If an applicant is not happy with this option, then the applicant should prepare stronger and focus on their weaknesses to achieve the appropriate score in California.

Finally, we must retain our reputation as the best attorneys in the world. If an international consensus is that attorneys from the United States are the best in the world, and the best of the United States are those attorneys of the California Bar, then we should retain that reputation. This will only ensure that current and potential clients will have the utmost respect and trust for those in our organization. We have a duty to honor and protect the rights of our clients, and if applicants are unable to rise to the standard we have set, then the public at large will suffer.

Anonymous

Clients need good lawyers, not less qualified lawyers.

Anonymous

By lowering the bar exam cut score this would do a disservice to all those attorneys in the past who failed the bar multiple times until passing many of whom had their professional and personal lives affected by the failures. I will tell you what a law school professor once told me in my first semester of law school, some people are just not meant to be lawyers. If a person gives up on being a lawyer after failing the bar for the first time they are not meant to be an attorney. Being an attorney is a job that is filled with emotional and professional ups and downs on a daily basis. It is not a profession for those who do not like stress and do not have perseverance. These same people who would pass the bar if the cut score was lowered would likely quit the profession at the first occurrence of a professional failure.

Anonymous

I took the bar exam July of 2016. This was historically, one of the lowest pass scores for all of California's reported history competing only with July of 1986 and July of 1951. One would suppose that based on this I am sympathetic to the low pass rate and a proponent of lowering the score, but I am decidedly against it for several reasons which I shall enumerate below.

First, the profession should face strict scrutiny and high standards when it comes to the quality and caliber of attorneys authorized to practice law in our state. I am not alone in these opinions. The Honorable Judge William F. Fahey stated that based on time on the bench that the standards need to be more rigorous and not lessened. As he stated in the August 8th 2017 issue of the Daily Journal, "the answer is to improve the skill of all lawyers and not, in a knee jerk response to a couple of years of statistics from a few law schools, lower the standards of admissions to the California bar." This best summarizes my own opinion on the matter along with fellow members of the bar on the type of attorneys California allows to practice. We should continue to uphold high standards and require all future attorneys permitted to practice in this state to meet these high standards.

Second, we do not have a need for attorneys to represent members of the public that is not heretofore being represented. If the citizens of our state were being inadequately represented or facing no representation from the lack of attorneys perhaps my opinion would change. However, California has many well-qualified attorneys to represent the citizens of California. Indeed, we have more attorneys per capita than most states. This proposal to change the cut score is not a move to prevent a monopoly but to allow more members of a profession just for the sake of numbers itself. This is an irrational decision as it does not serve the profession and --more importantly it does not serve clients--in the long run. For a profession that must ultimately serve clients with the highest standards of care and competency it appears to me that our profession would be derelict our duties to permit the lowering of the cut score.

Third, the option to lower the cut score appears to be made as a reaction to fear rather than made from a logical position of strength. In order to better explain this point a brief look at the history for the last decade is necessary. When the recession hit, many students decided to attend law school compared to recently with the uptick in the market there are less applications as a whole to law schools. The lowering of applications to law schools has been reflected in a upward trend to accept students with both lower GPA and lower LSAT test scores (even prompting some schools to turn to the GRE as an alternative.) Rather than let the ebb and flow of economic decisions made by individuals, institutions are in a panic to admit more individuals to continue to keep their higher income. As a result, there are individuals who otherwise would not have been admitted to law school and graduating believing that they are entitled to pass the bar because of their degree. The ABA proposed a reform to the accreditation standard that would require accredited institutions to have a 70% bar pass rate. This was nearly one month prior to the release of the results from July 2016 bar exam. This prompted the schools in California to react strongly and

claim that the bar examiners are being unfair in the cut score. The low bar passage does not reflect on the bar examiners or the criteria, but rather the type of students and test takers that have sat for the exam.

It does not make sense to lower the standard to permit a higher pass rate for a profession that has such an important role in peoples lives. Indeed, other professions such as medical professionals have more requirements and we might consider modeling our profession to be more like these professions than not. Moreover, the California bar has already been made easier for individuals to pass by decreasing it a two day exam. If the exam cut score was lowered there is no guarantee that those who do not pass and law schools alike will agree that the standards are sufficient. In fact, if the standard is to change it would make more sense to adopt the UBE like New York did rather than just lower the cut score. I deeply believe that lowering the cut score is an inappropriate decision for the future of the legal profession in California.

Anonymous

When I graduated from law school, I knew that my education was incomplete, but at the time I really didn't understand how thoroughly deficient it was. That realization began to be remedied when, as a law clerk, soon after taking the bar exam, I was assigned to file some pleadings at the county clerk's office. It was there, on my first trip to the courthouse (!), that I learned that I truly knew nothing about the actual practice of law. (And why would I? Neither the State Bar nor the law school curriculum had any internship requirement, and I had also spent no time in a law office or a government agency or the courthouse.) Oh, I could spot issues and write essays, but I had no clue about much of anything else. It was clear to me that the desk and counter staff at the county clerk's office knew considerably more than I did about certain vital matters that had not even been mentioned in law school.

I have often complained about the quality and focus of my legal education and about the bar exam itself. Law schools usually teach (if you can call it that) the basic courses mainly by focusing on inductive reasoning. Yet, both law school exams and the bar exam, with their emphasis on IRAC, test deductive reasoning. In addition, the subjects are almost invariably approached philosophically rather than practically. (Of course, the fact that many professors hinder the learning process by needlessly engaging in intimidation, humiliation, and degradation is another subject altogether.)

In none of my courses was there any attempt to integrate the subject at hand with related subjects. For example, which of the following do you imagine were covered in my torts class?

1.Individual torts (intentional and negligent)—elements, issues, and defenses
2.Business torts—elements, issues, and defenses
3.Actions under specific federal statutes (Federal Tort Claims Act, etc.)
4.Relationship between torts and crimes
5.Measurement of damages
6.Tax considerations
7.Insurance and indemnity
8.Federal and state court jurisdiction over tort actions
9.Choice of law
10.Pleading as plaintiff
11.Pleading as defendant
12.Evidentiary issues
13.Enforcement of judgments
14.Research tools
15.Fee arrangements
16.Ethical considerations

Yes, only the first item. (A corollary, of course, would be that in Civil Procedure they should cover subjects like tort jurisdiction and pleading, etc.) I am not an expert in torts, but I do know that all sixteen of these areas are related and should be part of any lawyer's general background. And even if one is not going to practice tort law, doesn't the general public have the right to expect that someone who has passed the bar exam be at least familiar with all of those subject areas?

As a member of the consuming public, I expect the professionals I consult to meet very high standards, but too many lawyers do not rise even to a minimum level that would make me comfortable. So far as I have been able to determine, attorneys are the least well-trained of all the learned professions. Shockingly, the old saw that I heard the first day of law school—that when I open my practice the first case that walks in the door will be something I've never seen before—turns out in many cases to be true.

On the other hand, when I go to the doctor, I am confident that he or she has seen or heard of (and knows the course of treatment for) every common ailment that I might ask about, even if she did not specialize in that area. (For example, my father, who was board certified in internal medicine, had, among many other things, delivered over a hundred babies during the course of his rotations and internships.) When I go to the dentist I expect that he had seen hundreds of full-mouth x-rays like mine and has routinely handled countless numbers of fillings or abscesses. I have confidence that my accountant will first have worked for a considerable number of prescribed hours under professional supervision, in tax accounting and auditing, before being granted a CPA license.

On it goes. But lawyers need only pass a written exam, largely unrelated to the actual practice of law, before being identified as "attorney at law." And if you want to see how many lawyers are adjudged to be incompetent (not to mention dishonest), just look at the monthly list of disbarments and suspensions in any issue of the state bar journal.

Natalie Lahiji

The bar exam has already been made easier by virtue of being made a 2 day exam, rather than 3 days. It does not need to be made any easier simply because law school graduates and the schools from which they hail are complaining that they are not passing.

Unlike other professional schools, such as medical schools, physician assistant schools, etc., it is not difficult or competitive to be accepted to a law school -- but fairly easy, since potential law students can attend accredited schools, online schools, unaccredited schools, apprentice an attorney, etc. There are simply too many choices available, giving false hope to students. Still, all students know that they must eventually take -- and pass -- the California bar exam if they wish to practice in California. Because there is little to no stringency or scrutiny applied at the law school level, the stringency and scrutiny MUST be maintained at the bar exam level. Plenty of students have studied hard and passed the difficult 3-day bar, without complaint or demand that it be made easier for them to pass.

The solution to declining pass rates is not to lower the cut score. Given that California students have so many law schools available to them, and that those schools, as a profit-making endeavor, will not willingly close their doors, those law schools must 1) raise the standards by which they will accept students, and / or 2) do a better job adequately preparing their students to take the exam. For example, at Chapman University School of Law, the school offered free weekend bar examination preparation courses for students in their final semester at the school.

Lowering the pass score will serve to only flood an already flooded market -- it will do nothing to ensure that newly-admitted attorneys will find jobs, let alone that the newly-admitted attorneys will pursue relatively low-paying jobs serving public interest or under-served populations.

Incidentally, one of the stated reasons for California's high pass score is the fact that California does not engage in reciprocity with other states, who have lower standards for passing their states' bar examinations. If California bar exam standards are lowered, then California attorneys will demand to be allowed to practice in other jurisdictions pro hac vice, and California will have to allow non-California licensed attorneys to practice here. This is a slippery slope that should be avoided.

When our current market is already over-saturated, and the integrity of the profession is already questioned by the population, we must not make things worse by making "attorneys" out of people who lack the drive, ambition, or skills to study for and pass an trade exam that is meant to protect the public from entrusting matters of importance to capable providers.

Diane Allen

It is too soon to make adjustments to the cut score. One or two years of a lower pass rate does not make a trend. There is no issue of correcting a shortage of attorneys, and there is a need to maintain the quality of attorneys admitted to the bar. Graduates who need to retake the bar exam can ask for temporary extensions to their loans and work at least part time. Many attorneys have done this in the past.

Anonymous

If the pass rate is decreasing, then it is not due to anything other than lack of preparation. It is the job of students and their law schools to help prepare for the bar exam. Diversity, per se, or even making sure more students pass, should not be the goal; rather, increasing the quality of attorneys licensed to practice law. We already have too many bad attorneys; we do not need more. Keep the score as it is (or even increase it).

Anonymous

Leave the cut score as it is. The examination is rigorous, yes, but so is the profession of being an attorney is equally if not more challenging. During the bar examination, it is said that the exam is to test minimum competency. Therefore, to lower the cut score means to place at risk the legal profession as a whole as newly minted attorneys may not qualify to truly offer competent representation though they passed a less stringent bar exam.

As an attorney licensed by the State Bar of California, I take great pride in knowing that I passed one of the most challenging bar examinations in the country. For there to be a cutting of the score would make me lose faith in the State Bar's requirements and assessment of this profession. As currently score, it does a wonderful job of limiting who has the competency of practicing in the law and who doesn't.

This feedback is provided by a repeat bar exam taker. I failed the bar exam once, learned where I committed errors and prepped again with the assistance of a tutor. It was a challenge for me on a procedural level, but I deem the examination and scoring to be completely fair.

Anonymous

There are already more incompetent attorneys practicing law in the state of California than there should be and this will only make matters worse. We need more qualified attorneys and lowering the passage rate will have the opposite effect.

The root of this troubling problem is the Law School Industrial Comples, which is 100% profit driven. Instead of filling unqualified student heads with promises of high-paying jobs the should be honest with their students, and prospective students, so that these individuals to make an informed decision for themselves. It's not easy being a lawyer, it's not easy making money as a lawyer, and they should be conveyed to prospective students. If we truly care about raising bar passage rates, then we need to look to the law schools to do their jobs and train would be lawyers for the real world. LSAT scores and GPA are tried and true indicators of bar passage so it's not as though the plummeting rates are a mystery; more unqualified applicants are being accepted into places they have no business being all in the name of profits.

Furthermore, it is the job of the State Bar to protect the profession and dignity of the practice of law. Lowering the passing score will be no such thing and will actually have the opposite effect. Additionally it does not serve the public interest of protecting consumers from unqualified attorneys.

I am unpersuaded by the argument that lowering the score will allow for a more diverse bar membership. First of all, it seems as though this is just another example of the state of California pursuing equality of outcome and not equality of opportunity. The cream always rises to the top and in this case there is nothing barring a person from any background from becoming an attorney; there are scholarships, grants and loss which can help individuals with the cost of law school; they just must be smart enough.

No one from law income communities will be served by this because law is a labor based industry and unfortunately for some, you get what you pay for. Is someone truly better off spending their last pennies on an unqualified attorney rather than proceeding in pro per with the assistance of their local legal aid clinic?

This is a terrible idea and I'm shocked iit is being seriously considered for implementation.

Anonymous

I do not believe it s in the public's interest to dumb down the bar exam. Are we that desperate for new attorneys that we have to lower the standards?

Anonymous

From my reading of the comments and studies, it appears that students with weaker academic cerdentials are being admitted to Law Schools in Calif.
It seems reasonable and logical that with weaker academic cerdentials going into Law Schools, the graduates taking the Bar exam will contribute to a lower pass score.

The purpose of the Bar Exam has always been to set specific standards for the men and women, of any color, who take the exam. To lower the cut rate would
1. Be an admission of our Law Schools that they are neither admitting the best students, nor bringing their students up to speed to pass the exam;
2. Admit persons who are not qualified to practie law, to be attorneys;
3. Lower the quality of legal service to the community.

I strongly oppose the lowering of the cut rate, and the dilution of the quality of people passing the bar.

Jacqueline Scheck

Is your goal to increase the pass rate, or to require the applicants to meet the standard which thousands before them have met? I passed what we jokingly called the Official Bar Exam of the 1984 Olympics, because the exam was held in the week preceding the Los Angeles Olympics. I passed on my first try, as did almost all of my classmates with whom I took the exam, despite the distractions of the Olympics preparations. If today's applicants can't pass the exam, perhaps they shouldn't be lawyers. Perhaps they need to grow up and focus on their work ethic. Don't dumb down the threshold just to keep the numbers up.

Anonymous

I sat for the February 2017 bar exam. In preparation for the exam, I did hundreds of past MBE questions and prior essays, as well as several performance tests from past exams. I passed.

I think there are several issues going on with the California Bar Exam but I don't think any of them have to do with the exam itself. I think that too many people are unprepared for the exam, either because they did not receive a proper education or because they were not proper candidates for law school itself. If you look at the pass rates by school, you find that takers from ABA approved schools did significantly better than those from other types of schools. My school had a 69% pass rate for first-time takers. This tells me that I received an excellent education that prepared me for the bar exam.

Rather than make the bar exam easier to pass, it seems more sensible to apply more rigorous standards to law schools for both admittance procedures and quality of education. Dumbing down our lawyers is not the answer.

Gail Rosenmund - CA resident

There are too many poorly trained young lawyers - I am amazed how some of these people have passed the supposedly current difficult bar exam - and in addition to not being well qualified to practice law, many are exhibiting a total lack of understanding of the ethical obligations of an attorney. If it was an option, I would take the position that the bar exam be more difficult to pass.

Anonymous

Law schools have consistently lowered their standards in order to attract an increasingly underqualified pool of applicants. The solution to this issue is to stop facilitating this rent-seeking behavior, not to erase its consequences by lowering standards. Diversity in the profession and access to legal services are both serious issues in the law, but they should be addressed by supporting diversity at the law school and college level, mentoring opportunities for young lawyers, and by decreasing the costs to young lawyers of practicing in less lucrative areas (i.e. by lowering tuition, loan forgiveness). The proposed plan merely allows law schools to keep bilking the least advantaged and removing the pressure from low-performing schools to improve their programs. There is not a shortage of lawyers. There is a glut of law school greed. While it is unfortunate that many young people are saddled with too much debt, the solution is to stop the practice of allowing massive debt-financing of worthless degrees, not artificially imposing worth on those degrees.

Anonymous

There are WAY TO MANY attorneys in California:

Licensed attorneys in California: 249,648

Commissioned Notaries in California: 162,411

When I had to re-take the Bar multiple times in the late 80s and finally passed it, the pass rate was about 27% to the low 30 percentile. Because of the insight and reinforcement from failure, I am a much better attorney than if I would have passed the first time with a low cut score. The harder the bar exam, the better.

Anonymous

The sad fact is that there are too many law schools turning out too many individuals unqualified to practice law in California. The answer is not to lower the bar cut score, the answer is to crack down on these low performing schools and shut them down. Too many students are graduating from low performing schools with high debt and no prospects for finding a legal job they are qualified to perform. We need to be more like the medical profession and limit the number of students admitted to law school.

Wilfred Freeman - Law Office of Wilfred J. Freeman

Law schools are for profit institutions, de facto in case of those associated with state universities or state colleges. It is better for their bottom lines to lower the passing score so they can attract more students in an era of declining enrollment, but it does nothing to improve, or, probably, even maintain the quality of the legal "profession."

On the other hand, what you learn in law school has no bearing on the quality of the legal profession as actually practiced. Graduating and passing the bar only gives students the right to learn how to be a lawyer - through on the job training.

Since new lawyers have to learn how to practice law on their own after they are admitted to the bar, why not just change the rules so law school teach students how to pass the bar? Once admitted, states could rely on the mandatory continuing legal education, which does teach practical skills, to improve the quality if the profession. Better yer, while recognizing it likely is impractical, why not require post-admission internships the way real professions do?

Anonymous

In my practice, I already encounter a very high number of attorneys that are borderline incompetent. We do not need to increase this number. I disagree with the implication in the survey that we need to lower the bar in order to admit more diverse attorneys. If there is a place for affirmative action, it is at a much lower level. By the time someone reaches the professional license stage, they can compete on merits or they should not be in the field. The only way to have it mean something to be a member of the CA bar is to keep our standards high regardless of factors such as race. It is not obvious to the public how to check the competence of their potential attorney and it would be unfair to put that risk on the public that they may be paying so much of their money for sub-standard service.

Anonymous

It is illogical to increase the number of eligible attorneys when there are not enough entry level jobs for graduates as it is. The test could be changed to be more tailored to skills actually used as an attorney instead of just testing the ability to memorize large amounts of information. But the current test should not be made easier. There is no reason to do this except to try to help students that have debt they can't pay off because they can't pass the bar, but it isn't fair to pass this burden on to new attorneys who also have the same problem. Law schools should accept responsibility for the lower pass rates, not the bar.

Charles R Cook - Law Office of C R Cook

California has enough attorneys. The problem is that the lower income population cannot afford legal representation. Lowering the cut score to get more attorneys admitted will not solve the problem. There will just be more unemployed or underemployed attorneys. Doing pro bono work is not enough because an attorney still has to make a living. The long term solution must be to finance more legal foundations to hire lawyers to help the underrepresented.

Angel Triola - Retired

California is one of the few states that allow Non-ABA schools and given that the California Bar Exam should not modify/lower their cut score. It will reflect badly on these schools and on the profession as a whole.

I went to one of these Non-ABA schools and alot of people from my class lacked the intelligence and judgment to be practicing attorneys. A tough bar weeds out people that slip through the schools, and allows only the best to practice. That is the way it should be.

Additionally, if we want to practice in another state, it looks bad when they see California lowered their score in order to increase their bar pass rate. That is equal to lowering your entrance standards to get more members. It devalues the members who passed when the cut score was higher.

Many associates back east have mentioned this to me, and I thought I would pass it on. California should not lower their bar pass standards, the same year they start selling recreational marijuana. It just plain looks bad to the rest of the country.

Anonymous

The difficulty of this test is what upholds the integrity of the legal system in California. If you study hard enough, and take the BAR seriously, you can pass on the first try.

Anonymous

Upon review the Committee of Bar Examiners Open Session Agenda Item, it appears that the lowering of the pass rate most benefits repeat test takers, CA accredited takers, and registered takers. The difference in passers for ABA accredited law schools both in CA and out of state is very small compared to the increase in passing applicants for the other categories. I believe that lowering the cut score would adversely affect the public, because clients typically do not consider whether their counsel is a repeat bar test taker, CA accredited bar test taker, or registered taker, or ABA accredited taker, and only rely on the fact that they are admitted to the bar to trust them with their legal work. However, given the high stakes of legal work in general, and the large amount of responsibility that comes with being a licensed attorney in California, it is not a burden to require bar test takers to study to retake the bar in order to pass a score of 1440.

Anonymous

If new applicants are unable to pass the bar with a cut score at 1440, the answer is not to make it easier for applicants to pass the bar by lowering the cut score. There are numerous factors to be considered here (increasing diversity, increasing access to legal services, protecting the integrity of the profession, protecting the public from unqualified attorneys, etc.), but I believe the integrity of the profession should be the foremost concern.

Our goal should be to raise the qualifications of attorneys in California, not to decrease them. The short-sighted solution is to just simply lower the cut rate. I believe instead the State Bar should take the long-term approach to better educate applicants to to pass the bar with a 1440 cut rate. The State Bar should investigate why the passage rates are decreasing, and determine how to prepare applicants for the bar so they pass the first time.

Robert Endries

I appreciate that the bar exam is difficult, however it is a pass fail exam and I read that "despite California's low overall pass rate, first-time test takers from California-based ABA-accredited schools scored the highest pass rate in the nation, at 62 percent. " So the people that are bringing the pass rate down are people that are graduating from NON-ACCREDITED law schools. According to the article, the pass rate for those that went to ACCREDITED law schools was the highest pass rate IN THE NATION. If people choose to go to a non-accredited law school and take their chances, they have to deal with the consequences. They have the freedom to choose to attend a non-accredited law school. However, attending and graduating from a law school is not a guarantee of the right to practice every kind of law. There is a reason these schools are not accredited by the ABA or in some cases, the State of California.

A legal education is good for many careers - you can still use the degree without passing the bar exam. The practice of law is exacting: i's must be dotted, t's must be crossed. Punctuation and grammar are important. It is a mentally rigorous profession, and even passing the bar exam is no guarantee of success. The practice of law owes nothing to no one. It is the lawyers who owe the practice of law, and should thank whatever power that be that they have the opportunity to practice it.

As far as consequences for those who do not meet standards, the consequences are second only to those who practice medicine. While a doctor may cost someone their life or health, an unqualified lawyer, in intellect or discipline, can cost someone their livelihood, their life savings, their home, their children, their freedom. The bar has an obligation to ensure that only qualified persons are permitted to practice law and shoulder the enormous responsibility and challenge that it can bring, and it must not bow to outside pressure to lower the standard. Should we do the same with our high schools? A 75% graduation rate is too low? Make it 80%. 90%. Does that make those that graduate any more qualified or educated? No, it doesn't. Such a system would not serve those students, and lowering the pass rate would not serve the good of the public.

Anonymous

The decline in pass rate says more about the quality of the upcoming candidates who are taking the exam. It says that the applicants are not qualified to be admitted to the bar due to a lack of exam preparation. We are faced with millenials who approach the hardest bar in the country with little to no preparation and who expect to have a passing score handed to them on a silver platter. There are already too many signs in all facets of education and life where we are coddling a generation of people who have never had to work hard for anything and thus do not value the true reward of great accomplishment. Rather, we as a society are far worse off when we have to continually lower our standards because this young generation refuses to put in the sweat equity. Passing the bar said something about the character of that person. Now it is the equivalent of a participation trophy. Keep the current cut score.

Melissa Rhee - Martucci & Associates

From someone who has taken the bar exam twice, I see no reason why the passage rate should be lowered.
1. There is no shortage of attorneys in California.
2. I see so many new attorneys who doesn't even make an effort to craft their skills to be a good attorney.
3. To lower the passage rate would not benefit to the State Bar of California. It would simply admit more attorneys who aren't qualified to be an attorney.

Richard Bailey - Retired

I think that the more important issue is to compare the pass rates based on ABA schools vs. Cal. Acredited schools. My suspicion is that there is a vast difference in the levels of training, the toughness of the programs, and of course on each type of school's pass rates. I ran a Family Law Facilitator office from 1999-2007, and our experience with working with law school interns was that we stopped interviewing students from Cal. Accredited schools, and focused solely on ABA schools. This was a practical decision based on our experience; instead of attempting to mert any "socially motivated" goals, we simply focused on the best prepared students..

Susan Petrovich - Brownstein Hyatt Farber Schreck

I strongly disagree with an erosion in the standards for admission to the California State Bar. The response to mediocre scores never should be to reduce the standards that every other practicing attorney in this State has had to meet to earn the right to practice law. Anyone seeking legal advice need to trust the person providing that advice. The client is entrusting his or her life, children, and property to the attorney undertaking the representation. The growth of unaccredited "law schools" in this State has concerned me for decades because I believe those "schools" (if you can call them that) are preying on innocents. Reducing the cut score simply encourages people to attend these questionable facilities. It also would result in more people practicing law who were not capable of meeting a standards that has withstood the test of time. Lowering the cut score will send the wrong message to the public and would be a disservice to the legal profession as well as to potential clients of these under-qualified applicants.

By the way, I am a woman who worked my way through UCSB and Hastings College of Law. It was tough, but I studied hard to make superior grades and to pass the Bar Exam the first time (also while working because no one else was supporting me). My sister, in contrast, partied her way through the pre-exam study period and, not surprisingly, failed to pass. Eventually, she passed, but I can't say much good about her legal career. I have another relative who has taken the exam repeatedly but can't seem to pass, but has every excuse in the world for not studying enough to make the grade. If you can't pass the Bar Exam, you don't deserve the trust of innocent people who rely upon you to know the law and know who to study the law as it changes.

Anonymous

California allows just about anyone to take the Bar Exam which is the best way to allow "all" potentially qualified individuals an opportunity to meet the minimum standards to be admitted to the State Bar. In the 1980s the Bar passage rates were significantly lower than they are now despite having better qualified candidates. With standards for all educational institutions continually being lowered, particularly in California, and the job market for attorneys being tighter than ever, it doesn't make sense to lower the standards any further, either for the public or the maybe not qualified individual who will spend a good part of his or her life studying and paying for a profession that may never materialize.Just as in other areas of the job market, technology is right at the cusp of significantly reducing the need for attorneys in many areas of practice which I don't even think has been considered in this discussion.

Anonymous

There are already far too many unemployed and underemployed attorneys in California. The answer is NOT to make the bar exam easier. Pass rates continuing to decline will hopefully discourage all but those who TRULY are committed to the practice of law from attending law school in the first place, as well as force law schools to modify their curriculum to actually help prepare students for the bar exam. If the concern is underrepresented or disadvantaged students, then the better route would be to subsidize the cost of bar prep courses/materials.

Kevin Mclean - retired

I believe the low pass rate in California is due to the lowering of standards for law schools and for those admitted to law schools to the detriment of both those seeking to be attorneys and the public. I attended the University of Pennsylvania undergrad and Boston University School of Law. As I recall, the pass rate of the Massachusetts Bar exam which I first took was 98% for B.U. Law graduates. Expanding the opportunity to become lawyers by enlarging the number of law schools has only resulted in students going to law school who should not go in the first place because they are not qualified to practice the difficult profession which is the law. It has led to profit for law schools holding out false hope to students and burdening them with loans they can never repay. The law profession is consolidating and shrinking. We need fewer, not more lawyers, and certainly not less qualified ones than the standards we currently have, which, given the nature of law schools existing in California, are low enough as it is. At least the bar exam as it currently exists can separate out those who can handle the practice of law from those who do not. I think it more important and useful to greatly expand the number of medical schools and lower the standards for medical students since we need more doctors to lower costs and the number of medical schools has been greatly controlled to keep the number of doctors artificially low.

Anonymous

Why are rates declining?I need to know that before I could really form an absolute opinion.

Anonymous

In order to protect the integrity and quality of the profession and to further the fostering of professionalism among practitioners and providing of more than just adequate legal advice and counsel to clients, the current cut score should be increased. Although diversity of the profession is an admirable goal, the lowering of the standard to practice law may or may not effectuate the goal of diversity to be achieved.

Max Shepherd - Retired

i have been a member of the New Mexico Board of Bar Examiners for the last 15 years.

During the past several years we have had to deal with the issue of dropping pass rates even though our cut score is and has been much lower than California's.

In trying to understand this phenomena we concluded that the admission policies of our one law school played a major role. As the number of applicants dropped our law school dropped its admission requirements also dropped in an effort to keep students in the seats and professors employed. We have not resolved this problem but i was heartened tos ee that my Alma Mata, Hastings College of the Law, had decided to admit 20% fewer students. Our law school has not been as proactive.

In New Mexico the role of the Board of Bar Examiners is to protect the public not the applicants, as harsh as that may sound, and we determined that lowering the cut score so more students would pass ran counter to our responsibility to protect the public, so we did not lower our cut score in the face of falling pass rates.

Mary Elizabeth Bolint - --

I passed the May 1977 California Bar Exam which had an overall pass rate of about only 20%. It was the fIrst time I took the Bar exam. I worked my way through law school and had great financial difficulty during those years. Over a 10 year time, I paid back my non-State law school tuition loan. It was worth it all, because the California Bar Exam is very prestigious. The low pass rate and high standards are well known throughout the country. And it is very respected because of it. Practicing law in California is an honor, and any example of excellence. It should not be diluted or given away.

As firstly a member of the California Bar, I practiced in California, then internationally and in another state. I also passed that state's Bar Exam on the first try. The California Bar Exam and California law schools prepared me well to work to the highest standard among my peers.
The California Bar Exam is gender blind and color blind. That is the way it should be. As a lower middle class white female with no family funds, I still achieved my goals and proved my worth. So should all.

I believe the California Bar Exam standards should not be diluted. Rather respected, and worked to achieve as an independent standard. Not politically correct.

Reymond Kirkman - Retired

If anything, raise the cut score.

California does not need more lawyers. It is flooded with them now. Many are inexperienced and unqualified.

At one time many years ago the career path for lawyers was to first spend a few years mentoring with a law firm or governmental service to "learn how to be a lawyer" as this is not taught in law schools. With the surge of young lawyers the career opportunities has shrunk to the point where only the top 10% of any class can look forward to receiving a paying job offer. The rest of the class must fend for themselves, which can mean "hanging out a shingle" as a sole practice. Inexperienced sole practioners are unpredictable and inefficient. Their clients suffer their mistakes.

I started practice in Minnesota in 1966. At that time there were but aprox. 2000 lawyers in Minnesota. Now Minnesota law schools have enrolled over 1500 students. Why the increase in enrollment? Back in the 60s every male college student was concerned about the draft, and graduate school was an avoidance ticket. Law school was the easiest graduate school to enter Law schools became flooded with applicants and enrollment was greatly increased to "meet the demands" for admission. Law schools expanded or were founded based on this applicant demand. Contrasted, the "need" for lawyers remained somewhat constant and increasing parallel with population increases.

I'm 77 and have been fully retired since 1998. I was admitted to the California Bar in 1978.

Justin Schmidt - Jaffe Raitt Heuer & Weiss

I am practicing attorney who took and passed the California bar exam in July 2015. I had already passed the New York and New Jersey bar exams in 2008 and needed to take the California bar exam for work as our practice was expanding with California clients. I studied for the California bar from late May up until the bar exam date in late July. I'd come home from work and eat my dinner while studying from 6 pm to midnight every night and studied basically all day on the weekends. I used the BarBri online program and watched all the lectures and did as much of the homework as I could. I am in favor of keeping the California bar exam cut score where it is because while the bar exam is difficult, the key to passing it is putting in the time to study. I had to make time to study, even though I had a family who wished I was spending more time with them. I wasn't sure I was going to pass because I didn't have the time to devote full days of studying like I did when I graduated law school and studied for the NY/NJ bar exams. But I knew that if studied at night and on the weekends, I'd have a good shot at passing it, and thankfully I did. Only 35% of practicing attorneys who took the July 2015 bar exam passed, but I'm not sure all of them put in the hours that I put into studying for it. I found the exam to be challenging, but fair. I think the bar passage rate statistics should break out who passes the bar from an ABA accredited law school vs. unaccredited law schools. If the statistics were broken down this way, I doubt the pass rates would look so grim compared to other states.

Jennifer Drummond

Some people say that the bar exam means nothing with regard to the actual practice of law - that it is "just a test." I disagree. Each time I prepare for a hearing, have an issue to resolve, research or go to court, I find myself using the same approach that I used to pass the exam in order to effectively represent my clients. The exam is stressful, so is appearing before a judge and presenting your client's case. We have to memorize and remember a lot of rules and laws, and then apply those rules and laws to the fact patterns in order to pass the bar exam. The same is true in practice. In practice, each case is like an actual performance test. The State Bar of California has already reduced the test from three days to two days. I disagree with further reducing the required test score to pass. The test should be hard be cause the practice of law is hard.

Autumn Adams - Adams Law, LLC

I took the California Bar 6.5 months pregnant. I was afforded no accommodations for being pregnant-no extra bathroom breaks, no water in the test room and no food outside of lunch. And I managed to pass and study 14-16 hours a day. The problem is not the test, the problem is the preparation for the test. I went to law school at the University of Toledo in Ohio. At UT, our final exams for any topic which may show up on the Bar was a Bar style exam. In Ohio, the Bar is twelve, 30 minute essays limited to 650 words and two performance tests limited to 3 hours each. So, for three years I practiced taking the Bar. I graduated law school already haven taken the Ohio Bar simply by virtue of every Bar class final exam being a literal Bar exam. Start preaparing students for the Bar by instituting a program similar to UT's program

Anonymous

I disagree with the proposal to lower the cut score for the California Bar Exam. The bar exam has already been made easier (i.e. "dumbed down") in recent years by making the bar exam two days instead of three. If the State Bar of California is concerned about the decline in bar admissions in recent years, it should look to other alternatives to either increase recruitment to the profession or improve the quality of legal education being provided to bar applicants. Lowering the cut score is not the answer, as it will likely just lead to less-qualified applicants being admitted to the practice of law.

Anonymous

The score should be kept the same should, it should not be lowered. There are too many attorneys as it California and by lowering the score we would only be saturating the market more with unqualified people who do not have the will power to practice law.

Steven Blake

Thank you for considering my comments on this important subject.

I am a member of the State Bar of California, and am also licensed to practice law in two other states. I wish to expand upon my recommendation that the Supreme Court of California maintain the existing cut score of 1440 with the following observations:

1. The current "crisis" that has overtaken the State Bar following recent declines in pass rates for bar examinees seems largely one that has been manufactured by a particular constituency - namely: law school Deans. Indeed, it is the Deans of the various California law schools that have publicly (and perhaps cynically, with a modicum of self-interest) called upon the State Bar and the Supreme Court to address the low pass rates by way of adopting a lower cut score. And the State Bar seems to be reacting to the Deans alone, rather than acting in the interest of their larger and more important constituency: the citizens of California who rely on the State Bar to "protect the public & enhance the administration of justice." Nothing about the Deans' emotional pleas for cut score relief seems in any way crafted to conform to the State Bar's principal mission. In fact, they have presented no evidence whatsoever to support a lower cut score.

2. We don't really know why bar exam pass rates have fallen in the last couple of years (and there have been similar down cycles in pass rates over the decades). True, there has been a lot of speculation as to the cause; yet the cut score in California has remained constant for 30 years. And the exam format itself has remained unchanged over that same period (the impact of the new 2-day exam is TBD). Yet, even with similar pass rate declines, no other state that I am aware of is considering lowering their cut score in a similar and arbitrary fashion. So why rush to lower the cut score in California before we understand why pass rates have fallen? The result of a more thorough and longer-term evaluation of the current law school climate and bar admissions criteria - quality of students, academic rigor, public interest, access to justice, and diversity of the members of the profession - would seem to be in order before taking any action that could jeopardize the public interest.

3. The State Bar's own July 28 "Standard Setting Study," which is the only scientific study presented as evidence in this debate, actually validates the 1440 score! There is no probative evidence to refute the State's Bar's study conclusion; hence the score should remain unchanged until such evidence is presented and weighed against Dr. Buckendahl's conclusions.

4. Finally, I would support a comprehensive, longer-term, top-to-bottom review of the bar admission process in California. I agree that access to justice, diversity of members of the profession, and public protection should all be weighed together. And perhaps now is the time for the State Bar to consider dropping some of our antiquated barriers to practice in California, which both directly and indirectly impact all of these factors. Rather than an arbitrary reduction in the cut score, how about an evaluation of a switch to the UBE in California? Or admission reciprocity with other jurisdictions via a portable MBE score? Or admission on license for experienced lawyers from other states? Even small tweaks like broadening the RIHC program to permit lawyers admitted thereunder to volunteer for pro bono work would have a much greater impact on access to justice than simply lowering the cut score.

In conclusion, I strongly oppose a reactionary and arbitrary reduction in the cut score at this time. But I do support a comprehensive review of the bar admissions process in California to consider whether the current admissions criteria sufficiently support the State Bar's mission: "Protecting the public & enhancing the administration of justice."

Respectfully,

Steven Fox - Fox Law Corporation

I was admitted to practice law in CA since 1988. I have done so since 1989. I own my own firm and, on and off, I have had associates working for me.

It is important to diversify the white male body of lawyers. At the same time, I do not believe it appropriate to dilute the quality of lawyering either. I spend time with young lawyers and in some instances I am surprised at how little they know. Hopefully I was not the same at their ages.

I think that the quality of the attorney must be kept high, something lowering the cut score will only hurt, must be maintained. I also believe that people rise to the level required.

I would not make it easier to become an attorney in CA.

Thank you.

Anonymous

This discussion treats the symptom and not the disease - candidates for the bar who graduate from non-accredited law schools are at a distinct disadvantage, as evidenced by their comparative passage rates. This is the real issue in my mind. While it is true that California can say that it gives candidates from non-accredited schools a chance that no other state bar will - the chance to sit for the bar exam - it is equally true that the passage rate for such candidates is dishearteningly low. Many graduates from non-accredited law schools will take the bar exam multiple times without success, ultimately left with crushing debt and zero prospects to become practicing attorneys. Perhaps the bar should be more concerned with making sure its members are adequately trained rather than lessening its standards. I don't think the California bar exam is objectively or demonstrably more difficult to pass than the bar exams of other states. The fact is that allowing graduates of non-accredited law schools has allowed a cottage industry of sub-standard law schools to take hold and grow.

Anonymous

In California, we seem to want to dumb-down everything so that as many people as possible can enter into a group.

Will the medical doctors be next? Will we reduce their pass scores so that more people can be doctors, even if they are under-qualified?

I see attorneys in courtrooms everyday where I wonder how they passed our exam. I see even more clients that come into my office after having their cases botched by unqualified attorneys that hold bar cards. It is horrific to see the damage these attorneys do to individual lives on a daily basis.

If you cannot pass the test, you cannot practice. This isn't "everyone gets a trophy" participation. If students leave with high debt from law school, but cannot pass the exam then maybe their own financial management and lack of grasping legal concepts means they cannot be an attorney.

Not everyone can be a Navy seal. Should we lower the standards there too? Where does it end?

If you are not cut out to practice law, enroll in schools that give you large debt, and then cannot pass the test to screen unqualified applicants, then that is on the student, not the system. Not everyone has the skill level and talent to be an attorney.

Stop lowering the standards! This is a disaster for the public at large who will be saddled with unqualified attorneys.

As a second comment, it would be interesting to do a study on the percentage of attorneys that have trouble passing the bar examination that are later disciplined and/or suspended by the state bar. I believe there is a strong correlation.

Anonymous

There is nothing wrong with a low pass rate. It is not the State Bar's responsibility to make people pass. It is the test taker's responsibility to prepare appropriately. Passing the bar should not be about getting an extra bunch of points handed to you. People already think poorly of attorneys. Why not elevate ourselves instead of lowering the bar.

Josh Lewison - Radcliffe Chambers

I graduated from a foreign law school in 2004. After practising abroad for 10 years I sat the bar exam in 2014 and passed. It was a tough exam, but no harder than law school finals. If you study hard and answer enough questions, there is no reason not to pass. In my view, the poor performance on the bar exam has more to do with the quality of students or their studies than with the cut score.

Anonymous

Law school grads are having hard time finding employment as it is. The California bar exam has been just shortened to two-day exam, which would presumably raise the bar passage rate. I do not see the rational at all for lowering the cut score, which would raise the bar passage rate even further. How does increasing the competition of lawyers (through increased supply of new attorneys) help the legal profession? I ask because one of the survey questions seemed to express some concern for law school grads finding employment. More importantly, lowering the cut score would mean less qualified law school grads would become lawyers, and I do not see how this could be beneficial to the public. Lowering the cut score is absolutely ridiculous idea.

Jacqueline Dewitt - DeWitt Legal Services

California attorneys are held to a higher standard than other states. Attorneys that pass the bar are more qualified than attorneys in other states. I don't want to see our standards lowered just because some people cannot pass the bar. Maybe we should hold the law schools accountable to better prepare their students. Doctors don't lower their standards, in order to flood the field with lower their standards and flood the market with a bunch of unqualified doctors and neither should we.

Anonymous

Unemployed law graduates are at all time high. There are too many unqualified law students and attorneys. I would like the committee to consider the quality of attorneys we admit in the future. We need more ethical, honest and upright attorneys, not people who knows how to play and fault our judicial system.

Anonymous

I recently attended an ACC event and observed a very diverse group of attorneys in attendance, with more than 50% of the attendees including females and minorities. I am also aware that CA employers are extremely concerned about diversity and gender inequality based on state law, which drives various initiatives intended to achieve these goals. As a result, I am somewhat satisfied that diversity and gender inequality issues are being actively and appropriately addressed.

Lowering the cutoff encourages a declining competency in our profession, and takes the pressure off state law schools to ensure that candidates meet the mark. Instead of lowering scores, our organization should be proposing standards for our educational institutions, to lower costs and turn out better qualified candidates. Of course this is a lot harder to do than lowering the cutoff score, but holding educational institutions accountable for the lowering pass rates against very reasonable exam standards is the right thing to do.

Patrick Burns - Law Offices of Patrick J. Burns, Jr. PC

I am writing to follow up on my earlier comments. Instead of lowering the cut score and admitting less qualified members, the California Bar should take a hard look at the below passage rates. CA Accredited and Registered schools both had a mere pass rate of 13.1% - the overall pass rates are being weighed down by this and quite honestly, if 87% of these school's graduates are not passing the bar, why are they still allowed to operate in California? A lot of these law school students are spending a bunch of money and being misled about their ability to become Bar members. Second, I am hard pressed to find statistics on the school by school pass rates, however the Above The Law link below addresses ABA law schools in CA. Some of these schools fall well below the pass rate. If they do so consistently, the CA Bar should work with the ABA to have them placed on probation. After a reasonable period of time, if they don't turn things around their ABA accreditation should be revoked. By closing down the CA Accredited and CA Registered law schools, the pass rate would jump by about 10%. This would maintain the integrity of the CA Bar and prevent students from being misled about their prospects to join the BAR by attending and paying for a school with an 87% Bar failure rate or perhaps higher (hard to say since I cannot find pass rates for CA Accredited and Registered Schools on a school by school basis).

See:

http://apps.calbar.ca.gov/cbe/docs/agendaItem/Public/agendaitem1000001926.pdf

Recommended Cut Scores Compared	ABA	CA Accredited	Registered	Out-of State ABA
July 2016 Exam Pass rates at 1440	54.3%	13.1%	13.1%	48.5%
Pass rates at 1414	58.1%	17.1%	14.2%	51.7% %
increase of passing applicants from 1440 to 1414	7.0%	31.0%	8.6%	6.6%

July, 2016 pass rates by CA ABA accredited schools”

http://abovethelaw.com/2016/12/california-bar-exam-results-by-law-school-2016/

Kellie Bronson Geyer

Based on the information I have read, fewer applicants are taking the LSAT and of those that do, fewer are actually enrolling in law school. Law schools, however, are not decreasing their class sizes accordingly. Therefore, one must assume that law schools are currently accepting applicants that previously would not have been accepted. These applicants are, most likely, less equipped for the rigors of the bar exam. Further compounding the problem is the fact that California allows students from non-ABA law schools to take the bar exam.

California already has a glut of lawyers, a problem the Bar acknowledged in 2013. Lowering the cut score simply enlarges that glut and pushes the can down the road. Sure, more people pass the bar exam, but that doesn't guarantee those people will find a job. Instead of pushing the can down the road, law schools should be held responsible for their admissions policies and mandated to admit students at a rate that reflects the actual need in the market. Universities should not be making money at the expense of unqualified students and then crying foul when those students cannot pass the bar.

Shame on the California State Bar for considering such a move and shame on California law schools.

Anonymous

Gentlemen:

With regard to your request for comment for the consideration of the Committee of Bar Examiners, I would wish to comment that my Bar Number is: 30849. Approximately three hundred thousand attorneys have been admitted since my admission. I have noticed that, in recent years, there has been a deterioration of the practice especially in the area of civility. I am a Bankruptcy litigation practitioner and was involved in a recent case with an opponent who filed multiple Adversary Proceedings against my clients that were, in fact, groundless. I believe there were 6 in number and all were dismissed pursuant to 12(b) Motions which were Appealed to the Bankruptcy Appellate Panel and then to the 9th Circuit Court of Appeals. All were groundless and Affirmed. This practitioner is presently defending some of these matters before the State Bar but I am raising this simply by way of example as what seems to be becoming the norm rather than the exception. Based upon my experience as a practitioner, I do not believe the standards should be lowered. We need to promote a higher culture of conduct rather than allow the culture of the Bar to deteriorate further.

Respectfully

Richard R. Clements

Steve White - Law Office of Steve White

Reducing the score means less qualified individuals pass the Bar. This is no service to minority groups. It is harmful to the public, because less qualified individuals become licensed. It does nothing to promote diversity, unless you assume that minority applicants are not smart enough to pass the "real" exam. I disagree. I believe people of all races come in all varieties of intelligence, some smart, some hard working, and some not so much.

Therefore, your not doing minority applicants any favor by lowering the acceptable score. Equality of admission to law school should provide applicants who work hard and are intelligent with sufficient opportunity to become members. "Undeserved community" members deserve high quality legal representation, just like everyone else. We need to uphold our professional standard of quality.

I agree that we need to encourage minority and undeserved community applicants. Lowering the standard for entrance to the Bar is not the acceptable way to do it. Tuition help or tutoring in law school would be more consistent with graduating qualified attorneys.

Anonymous

Rather than lowering the cut score, we would be better served revisiting the education provided to law school students and providing better accommodations (both in law school and while taking the bar exam) to individuals who require them. Simply lowering the cut score to try to increase the passing rate, without addressing more systemic or personal issues, will simply be a "band-aid" to manipulate the numbers, but will not work to resolve the underlying problems leading to the trend in lower passage rates.

Janet Thompson - retired

I don't agree that dumbing it down will serve the profession or the public. We need to keep standards high.

Anonymous

Lowering the required score will diminish faith in the California State Bar.

Anonymous

I understand that the declining bar exam passing rate is a concern, but lowering the cut score simply lowers standards without addressing the underlying causes of the declining pass rate. Studies should be conducted to determine the underlying causes in order to properly address them. The Bar should also review how other states are able to have higher pass rates. Lowering the cut score lowers the standards required to become an attorney in California and may affect the quality of attorneys on our rolls. Also, this is unfair to previous attorneys who have already passed the bar exam.

Anonymous

I have used young attorneys & found that their writing & research is below average we should NOT lower the cut score we need to increase their quality of legal education. Students need to study/work harder to bring up quality We should NOT lower our standard !

Anonymous

To be a 'professional' implies a higher standard of knowledge and care of clients in whatever profession. It should be hard to attain. If it doesn't mean enough to the person so that they learn how to learn, and study their patooties off to pass the tests, then they have fooled themselves. They should not be foisted off on the public. If they can't do it... think about making a transitional program to be a legal assistant [also something that might be good way to use retired attorneys].

You all need to change the way you think of the profession. It is not about letting me be an attorney because I am black, Indian, female or transgender... if you want to remain a profession then it has to be about the best of the best, the creme de la creme, that DESERVE respect and title and representing the population. You need to raise the standards... and that is contrary to what you have been doing for at least the last 30 years.... dumbing everything down to prove how compassionate you are. That is such BS. I no longer know that if someone in CA has passed the bar, even with the 1440 cut rate, whether they are competent because you have focused on social issues rather than competency.

And then you charge BAR dues? Should be ashamed of yourselves for your lack of clarity of thought, for incorporating a dumbing down of the profession.... and you do a disservice to the people who want to be attorneys.... if they are honest, they no llonger know whether they are any good, unless they have an outsize ego in the first place... which is never good for clients.

Anonymous

Keep the standard exactly where it is but add a "diploma privilege" to allow grads from California law schools that are ABA accredited to practice law without having to take the bar exam, as they do in Wisconsin.

Frederick Mclane - Retired

Don't "dumb down" the bar. Talk to judges: California has too many incompetent attorneys now.

Anonymous

As a former California State Bar Examination Grader, I can attest to one of the key factors behind a lower pass rate and that is poor performance by a large number of annual Bar exam takers. I am not referring to their writing skills (good or bad), as this is not taken into account in the grading of the exams. Rather it is the failed exam taker's inability to spot issues, articulate in any fashion the rules and analysis behind reaching conclusions (when conclusions are even found in their answers). These exam takers were not ready to represent a clients' (whether it be individuals or entities) best interests, as a strong case can be made that serious issues facing such clients may never be seen or addressed sufficiently to prepare a coherent advocation. The big loser in lowering the entrance standard is the client represented by someone not yet ready to be an admitted attorney. The client is not better served by simply having more lawyers admitted into California practice so that we can expedite achieving more diversity in the genealogical, biological or other orientation of the profession or to reward those who spent considerable money on obtaining a law degree.

For those who are concerned about providing access to lawyers in California from the existing admitted members of the Bar, should take note that the state is already in the top quadrant nationally for lawyers per capita... averaging an estimated 11 lawyers per 10,000 residents (the lowest 33 states range from 9 to 4 lawyers per 10,000 residents). California has 169,000 lawyers as of 2017, with only New York exceeding that number by 9,000, and the next closest state has some 90,000 less lawyers (Texas).

The current system is working fine and does not need to be altered at this time.

Timothy Taggart - Self

Is there a shortage of licensed attorneys in California? Is now the policy to dumb down tests to accommodate some concept of how many should be passing? Do we want to measure competency or get to a specific number of persons to be admitted?

My personal belief is there is no shortage of attorneys, there is no need to have a specific number of person pass at each testing, and the testing should give credence to the thought that those who pass the Bar Exam have some degree of competency in critical thinking.

Terry Bell - legalsolutions.mobi

The ability to provide competent, quality and ethical legal advice to clients and the courts should not be lowered to meet an artificial desire to increase law school bragging rights. Each candidate for the bar made the decision to go to law school (take on debt) and sit for the bar by free will. Too many admitted to practice fail at ethics. Too many are not competent in the eyes of the courts. The honest - true to the law attorney comes across those admitted who cheat the system, provide incompetent advice and extremely poor presentations to the courts. It shames the profession to read ill prepared briefs, motions and oral arguments. My office has sought and won sanctions or removal of shading practicing attorneys. Please consider the integrity of the bar, the quality of representation and the public’s eye before lowering the cut rate.

Anonymous

The problem isn't the score required to pass the California Bar Exam. The problem is that there are law schools that aren't accredited cheating residents out of hundreds of thousands of dollars to give them a worthless degree, no job prospects, no real training, and no meaningful hope of getting the training and experience they need to be qualified attorneys. Not only do we have to protect the public from worthless, unaccredited law schools who prey upon the desperate who see a JD as a key to success, but we also need to protect the public from untrained, unprepared, incompetent attorneys who can't even manage to pass the California Bar Exam.

Lowering the score to allow more people to pass isn't the answer. Shutting down unaccredited schools for the disservice they do to their students and to potential clients is a better solution.

Anonymous

The purpose of the Bar Exam is elegantly simple – to examine whether the applicant is qualified to represent a client.

If after studying diligently and intensely for a compressed period, the applicant makes numerous errors - they should not be licensed to practice law on the unsuspecting population. It does not matter what the racial or sexual identity of the unqualified person is, nor what segment of the population they attempt to represent. In fact, the less advantaged the segment of the population, the more dependent they will be upon qualified legal counsel to protect their interests. Their need for qualified counsel is frequently greater since their liberty is more often at risk rather than just economic issues.

At its most elemental level, the general public trusts the bar association and the courts to ensure attorneys are at least marginally competent. To trade upon this trust and substitute other criteria such as allowing unqualified persons to practice law because they are of a specified gene pool, or other pre-existing condition, is to betray that public trust.

Anonymous

I think the priority should be determining what is causing the declining pass rate rather than just lowering the score required. Why were other applicants able to pass the bar? If we simply lower the score could that contribute to unaccredited institutions or institutions that don't focus on ensuring their students are getting the best education and have the ability and tools needed to survive the legal profession?

Anonymous

I graduated law school in 2014 and took the bar in the summer of 2014. I failed the bar that summer, along with the majority of the exam takers. When I failed I was in a state of despair. I had failed by only 50 weighted points. The financial implications of my failure were devastating. The cost of the exam itself was crippling, in addition to the cost of living while having to study another three months. It required me to take out an additional loan. Although the immediate consequences of failing were devastating in many ways, I never once thought that the passing score was unjust. I also looked back at the decisions that I had made while studying and knew that I could do more and do better. Failing the bar was a humbling experience, and it was also one of the best experiences of my life. The time, dedication, and effort that I dedicated to passing the second time was an important lesson, and proof of my capacity as a person and as an attorney.

I disagree with lowering the pass score. It is a ridiculous proposal that pretends to fix a problem, without addressing the actual issues. The California Bar should be turning its attention to having a discussion about the contents of the exam, rather than the passage rate. They should be addressing what are the skills that the exam pretends to test, and whether they are indicative of the competence of an attorney. In other countries the bar exam consists of an oral argument before several professors, open book exams that test the application of the law, and include apprenticeship requirements. The reason why young attorneys can't find jobs is because they are not prepared to be attorneys, and have never been required to practice the skills a good attorney has.

The other issues are the financial implications of paying for law school and failing the bar. It is criminal that a person pays hundreds of thousands of dollars to receive a legal education, and then must pay thousands of dollars more for bar exam preparation, and still is more likely than not failing the bar. This means one of two things: either law schools are focused on providing their students with the skills needed to be good attorneys, and the bar exam is not testing those skills, or law schools are not providing the skills required to become an attorney, and the bar exam is testing for those skills. In either case, there needs to be a moment of serious reflection on how the state and its law schools choose to prepare and educate potential attorneys.

Thus, the low pass rate is a systemic issue. These issues require the Bar and everyone in the legal community to have some serious conversations of how we set the standards of our profession. Lowering the score does nothing to address these problems.

John Berol - Retired

I feel it would be a tragedy and travesty to lower the hurdle because there has been a decline in the ability of persons wishing to join the bar. Increase the ability; do NOT lower the standard. Clients deserve to be served by lawyers who meet the standard of being learned. I am retired so my view is NOT based on a bias of wishing to reduce competition.

Anonymous

The declining Bar rates have more to do with lack of focus and poor preparation, than difficulty. Bar prep students are scattered and have attention deficit, because they are distracted by media, pornography and drug influenced lifestyles that appear more remunerative. Many qualified California lawyers cannot put food on the table and are unemployed 4-6 months of the year.

Why would you want to reduce standards when the market is already flooded with out of state attorneys and paralegals who are paid the same or more than qualified California barred attorneys? Additionally companies have shown a preference to hire non-attorneys for legal jobs, and marginalize or underpay attorneys, or offshore their services to cheaper markets. Paralegals get more bang for their buck with 1 year of training and high school education.

Law school is too expensive because the system has lost an interest of, or vocation in providing justice and legal services.

Insurance companies, technology firms, and companies that control financial interests bypass the legal system, overlook qualified lawyers by promoting non-lawyeres to manage and dispose of matters outside of the formal justice system, denigrating structure and informed methods of processing claims or making decisions.

People are hired for jobs based on preference, lifestyle, racial, or personal, not necessarily based on accomplished academics or proven integrity.

The Legal system is unfortunately in decline and professional ethics is close to non-existent. The Bar Association is almost irrelevant, because it is not interested in its members, nor 'is it an advocate for attorneys interests.

Qualified attorneys are reduced to doing document review for $28-30.00 per hour (and declining), and the Bar is unconcerned by this, as long as it receives a Bar fee annually.

The system needs to be revamped, not reduce professional standards or the Bar Exam pass rate.

Artificial intelligence is being used to replace professional review by attorneys. Lawyers are now supporting artificial intelligence, not artificial intelligence supporting attorneys within a structured Judicial and Legal System.

Legally non-trained technology gurus are determining and screening relevant evidence before an attorney even knows what is the universe of documents, or potential evidence. If this trajectory continues a Lawyer will be reduced to a desk clerk being paid minimum wage, with no need to analyze or think through issues. How sad! Reducing the Bar Pass Rate is ignoring the problem, and misunderstanding the symptom of the problem that the low pass rate evidences. We can do better than that.

Nancy Kaufman - PRINTEMPS & KAUFMAN

There is no shortage of lawyers in California. The underserved populations who need more lawyers would be ill-served by having lawyers held to a lower standard.

Having a lawyer whose ethnicity or gender makes you comfortable and seems to facilitate communication will probably not be sufficient compensation for malpractice. The solution to lack of diversity begins in preschool. not at the bar exam.

I think we have all encountered quite a few attorneys whose work makes us wonder how in the world they passed the bar exam. We don't need more of those. Dealing with them is always difficult, and it drives up the cost of litigation.

There are far better solutions to the general problem of student debt.

Charity Hodson - Law Office of Charity Hodson

1) It is already difficult for California attorneys to find suitable employment. Lowering the standard to bring in even more new attorneys would drown an already difficult job market.I graduated and passed the CA bar in 2012 and for the last five years have been practicing in the Northern Mariana Islands because there are better employment opportunities.

2) California has numerous law schools, many of them third tier, including the one I attended. Some of these schools are not even accredited. Additionally, one does not even need to have attended law school to sit for the CA bar. CA has already cut one day of testing from its exam. Maintaining the integrity of the profession is paramount. California has a reputation for a tough bar exam and for those of that sat for it (including myself, as a first generation Mexican-American from an immigrant family and having graduated from a third-tier law school with a horrible reputation) and did pass, this is important to our careers and reputations in the community.

Robert J Zapf - Retired Attorney

The need for qualified lawyers, as opposed to those who simply pass the bar, is great. The need to protect (and improve) the integrity and qualifications of those who provide legal services has never been greater.

The focus upon a "pass rate" is myopic. Simply lowering the standards neither improves the quality of those who practice law nor the quality of the services they render. Part of the problem is that California has a large proportion of law schools that are simply not qualified to graduate qualified lawyers. I suspect that the "pass rate" for those applicants who have attended ABA accredited law schools is much higher than the "pass rate" for all applicants, and a better indicator of the quality of the profession

I have taken three bar exams in my career (NY (1975), NJ (1994), and CA (1996), passing all three the first time taken. The easiest one for me was the California bar exam. I don't think lowering the pass rate is the answer to the perceived problem of producing more lawyers. We don't need more lawyers, we need better lawyers.

Anonymous

The prime mission of the Bar is public protection. The standard was set 30 years based upon what was necessary to achieve a 70% score on exams. The pass rate has varied over the years. It shouldn't be reduced simply to "pass more lawyers" when there hasn't been a showing that applicants with scores lower than 1440 are "minimally competent." It is in the public's interest to have practice ready lawyers---not lawyers that don't understand basic legal principles. There isn't any legitimate basis to "admit" lawyers who are not "minimally competent." To the extent that law schools are not producing minimally competent lawyers (which seems to be the current trend), they should focus their efforts on admission standards and a curriculum that is focused on subjects that are tested on the bar. The public is not well served by admitting lawyers who do not have command of the fundamentals necessary to practice law.

Anonymous

The State Bar should not lower its expectations or standards for people seeking the privilege of representing others. The highest professional and ethical stands must be maintained in order to protect the public.

Anonymous

There are so many incompetent attorneys already in California. I think lowering the standard/score is bad public policy. Work on reciprocity with other states if you want to improve diversity.

John Zimmerman - University of Nevada Las Vegas

One of the questions in the extended survey suggests that lowering the passing score will allow low-income people a better chance of obtaining legal services. I strongly suspect that this is the real reason for the push to lower the passing score. Of course, this will also mean that the most vulnerable people will also be represented by the least qualified lawyers. Is this really the best way to serve underrepresented communities?

Anonymous

Lower bar passage rates are a function of test taker quality, not increasing exam difficulty. If the California Bar wanted to lower the cutoff in order to get more in line with other jurisdictions regarding attorney qualifications (in which case it should switch to the UBE), I would support the measure. But simply lowering the score in order to let more people pass is not supportable. The steadily decreasing bar passage rate is more a function of the decreasing admission criteria for law schools and little to no oversight for admissions or schooling at non-ABA, non-California approved law schools. The odds of a student passing the bar goes down as undergraduate GPA and LSAT scores go down. If a student cannot attend an ABA or even California approved law school due to poor academic performance, poor LSAT scores, or poor application preparation, what are the odds this person passing the California Bar Exam are quite low. Conveniently enough, the low admission criteria are many times joined with relatively high tuition for private, for-profit schools that are run by private corporations, which in turn exacerbates the problems for those students who probably should have 1) either not been provided the opportunity to go to law school absent special circumstances (scholarship), or 2) been fully and fairly briefed about the odds of students such as they passing the bar when going to an un-vetted or lower tier law school.

Anonymous

I feel we attorneys have all been held to the same standard, so why should we make it easier for the next guy/gal. the profession needs to maintain it's integrity with good, solid upstanding attorneys and everyone should be held to the same standards. I have a heart for the issue, but don't want to see more people who still get disciplined, suspended or disbarred, for whatever the reason. We need to keep the profession at the highest standard.

There should be better checks into character and past history. Sorry, but that's how I see it.

Rommel Dizon - Law Office of Rommel Dizon

There are other issues at play here that your survey doesn't address when you raise/lower the passage rate but I do feel are important in deciding whether to lower maintain the current pass rate.

First, the legal job market is still bad, at least in CA. Many new lawyers that do pass the bar at the current cut score cannot find a legal job that can cover the cost of living in CA and be able to pay the students loans that they took for their legal education. I've even applied to federal government positions that DO NOT PAY for six months so I can at least get experience (e.g. https://www.justice.gov/usao-dc/special-assistant-us-attorney-positions). I've personally applied to such a position and did not get hired, even though I would have committed to working their for six months for free. If CA lowers the cut score, we would naturally see an increase in new lawyers who will now compete with even more lawyers.

Second, because the legal market is not good, many new lawyers that do have jobs are underemployed. This is because firms and agencies can afford to because there are simply more lawyers than jobs out there. Lowering the cut score will only increase the number of applicants, but not jobs.

Third, I understand the need for diversity. This is very important. But I don't think lowering the cut score will alleviate this. There are many people from diverse backgrounds who pass the CA bar and become lawyers; whether they get hired by firms and government agencies are a whole different set of issues.

Lastly, I don't think lowering the cut score will allow more people access to legal services. I feel the main reasons why there's not enough access to legal services is because there aren't enough institutions to provide jobs to lawyers to provide those services and because a legal education is so expensive. Hiring a lawyer is expensive and there aren't enough firms and institutions that can provide jobs to lawyers that can satisfy the demand for these services.

Anonymous

Any discussion of CA bar pass rates as a group is misleading. The pass rates must be examined in the context of the school attended by the test taker. Other-than ABA accredited law schools have a greatly disparate failure rate. It is an on-going scandal that the State Bar continues to allow unaccredited schools offer the fiction of a career as a licensed attorney to the students of these schools, given the extremely low pass rate of students of these schools. The State Bar is an enabler of the fictional opportunity of these schools.

Don Nauman - Don L. Nauman attorney at law

I do not believe that lowering the cut score is beneficial to the citizens of California or to the legal profession. Far too many times in the recent past leaders and legislatures believe that instead of encouraging individuals to strive for excellence that the solution is to move the bar to the lowest common denominator. This is misguided in all that this accomplishes is allowing more individuals to perform a task at a less than exceptional rate. For the profession of an attorney, this means more lawyers in the State of California; however, the sacrifice is the skills and professionalism that those additional lawyers will or will not have. The California Bar as of July 2017 has already reduced the exam from a 3-day exam to a 2-day exam. Now it appears they are lobbying to reduce the cut score. A better effort and proposition would be to try to determine how law schools can educate the students so that a lowering of the cut score would not be required and that a 3-day exam could be reinstituted.

I do not believe the argument that more lawyers are needed so that the poor and indigent will be able to have legal representation. Does this mean that we are of the opinion that the poor and indigent don't need high quality legal representation? Because lowering the cut score and eliminating one day on the Bar exam is significantly reducing the quality of the individual that is licensed to practice law in the State of California. One can only be suspicious as to the real reasons and/or motivations to lowering the cut score and the reduction of exam days from 3 to 2. One, law schools have lobbied the State Legislature, Governor and/or the California State Bar because the pass rate, i.e., being low, may be a disincentive for those who may want to enroll in law school and has had a financial impact on those institutions. Or two, California State Bar is seeing an impact by the decrease in lawyers with regards to bar fees and other financial benefits stemming from California practitioners that the California State Bar either directly or indirectly benefits from.

Unfortunately, society now believes that everyone who participates must receive a trophy. However, while that may be a popular sentiment for 7 and 8 year olds playing soccer, it is not the logic or sentiment that one wants to apply to individuals who are going to practice law. Think of the analogy - if you were having open heart surgery or being treated by an emergency room surgeon for a catastrophic injury, would you want to be treated by a surgeon who passed his boards and/or residency solely because they had lowered the standards believing that there were too few doctors? I, for one, wouldn't.

Cregor Datig

"Protection of the Public is the Highest Priority of the State Bar."

A very worthy sentiment. California has tens of thousands of licensed attorneys... many are talented, ethical practitioners who diligently represent their clients and provide a service to society. Some, however, despite the fact that they graduated from law school and managed to pass the Bar Exam, are unqualified, not talented, and / or unethical. Anyone who has attended law school or appeared in a courtroom knows that there are some people who simply do not have the skills to represent the interests of others within the confines of our legal system.

Proponents of lowering the "cut score" seek to cloak in righteousness the dilution of the requirements snd skills necessary to practice law by citing such apparently worthy goals as increasing diversity and providing increased access to legal services to underserved populations. But what does this mean? Are the proponents actually suggesting that certain ethnic groups are less capable than others of passing a standardized examination, so the cut score must be reduced to give them a better chance to pass (and thereby increase ethnic diversity)? If so, that is racism of the most repugnant sort, and is highly offensive. Similarly, how will admitting more marginal candidates to the Bar better serve economically or socially-challenged populations? Are we to assume that these intellectually less-capable new attorneys who "squeaked by" thanks to a lower cut score will devote their careers to providing representation to underserved populations? That is nonsense, and utterly without statistical or evidentiary support.

One wonders what the reaction of the public would be if some well-intentioned but ill-advised group decided to advocate for the lowering of the standards and skills necessary to perform neurosurgery as a licensed physician and surgeon. It seems very highly likely that the outcry in opposition would be long and loud... and appropriately so. Is the task of the attorney, who in some cases may hold the life or freedom of his client in his hands, any less important than that of the physician?

I would respectfully submit that, if anything, the State Bar should be seeking to raise the standards necessary to become an attorney... not necessarily by increasing the cut score, but by requiring more practical training in addition to academics before a person may be licensed to practice law. That type of focus would, in my estimation, far better serve the public as well as the profession.

White Kristy - Camino Immigration/Solidarity

I believe that by cutting the score we are allowing unqualified individuals to be attorneys. While I understand the need for attorneys to serve underserved populations (I work at a non-profit clinic doing immigration law), there are other ways to incentivize attorneys to pick those jobs. For example, the California bar could provide loan assistance for attorneys who work for non-profits or serve underrepresented populations, or there could be a requirement to work in certain areas during law school to graduate from an accredited law school.

I do not believe that lowering the standard and is the answer. Why should poor people or underserved populations have attorneys that are less qualified? Who is to say that by lowering the pass rate more attorneys will chose to work with underserved populations? The real problem is the amount of debt that students have and that law schools need to take responsibility for admitting students who are not qualified and who they know will not pass the bar exam. The law schools are focused on making money and admitting too many students, they need to cut back on their class size and accept students who have demonstrated an ability to critically think and who can learn to write. The bar should be actively working with law schools to solve the problem, not lowering the standards in the California legal community.

Alexis Djivre - Law Firm of Alexis Djivre

I'm amazed that California would want to lower the standard for its attorneys. There are so many unemployed or underemployed attorneys at this point that the absolute last thing we need is more, and less qualified lawyers.

Christine Wessel - In-House Counsel

I disagree with lowering the cut score on the California Bar Exam. I am attorney who has been licensed to practice in California for 13 years. I attended a Tier 1 public law school in California. I served as an extern in the California Court of Appeal, passed the bar exam on my first attempt, and have worked in law firms and as corporate in-house counsel. In my career, I have had occasion to work across the table from, supervise, and review the work product of numerous attorneys and law clerks. Many times, I was surprised that the attorney whose work I was reviewing had passed the California Bar Exam -- their work product was so poor, their grasp of the law and how to marshal it and the facts of their case so loose, it bordered on malpractice. In some cases, I felt a litigant would have been better off proceeding pro se. And some pro se litigants' work was of higher quality than that of some lawyers. Lowering the pass rate will simply permit more under-qualified people to practice law, which will harm the public and diminish the public perception and standing of the profession.

What legitimate problem is the State Bar seeking to solve by reducing the cut score? If we are honest, for most law schools, legal education is a business, not a public interest endeavor. Law school deans' push to reduce the bar exam cut score is not because they are concerned about the availability of legal services to underserved populations. They are concerned about their bottom lines. Is lowering our profession's standards of quality a reasonable solution to this problem, which is a problem of private profit, not public interest? I think the answer is "No."

Admittedly, many law students who are unable to pass the bar exam are saddled by significant debt, and without the ability to practice law as a career. The solution to this problem is not to succumb to pressure to reduce our bar admissions standards from law school deans who are concerned about shrinking revenue.
Law school tuition is expensive and the number of for-profit law schools far exceeds the number of publicly subsidized law schools. Law school applications have declined in recent years, likely due to the poor job market of the past decade. Many college graduates are electing to attend MBA programs or other graduate programs where more career opportunities exist, or to become entrepreneurs or just join the workforce. With a shrinking applicant pool, law schools are seeing a reduction in the average/median LSAT scores and GPAs of applicants. Demand for legal education has diminished even as the number of law schools has remained the same. Because of the decades of expansion in the number of law schools which compete for attendance (and tuition dollars) of the qualified members of the pool of applicants, law schools concerned about maintaining their bottom line are admitting students now that previously would not have been admitted. When demand for a service diminishes, however, the typical result in a capitalist society is that the number of service providers diminishes because providing that service becomes less profitable. Service providers who do a substandard job are the first to go out of business. Accordingly, the response to diminished demand of qualified applicants should not be to reduce standards of admission to law schools or to the bar, but rather to hold fast to high standards of admission, reduce the number of seats at law schools being filled, and to reduce the number of law schools overall.

I recall during my pre-application research and during law school, the statistics regarding bar passage, employment post-law school, and income gave me hope that I would be able to get that coveted six figure salary from a big law firm. I'm certain most of the applicants in my law school admission year had the same aspirations, encouraged by marketing materials produced by many law schools. As a graduate of a Tier 1 school, I had more opportunity than some, despite the fact that I graduated into a recession. Many of my classmates were given big law offers, only to have them rescinded due to the market crash of 2002-2003. The economy and the legal profession in California was also hit in 2007-2008 due to the sub-prime mortgage scandal, and it still has not fully recovered. Many of my very qualified classmates ended up in alternative careers. The truth is that those coveted six figure starting positions are not as common as they used to be. Law schools need to be up front about the prospects of their

students, providing more granular information about job prospects, bar passage and income as those things correlate to students' GPAs and LSAT scores. Not providing this kind of information, while dangling a brass ring, borders on fraud. Law schools should be required to provide more subjective information about their graduates' prospects so that potential applicants can make a more informed decision about whether to incur the expense (and debt) of a career for which they may not achieve the success they desire.

The State Bar should not bail out the law school industry by reducing the cut score. Rather, perhaps students who are unable to pass the bar exam should look to their law school, which failed to adequately prepare them to practice law, for a remedy. The service they paid for was substandard, the school defrauded them by leading them to believe that they were a qualified candidate for the legal profession -- a conclusion that was not borne out when the objective and long-standing test for admission was administered to them. It may be a hard pill to swallow, but not every student who aspires to practice law should be permitted to practice law. Perhaps law schools should be held accountable as any other business would when they fail to provide the promised service to consumers -- refund the price paid. Unaccredited schools should be subjected to more rigorous and earlier standards. Perhaps they should even be required to hold a portion of their students' tuition in escrow until they pass the Baby Bar, which would be refunded to students who are unable to pass. Perhaps a second Baby Bar should be administered after the 2L year, a practical exam that would also lead to refunds if students fail. This would encourage law schools to be more selective in admissions, admitting only students who are likely to pass the bar exam. While this likely would reduce the number of graduates and thus the number of attorneys admitted, given that the state of California has more attorneys per capita than most other states, this is not in and of itself a bad outcome. Perhaps law schools should offer additional support to students to help them pass the bar exam, especially to second-time takers. As it is, there are already many attorneys who passed the bar but who are unprepared and unqualified to provide quality services to the public. They often fail in their careers as attorneys and seek alternative career paths, or they continue to practice, but provide sub-par services to the public, but never really attain the kind of income or reputation that so many of us are led to believe is not just possible, but probable, if they just pass the bar exam.

The State Bar also has alternatives to remedy the problem of the lack of legal services available to under-served communities. There is no shortage of lawyers in California. There is simply a shortage of lawyers who are willing and able to serve underserved populations. To remedy this, the State Bar could require all law students to work in a pro bono clinic or government agency during their 3L year, an experience that would give them valuable experience and might lead more graduates to a public interest career rather than in pursuit of the coveted brass ring of big law. The State Bar could mandate (rather than merely encourage) all licensed attorneys to provide a minimum number of pro bono hours (which must be certified through a public interest foundation or non-profit legal aid group), or pay a mandatory fee for pro bono support for each compliance period for the renewal of their license. This fee would go to support pro bono services, piggy-backed on to the IOLTA program. Attorneys who don't want to do pro bono work could "buy out" their pro bono hours in order to pay others to do that work. Many employers do not provide time for attorneys to do pro bono work during working hours, which means that in order for them to provide pro bono services to underserved people, they would have to work weekends and nights, something that is just not feasible when most are already working full time (or more) and have family obligations. By mandating pro bono service, attorneys would have the ability to negotiate accommodations from their employers to meet this requirement during work hours or to cover the cost of their "buy out." The State Bar also could permit law students who graduated from accredited law schools but who have failed to pass the bar exam to be employed under the supervision of licensed attorneys at public interest organizations to serve these populations, experience that might help them to eventually pass the bar exam. The State Bar could collect fees from law schools and law firms in this state to fund pro bono clinics for underserved communities, which would pass those costs on to their students and clients, which in turn would employ in public interest positions under supervision of attorneys law graduates who have been unable to pass the bar exam. The State Bar could provide for debt forgiveness for attorneys who wish to practice in the public interest or for government agencies to level these employers on the playing field for job recruiting when they are up against the six figure salaries of the big firms.

Reducing the cut score for the bar exam might solve a private profit problem for law schools, but it would also diminish the integrity, quality and reputation of the learned profession without leading to improved access to legal services for underserved populations. The bar exam cut score should not be reduced.

Anonymous

There is no shortage of attorneys in California so why make the standard lower?

Joseph Milchak - Retired

Not fair to change! I had to study and know the law and how to apply. Why let some lazy person pass. You are hurting their future clients!

Richard Stambul

Don't dilute and diminish the quality and integrity of attorneys in CA by lowering the bar for admission.

Christopher Norrie - Retired

The CA Bar exam has never been easy! There is no reason to lower the standard. There is nothing worse than having to deal with unintelligent lawyers. The exam is a test of intelligence as much as it is of knowledge. We should not pander to the weak, or we will make them into another special interest group. There are plenty of lawyers in CA, why admit more if they are not up to the standard that all existing members had to demonstrate. Enough of this namby-pamby liberal nonsense!

Anonymous

Lowering Bar Standards

Would you be in favor of lowering the passing score for your airline pilot? Will serving poor communities with marginal attorneys serve the poor community well? With 167,000 lawyers in California is the problem serving poor communities the lack of active bar members? Who says the new marginal lawyers will flock to "serve" poor communities? Have you ever hired a lousy lawyer and seen the financial and emotional damage to their client by not meeting an acceptable minimum standard?

The Bar also seems confused about the legal concept "blind justice" (neutrality in the dispensation of justice). What does gender identity, race and age have to do with this question?

The State Bar should quit the social engineering and do its job: Admit competent lawyers to the bar and disbar crooked and incompetent lawyers.

Gary Blau - Gary Blau

It is important to the integrity of the profession to keep the standards for practicing law as high as possible; therefore I support keeping the current cut score of 1440 for bar passage.

Mark Ralles - Ralles Law Firm

The complexity of law has increased in every way. The law is struggling to keep up with technology and is struggling to respond to technology and the confusion in our most basic institutions. The difficulty of courts to give answers to previously simple problems is beginning to impact the credibility of the legal profession and courts in general.

Reducing standards is not a solution to make the law more responsive and more affordable. Reducing standards may likely compound the problems.

Steven Siebig

California has the most difficult standards in the US and for good reason. Viewing the crop of recent attorneys gives one pause to imagine what would come if we relaxed the standards.

Richard Middlebrook - Middlebrook & Associates

The problem is not the cutoff score. The problem is that the State of California has permitted approximately 70 law schools to creep into existence with 2/3 being unaccredited by the ABA permitting severely underqualified individuals to become law students to begin with. The bar passage rates among those schools are abysmal.

We cannot permit "participation trophies" while risking the publics ability to rely on competent legal assistance. It's imperative the state bar continues its high level of legal requirements to insure high legal representation. Garbage in, garbage out. You don't make garbage the standard because we've accepted the proliferation of underqualified, undereducated law students to sit for the bar.

This tries to shove the cow back into the barn. Simply don't let it out.

Thomas Alb

I am concerned about the quality of attorneys in California and reducing the cut score does nothing to promote quality and competence in a state with far too many lawyers, and far too many law schools now facing the embarrassment of low bar exam passage rates. The State Bar should not be influenced by the complaints of law schools that either are not carefully selecting candidates or failing to provide the necessary rigorous legal education. The fact that students face high student debt after graduating should not under any circumstances influence the basic charge of the State Bar, which is to insure that licensed attorneys are competent.

It is clear to me that the primary reason for consideration of lowering the cut score is to placate law schools and law school students who simply do not qualify to be licensed attorneys.

I am disappointed that the State Bar has even considered lowering the cut score and I believe the public will not only not be served, but will continue to view our profession with circumspection and disfavor.

Martha Casillas - CA. DIR

The answer here is not to lower the cut-off score, but to enhance the quality of applicants who even get the opportunity to sit for the bar exam. Instead of allowing anyone who attended any type of law school to take the bar, we should instead only allow ABA accredited school graduates to take the bar exam. This will surely increase the caliber of students and the bar passage rate. This will also enhance the quality of attorneys in the long run.

I passed the bar in California on the first try. I am a first-generation Mexican American who was raised by immigrant parents in a low-income neighborhood. I worked hard in college, in law school, and I passed the bar. My brother had to sit for the bar five times before passing. He also went to a tier one law school. He eventually passed the bar. How unfair and how terribly awful it would be to now, all of a sudden, change the score, when he had to endure years of not passing. It is completely unfair and wrong to change the cut-off. Attorneys should be held to the same standard, and "lowering the bar," literally, is just wrong.

If you want to talk about debt- students make that choice of taking on debt when they enter law school. I graduated in 2008 and was laid off from my first job because of the recession. I was in debt.

But lowering the cut off to inundate the job market to make it harder to get a legal job is not the answer.

Do not lower the cut-off.

Puja Pahwa

Cutting the score is not the solution. The State Bar needs to address the systemic problems with the legal profession rather than cutting the score to make life easier for unqualified students. The State Bar needs to focus on lowering tuition, better options for student debt, and making the practice of law a desirable profession once again. Once the number job opportunities rebound, and salaries correlate with the amount of debt students accumulate, then we will likely see a higher level of talent enter the profession which will remedy the low bar pass rates. Right now, talented individuals are pursuing other industries. The poor reputation of the legal profession is notorious and talented individuals with options chose not to pursue it.

Kevin Mcdowell

Lowering the cut score will do little to raise, and would likely instead erode, the high standard of competence to which we hold attorneys practicing in California. There is not any shortage of attorneys in our state; in fact, quite the opposite is true. Public confidence in attorney competence is also important to consider.

The public good is best served by maintaining the highest standards, consistent with meeting market demands for legal services.

Anonymous

Reducing the cut score will only dilute the quality of young lawyers and won't improve the quality of legal advice. Keep the cut score where it is.

Stepheney Windsor - BLBG

First and foremost it is the Bar's duty to ensure that it qualifies individuals who will be an asset to the profession and are competent in the practice of law. What good is it to the public to flood the market with unqualified attorneys? This is essentially what a lower bar passage score is advocating. The bar exists to weed out those who will not succeed in the practice of law. People fail the bar due to failure to commit the requisite time to studying, failure to properly manage time, failure to properly manage stress, failure to understand legal theories and application, and/or failure to pay attention to details. Any of those failures in the actual practice of law is detrimental to the client relying upon the lawyer's expertise. Lowering standards is a disservice to the legal community as it only serves to damage the professional integrity of a profession that is currently struggling.

On that note, the legal market is absolutely saturated. There are few "good" jobs left for the attorneys that are currently licensed and the bar wants to encourage further legal unemployment, legal underemployment, and exiting of talent due to market failure? An influx of unqualified attorneys will harm the profession's reputation among clients, making generating business even harder to come by. The industry already fights a perception of our career being overpriced and unnecessary as technology has aided lay people into believing they can practice law through "Google" searches. The bar should not be aiding that perception by lowering standards.

I suspect the biggest problem with California's bar passage rate is, and has always been, due to the number of un-accredited takers; that is a bar qualification issue, not a bar passage-rate issue. If the bar passage rate among accredited law schools has, in fact, significantly dropped, then that is an issue that is more appropriately resolved between ABA accreditation and law school forums - not by making the bar easier. As someone who passed on first attempts both the New York and the California bar, back to back, my personal perception is the California bar was significantly easier than New York despite the fact that California was 3 days. Thus, I simply do not see any good to the profession with this proposal of lowering standards.

Travis Lillie

Why would we want to lower the standard of admission. It should be difficult and we should not lower the expectations of future members of this bar.

Anonymous

As a person who took the bar exam twice, I will admit that I still maintain that lowering the score may have significant costs. The bar exam is designed to be a test of minimum competence. Lowering the cut score means students who performed worse on the bar exam practice law. That may result in lower quality attorneys practicing in California. I acknowledge that the California deans are skeptical that the higher cut score has a meaningful consumer protection role. The deans argue that the bar exam does not adequately measure professional competence and that the high California passing score is not necessary to ensure adequate professional responsibility and minimum competence in the practice of law.

That said, however, I have come across research and data suggesting that lowering the bar examination passing score will likely increase the amount of malpractice, misconduct, and discipline among California lawyers. The research shows that an attorney's bar exam score is significantly related to likelihood of State Bar discipline throughout a lawyer's career. I've investigated these claims by collecting data on disciplinary actions and disbarments among California-licensed attorneys. I have found support for the assertion that attorneys with lower bar examination performance are more likely to be disciplined and disbarred than those with higher performance.

Although my measures of bar performance only have modest predictive power of subsequent discipline, I project that lowering the cut score would result in the admission of attorneys with a substantially higher probability of State Bar discipline over the course of their careers. But I likewise admit that my analysis is limited due to the imperfect data available to the public. For a precise calculation, I call on the California State Bar to use its internal records on bar scores and discipline outcomes to determine the likely impact of changes to the passing score. If I am correct, then in the interest of maintaining the profession's integrity and in protecting the public from less qualified lawyers, I would request the score be kept at the current cut score of 1440.

Penny Cobey - BakerHostetler LLP

Dumbing down the bar exam is not the answer to an increase in failing scores. California made a mistake, many years ago, in deciding to tolerate non-accredited law schools. The bar exam therefore became the great weeder-out of qualified lawyers. It's cruel to allow someone to invest three years and substantial amounts of money at a non-accredited school, when the graduates of these less demanding schools are less likely to pass the bar. But that's the situation we have. Again, lowering the passing score is not the answer. Requiring California's law schools to obtain ABA accreditation is the better way to assure a higher bar exam pass rate. Some of these schools will not be able to meet ABA standards and might be forced to close their doors. We should be pleased, not concerned, by this result. They continue to churn out candidates who can't pass the California bar. And we should address this problem by lowering the passing score?? I don't think so.

The views expressed above are my individual views and should not be taken to represent the views of my employer.

Anonymous

The most important thing is maintaining the quality and competence of the profession.
Lowering the standards lowers the quality. This should be obvious. Would any of you want to undergo surgery by an unqualified physician? or hire an unqualified plumber? Why are you so eager to lower standards? That is societally destructive..

Increasing "diversity" is irrelevant. What is relevant is making sure that clients have access to legally qualified attorneys. This should also be obvious. And, the US Supreme Court's adoption of "diversity" has been problematic ever since. It has done far more harm than good.

Indigent people already have access to legal services through clinics and pro bono work by qualified attorneys. This is also obvious.

Survey questions asking about gender is evidence that it is predetermined that the primary emphasis will be placed upon "diversity" rather than competence. You have already made up our minds.

This whole endeavor is yet one more baleful example of deconstructionismm a la Lacan, Derrida, et. al. And, Antonio Gramschi, who advocated a slow march through all agencies and institutions of society with the aim and goal of destroying then and replacing them with supposedly new and better ones. Why not abolish all standards and norms? Why have a bar exam at all? This country is becoming more and more dilapidated and deteriorated due to attacks upon time established rules. This country was founded by rebels and, apparently, the rebellious urge continues to be very strong indeed. I have traveled widely over the World, and I speak several languages. From this, I have learned that other people see Americans as a bunch of ignorant, unruly children. .And, the Law has become the single-most deleterious force in our society, bar none. Don't tear down. Leave things alone for chrissakes. Don't let a small group of discontented agitators rule. Maintain our culture, or at least what is left of it. .

Ravi Bendapudi - CCA

It is the State Bar's responsibility to do the following:

1) Administer the State Bar Exam.

2) Evaluate & accredit law schools based on their track record for consistently producing high quality graduates who can pass the state bar exam (with the current cut off score of 1440) and practice law in a competent and ethical fashion.

3) Regulate & guide the above accredited law schools to so that they EDUCATE & TRAIN THEIR STUDENTS ADEQUATELY SO THAT A SATISFACTORY NUMBER OF THEM WILL PASS THE STATE BAR EXAM in one or two attempts, with first time bar passage rates being a leading indicator of whether the law school is meeting its conditions for accreditation.

* If the State Bar can effectively carry out the duties listed above, then I see no reason why the vast majority of students graduating from California law schools should have any problem passing the bar exam under the current cut off score of 1440.

** Lowering the standards for passing the bar exam is not a viable substitute for the State Bar's regulatory duties.

Guillermo Machado - Barrios & Machado, LLP

I passed the California Bar on my FIRST attempt when the Bar exam was 3 grueling days (Summer 2007). I graduated top in my class from a California Accredited Law School (Spring 2007) that very few will acknowledge because of its poor Bar pass rate. I worked my butt off (because there was no other choice) to make the grade in both law school and on the Bar and onto practice and find it a public disgrace that based on the incessant complaints of lesser applicants of lesser fortitude, that the State Bar is seriously considering lowering the standards. They have already reduced the Bar exam to 2 days to make it less challenging. Now they intend to lower the pass score. Why not open the floodgates to a bunch of new attorneys who will have NO business practicing law. If a student cannot pass under the highest standards, they should not pass at all. Stop making it easier for our society to achieve. Challenge them, push them. Those that earn it, deserve it. Those that don't, try until you do. This sounds like the "participation trophies" that are now en vogue. Winners and losers, that's what this world is about. To sugarcoat that reality and to lower the standards will cause irreparable harm on our legal system and society as a whole. Competent attorneys will soon be competing with those who don't deserve to practice, and since the public won't know a good one from a bad one, we're asking for legal collapse. HORRIBLE IDEA TO LOWER SCORE JUST AS IT WAS A HORRIBLE IDEA TO DECREASE DAYS TO 2! We are weakening as a society and will reap what we sow...

Just curious, is this a matter of money? Does the Bar need more Bar dues? What good does it do to pump out new lawyers into the workforce that cannot analyze legal issues properly? That cannot think and write and speak like lawyers? Simply to bill high hourly fees to unsuspecting clients because the new lawyer will have no trouble admitting that he is just as qualified as the old one who had to pass tests that were quantitatively more difficult. Stop pandering to the weaknesses of society, to the complaints of those who cannot muster up what's necessary to win when it counts most. I went to school with many who were lazy and simply didn't put forth the effort required to pass. Now the State Bar is about to buy into this and make things easier. In turn, it will make it much harder when it really counts, when a client's life and money and liberty and interests are on the line. But maybe the courts and everything in our legal system will soon weaken too so that people are getting away with a lot more than they were able to in harder times. And while mercy will increase, justice dies...

Anonymous

Maybe law school should be 4 years instead of 3? Those students having difficulty might benefit from either a slower paced curriculum or taking remedial classes. If lowering the cut score is meant to admit more attorneys; doesn't it add to the unemployed?

Alexander Seiberth - LAW OFFICE OF ALEX SEIBERTH

Dear Readers:

In February 1981 I passed the February Bar Exam which had a pass rate below 30%. I was very proud!
I had been a below-average law student and even required an extra semester to finish due to a failed class in the last half of the third year. Nonetheless, I passed on my first try.

Raise the cut-off point so the pass rate is about 30-33% . Encourage Bar Review Courses.
We'll all be better off, from the indigent client to all attorneys, to society as a whole.

Kristine Blagof - Blagof Law Firm, APC

The bar was never meant to be easy. In fact, it is supposed to be one of the hardest tests that exists. Many attorneys who did pass the bar struggle to practice competently. It is a shame. I can't imagine the results if the standards were lowered. Do you want the medical boards to get easier??? No! This is unbelievable. The bar is a passable exam as is. Those not passing either are not cut out to be attorneys or are not putting in the necessary effort. Change the prep courses, change the law school requirements, change the path to the exam, but don't change the exam. Keep the prestige of the test.

As for the concern of unplayable student loans and more public service attorneys... Law school tuition should be regulated, and should have incentivized forgiveness programs. It is crazy how hard and long we have to work to pay back loans. I passed the bar six years ago and I still have over $300,000 in law school loans that seem insurmountable. If there is a need for attorneys to provide pro bono work, let those that passed the bar work extra house in public service to pay down their loans. Set up programs through the bar in each county wherein attorneys get $50-100 off their loans per hour volunteered. I know I would easily dedicate 10 hours a week to that. Let those who don't pass the bar volunteer on the admin/paralegal side of those projects.

It is disappointing to think the California Bar would ever consider lowering the academic standards currently required.

Anonymous

It is absurd for this discussion to be couched in terms of "protecting the public" when the focus is lowering the criteria for licensing. If lowering the cut score is justified because the exam is too difficult, then the exam content should be revised.

Instead of watering down test performance requirements, perhaps the bar should reconsider allowing students from non-ABA accredited schools to sit for the test.

Alternatively, if the cut score is lowered, the bar should have a special classification for those whose scores are between the new score and the current required score. Admit them on a probationary basis, require apprenticeship affiliation with a licensed member, and require malpractice insurance.

James Camp - Abram Roy LLP

It is the responsibility of the Bar to maintain high standards. Declining pass rates do not warrant lowering standards. They instead indicate a problem with the preparedness of bar exam takers. Nor do we have an insufficient number of attorneys licensed to practice law in the state. Given the unemployment numbers, one could surmise that we have too many.

Ronald Fisher - Latham & Watkins LLP

It is true that bar exam passage rates are falling around the country, including in California. But this is only a symptom of the disease afflicting our profession, and the cure is not to reduce our standards for becoming a member of the bar.

Persons who once would have considered the legal profession are pursuing other careers because the cost of legal education has far exceeded the rate of inflation. According to the Bureau of Labor Statistics, the dollar inflated 101.5% between 1985 and 2013. In 1985, the average private school tuition was $7,526 (1985 dollars), which would now cost a student $16,294 (2013 dollars). Instead, the average tuition is $41,985 (2013 dollars). In other words, private law school is now 2.6 times as expensive as it was in 1985 after adjusting for inflation. Public school (for residents) is now about 5.5 times as expensive.

Many factors have contributed to the hyperinflation of law school tuition, but a significant one is the fact that state legislatures have dramatically reduced their funding of public universities, leaving them to figure out novel ways to balance their books. One such means is to 'tax' professional schools as means to fund other departments with less successful (and thus on average, less generous) graduates. As a result, public law schools are no longer affordable alternatives compared to their private counterparts, even for in-state residents.

Because affordable legal education no longer exists, students graduating from law schools across the 'prestige' spectrum are now carrying significant debt that can only realistically be serviced by large firm practice (so-called 'BigLaw'). But there are about 37,000 new law graduates each year competing for approximately 3,500 entry-level BigLaw jobs, and so a significant percentage of this generation of lawyers have struggled to even make ends meet.

The entirely unsurprising result is that talented persons who might have once gone into law are now pursuing other careers. And so we need to confront the uncomfortable possibility that falling bar exam passage rates might be telling us the truth, and that law schools are graduating fewer persons who can pass the bar exam today than in the past. If so, the answer is not to lower the standards for entry into the bar. The answer is not to tell the public that their most serious problems will be handled by persons who would not have been permitted to do so in the past.

The problems associated with fewer attorneys entering our profession are real, and include significant access to justice issues. But reducing the bar passage score will only undermine the public's confidence in the bar, and simply will not solve the problem. Until and unless the California legislature steps up and funds affordable public law schools in this state--perhaps tied to both residency and a commitment to practice in California--we will continue to see talented persons pursue other careers. Instead, reducing passage scores will create a downward cycle where the State Bar continues to make it easier to become an attorney, and passage rates continue to fall, and so the State Bar will make it even easier.

We are already seeing this dynamic. Just this year, the bar exam switched from its traditional three-day format to a two-day format, aligning itself with other states. Now, less than two weeks after the two-day format debuted, we are told that the State Bar must retroactively change the cut score to admit persons to the bar who did not meet the qualifications initially set by the State Bar. The public will surely view that for what it is--a trend towards a less-

qualified, less-trustworthy legal profession.

Barbara Swift

I do not support regulating bar admissions through manipulation of cut scores. There has to be an absolute minimum standard and if that's been 1440, then the standard shouldn't be lowered just to accommodate the increasing number of evidently unqualified applicants. Maybe it even needs to be raised. So what if the pass rate is low? There isn't any shortage of attorneys, good and bad, in CA. Keeping the standards high will help restore the public's respect for the profession. Not everyone with the dream can or should be a lawyer.

Robert Pippin

The idea of lowering the Bar qualification score just because fewer people are passing the bar is a fools errand. You are suggesting that the State put less qualified people into the lawyer market place, just because less qualified people are going to law school, and taking the bar. Should you do this, in short order, you will be faced with the same situation again, and you will again be asking us if the bar Bar qualifications should be lowered. Face it. You are chasing the goal of diversity at the cost of quality. The answer is not to lower the qualifications necessary to pass the Bar, the answer, is to get a more diverse candidate group ready to take the bar. Don't lower the standards. Improve the High School, College and Law School training so the candidates can pass the existing Bar. If you insist on lowering the Bar qualification, why not do what we are doing everywhere else in America? Give everyone a trophy, let them pass the Bar, and just forget about quality.

Ralph Flick - Pacific Lutheran University

There are too many lawyers as it is and we should be working to reduce the number of people who attend law school in the first place. Reducing the cut rate to artificially increase the number of bar licenses does nothing other than admit more, lower quality candidates to practice in an already over crowded market. I certainly tremendous sympathy for those who have graduated from law school with high debt levels and for whom jobs are scarce; however, lowering the cut rate for the bar exam is absolutely not the answer to those problems. Rather than lower our standards for admission, we should be spending our time and energy reforming the legal education system to produce fewer, higher quality candidates. And, I do not believe that lowering the cut rate will have any effect at all on access to legal services. Recent law school graduates with high debt loads will not necessarily enter the market that provides service to the under-served.

Michael Bandiera - self

The most important factor to me, a practicing attorney, is maintaining the highest standards of attorney competency in order to protect the public and the integrity of the profession. As it is there are marginally competent (or worse) attorneys practicing now.

It seems to me that, to use an old phrase, lowering the cut score is putting the cart before the horse. Or another cliche: don't lower the water, raise the bridge. Focus should be put on tightening law school admissions, looking closely into for-profit (whether de facto or not) schools, better education in all schools, ABA and otherwise, and perhaps better post-school, pre-bar exam, review classes.

The public's perception of attorneys, rightly of wrongly, is pretty low. Many people fall victim to marginally competent, if not outright dishonest lawyers. The State Bar tries very hard to police attorney discipline. It should be equally rigorous in making sure that only qualified applicants pass the Bar. For the good of the public and the profession.

Sincerely,
Michael Bandiera
California State Bar Number 101558.

Anonymous

Instead of lowering the standards for admission, it would be a viable option to recognize attorneys from other states and thus receive reciprocal recognition of license in other states. It could increase the available lawyers to California and to the rest of the country.

Anonymous

The bar exam is only one measure of competency. I had to take the exam several times, not because the cut score was too low, but because the board failed to grant accommodations when I first applied. I had anxiety and mild ADHD. Once I was provided my own room I excelled. Lowering the standard is not appropriate. The board of examiners has a duty to the public. It is time to increase law school standards and accreditation.

Geoffrey Michael - Self

Look, this is simple. If today's law school graduates can't meet the current standard, the answer is NOT to lower the standard. The answer is for those graduates to do what I did -- work harder, study harder, and do whatever it takes to pass that exam.

I'm shocked that you're even CONSIDERING lowering the cut score. If they can't make the cut, go do something else! We don't need sub-par attorneys continually screwing up the profession. There are enough bad apples polluting the system as it is without opening the floodgates to even more potential losers.

If we're going to move the cut score at all, it should be UP, not down. Enough said!

George Williams - Law Office of George H. Williams

The problem ,in my opinion, is caused by the Law Schools. They are allowing students to continue past the first year who have no business being there. It appears that there are too many Law Schools.

Anonymous

I am a now-retired California attorney. My assistant graduated from law school in San Diego. She is Mexican. On her bar exam, the first question was posed about the crimes that arose from the operation of a still. Her question to me, among many where the examiners used American slang, when she failed the exam, was "what's a still?"

Do you get it?

I do mind the cut rate, but attention should be given that people don't understand the questions you ask, because of your unintended cultural arrogance.

She still can't pass the bar exam as presented, even though she is well versed on the material..

Lose the differential diagnosis, psychologist-driven styled questions, and just test on the material.

On the issue of the "cut rate", meaning an arbitrary point where the examiners deem the applicant's knowledge sufficient, why is that a sliding scale? Either you know the material or you don't. Which reinforces the above discussion that the issues lie in the horrid presentation of the ambiguous questions with the "right" answer being hidden in multiple layers of junk.

Best regards.

Janet Anderson

To the committee:

Keeping the cut score at 1440 is necessary for these important reasons. First, if I was able to pass the BAR exam at the current cut score of 1440 or more, why can't the next generation? I was already 35 years old when I started law school. I went to night law school and worked all day. I studied hard and passed the BAR on the second try. It was tough but worth it. Why should the "bar" be lowered? Young law students should have the stamina to score a 1440 if I could do it! To have passed the legendary California BAR exam means something--everyone says it's the toughest BAR exam of all. Why make it less prestigious?

Next, there are too many attorneys in the state of California anyway. It is really hard to find employment and starting your own solo practice is prohibitively expensive. Finding work with a law firm, when you come from a small unknown law school, is also hard. At Yale School of Law, the second year students are already being introduced to prospective employers and some students have jobs in major firms secured before graduation. The vast majority of law graduates leave law school do not receive this kind of help. They leave law school with no connections, little money, and they struggle to find employment commensurate with their education--and also with their level of debt.

Instead of lowering the cut score, why not write a bill that requires all law schools to assist with job placement and real life student-intern hours that actually prepare new lawyers for work in a good firm? All law schools should be required to have a law journal and assist students with job placement like Yale.

Thank you.

Mark Stiedemann

There is no shortage of lawyers. Continue to use the Bar Exam to limit supply. Publish statistics that show most new JDs will be out of the business within in a year.

The Bar Exam and Required Educational Prep neither prepare a person to practice law nor determine who will be competent. Many states like Minnesota have 95% Bar Exam pass rates and do not seem to have a problem with incompetent lawyers or lack of professional integrity. California's approach is all wrong.

Require a one or two year paid supervised internship of full-time employment as a lawyer before a lawyer may practice on their own. CPAs have a similar requirement. This will limit supply, provide practical training, and alert would be lawyers that they may not find that first job with a supervising attorney.

William Le

The State Bar should look to protect our legal professional, not the individual schools. ABA and other accrediting agencies continually allow Universities to open new schools, who flood the market with unqualified students who cannot pass the exam, then complain when those same unqualified students do not pass the exam. Isn't the answer to establish rigorous application process at law schools to ensure only those who are able to pass the exam on their first several attempts, in fact, are admitted to law school programs. Lowering admission standards to the Bar serves only to erode public trust in the basic competency of its lawyers.

Lastly, as a minority attorney, the use of "diversity" as a justification to reduce admission standard to the Bar is insulting minorities by insinuating minority candidates cannot meet those same standards as their non-diverse peers and only through lowering of standards would allow the Bar to meet its diversity objectives.

George Sullivan - OPIC

There are too many attorneys in California. Having a bar to entry is not a bad thing. However, the test should focus more on practical matters and less on arcane rules particular to niche areas of California law. They should also test matters related to civility and professionalism. There are also too many law schools in California. Only graduates from ABA accredited schools should be admitted to the Bar.

John Wiblin - Longmores Solictors LLP

The law is difficult. And it is broad. We know these things and we struggle with their consequences daily. The case for making laws more readily capable of being understood is compelling. I should support initiatives intended to achieve that outcome. I should similarly welcome discussion about allowing persons to qualify to practise in defined subject areas only and after reduced periods of study limited to that subject matter. After all, does one need to make acquaintance with Mrs Palsgraf to be able competently to advise on an immigration issue? That, it seems to me, may be a better solution to the shortage of representatives in some areas of the law and some communities. But persons qualifying by that route would not be attorneys licensed to practise generally and we are dealing here with the admission standard for attorneys, and with the law as it currently is, and not with how it might be.

In my view, there is no case for licensing individuals to practise a difficult subject when they have not been able to demonstrate their mastery of that subject. It is not my experience that all junior attorneys who are currently practising it are over-qualified. I doubt it is the experience of others. The fact is that the training system in this jurisdiction is already inadequate to prepare junior lawyers to practise. In other jurisdictions, a period of apprenticeship (typically a few years) is required after taking a law degree before a graduate receives an unconditional license to practise without supervision. Here, the bar exam and MPRE are the only tests of an individual's readiness to be unleashed on the public. Reducing the cut score can only have the effect of allowing entry to the profession of more attorneys who are not able adequately to explain its workings to clients.

I suggest that the profession should instead, be working to identify and eliminate law schools that do not adequately prepare their students to pass the bar and, until that can be done, to assist graduates at modest cost to achieve the standard that their predecessors have done. That is surely what those individuals want and had aspired to achieve when entering law school. What a disappointment it will surely be to them to get to the end of such a costly and arduous path and to achieve a tarnished reward - that of being an attorney 'admitted after (date on which cut score was reduced)'.

Anonymous

A keen analytical mind, and a quick one at that, is a hallmark trait of an effective attorney. While route memorization of core first year law school subjects is a must for anyone who takes the bar, if a prospective examinee cannot immediately issue spot and/or express their analysis in a controlled environment, then I steadfastly believe they will struggle in their practice if the bar is lowered. We have more than enough attorneys in California. Even if it means that prospective clientele will have to be more diligent when trying to select the best qualified representative, the pool will be better, and so will be the reflection on our profession. Don't compromise the integrity of the system in order to attain some misplaced goal.

Anonymous

I urge Californians to show some independence from the political winds sweeping the leadership of the Bar Association. The Association's leadership is not at all focused on the quality of legal services when it comes to this issue. They are instead searching for emotional support for a change in a long-standing policy of excellence that has, thus far, protected Californians for decade upon decade. The leadership of the bar is obsessed with the fact that there are more blacks in the general population than there are in the ranks of California lawyers. But it is a politically-driven and demonstrably false assumption that the racial make-up of the bar means that blacks are getting inferior legal services. In fact, because the bar has a high standard now, blacks are in fact getting better legal services than they will if inferior candidates are admitted by a lower bar exam score. The logic of this cannot be overcome, except of course by the operation of racism and political correctness, which insists that a white lawyer cannot handle a black person's legal issues and vise versa. This is the underlying assumption of the political activists in the bar behind this foolish proposal and they have absolutely no proof that it's true. It's just political correctness, meaning it's not truth, it's a lie.

Because the real issue is the erosion of educational standards in high school, college, and law schools, which more and more, are driven by financial and political concerns instead of driving for quality of education. I'm all in favor of making our schools better and turning out better student populations, but lowering bar pass standards will not address that. In fact, it will make it impossible to address declining educational quality, all to the worse of the legal profession.

We are a country of laws; our country and our justice system is supposed to be race blind and it accomplishes that imperfectly perhaps, but better than any other country in the world. As my father used to say: "It's the worst system, except for all the others." And racial impartiality is in part the reason for the blindfold on the Lady of Justice. She's not supposed to see the color of who's on trial as she balances her scales. But the activists in the Bar don't care about all that. They don't care about assuring that we have the best lawyers, that white people work hard for blacks and that black people work hard for whites. They believe a system can't be fair unless it's color-coded and that's the sort of lunacy that will destroy race relations, not improve it. So don't support this policy change. It won't improve legal services and it will further divide us.

Lawyers of all colors want to help their clients, make them as happy as circumstances will permit, make money, and do things correctly because they have liabilities if they don't. Lawyers are not out there trying to hurt people or pursue racial vendettas. That's a strong contrast to what the activists at the bar association want you to believe

here. California, don't let them do it to you, because your rights, possessions, and family depend on the best legal services, not the most politically correct.

Andrew Watson - None -- retired

I was 40 when I passed the Bar in 1979 and was admitted. My perspective may be influenced by the "Well, when I was a young lawyer ..." syndrome.

In my opinion, California is grossly over-lawyered. I have classmates -- bright, insightful people -- who are still driving taxicabs. My very bright (and deeply loved) granddaughter is considering adding a JD to the BS/MBA she has already earned -- and I am begging her NOT to go to law school.

Just for perspective, the family can count 9 (NINE) lawyers in my direct ancestry, dating back to 1612 -- 11 in hers.

I have litigated against some of the brightest stars in the legal firmament -- and some dullards who should never have been released from kindergarten.

In my opinion, the State Bar's most urgent calling is increasing the QUALITY of California lawyers, NOT the quantity.

And I have often been heard to preach ....

1. LSAT scores have NOTHING to do with the study of law;
2. Legal learning in a law school classroom has NOTHING to do with passing the Bar exam; and
3. Bar Exam results have NOTHING to do with the competent practice of law.

Total three-level disconnect.

As Martin Luther once said, "Here I stand; I can [do] no other."

Andrew Watson
SBN 86705 [Inactive]

Jai Kim

The State of California has already cut down the days for the exam from 3 days to 2 days already. Further lowering the cut score from 1440 to 1414 will only allow more persons to enter into the field of practice which is already over burdened with excess attorneys in each district.

I graduated from an out of state ABA law school. I took the bar exam twice prior to passing it during my third time. As the result, I will not do anything that may potentially jeopardize my license as an attorney. Though I may not agree with all aspects of the CBX, I came to understand that CBX is not only designed to test one's legal knowledge and analytical skills but also to determine whether a candidate would likely be successful in representing clients in their early career as an attorney.

It is true that what you learned at law school and tested may not be reflective of what you will face as a practitioner. However, it is also important for the candidates to be able to "spot" those practitioners that they should not model after. I had a first-hand experience where I worked for an attorney that abused his credential, giving out incorrect advice, and later having his license revoked by the State Bar. It is extremely important for each candidate to treasure the privilege of practice they will be given and uphold one self to the standards of the profession, not just use it to make money.

If being a licensed attorney becomes easier in California, I am afraid that we will be allowing more attorneys who are more concerned about paying off their student loans rather than upholding the standard as a licensed attorney in California.

I Kipnes

As a member of the California (and another State) Bar I am appalled that this is even a consideration. The Bar is already overcrowded with members and we need to strengthen our membership by holding steady on the cut score. Allowing people with less competency into membership cannot be good for the Bar nor the public at large. I beg you...DO NOT make this change.

Nathan Budzinski

I just took the exam and I do not yet know whether I passed. Therefore, I should be biased and say, "lower the score." However, California does not need more attorneys that are under-qualified. Our legal system already has issues, and adding more attorneys who are unable to pass the bar will not help advance our legal system nor will it benefit potential clients who will likely be met with sub-par service.

Arshan Amiri

I do not think that the bar exam cut score should be lowered simply because less people are passing. The exam is essentially the same as it has been for years. Prospective attorneys should have to pass the exam just like those attorneys that came before them.

Steve Bickel - OC DA (retired)

California has a history of "dumbing down" testing and passing grades in public schools so "no child is left behind" and all kids can feel good about their scholastic achievements and nobody has to face failure. This could be part of the reason for falling passing rates for the bar exam--too many college graduates getting into law schools with artificially inflated GPA's or in the name of diversity. The bar exam is the great equalizer and doesn't care if you went to Stanford, Boalt or an unaccredited law school. Lowering the cut score only puts more unqualified lawyers on the street who may cause more damage to clients than help them, and given the low esteem in which lawyers are held today and the important work they do when they are needed by people, only the best and brightest should be practicing in California. Apparently the California bar exam is the 2nd toughest in the country. My question is why aren't we the toughest. I went to a California accredited but non-ABA accredited law school graduating in 1977 and passed the bar the first time and spent over 28 years as a deputy DA in Orange County. The bar exam was tough as hell, but it separated the wheat from the chaff, which was the object of the exercise. To dumb it down would be a travesty.

Stanford Sanoff - In house counsel to businnes firm

I do not know if is more or less difficult to pass the Bar Exam today than it was when I passed on my first attempt in 1964 when the exam consisted of answering 24 essay questions over a 3 day span. I do suspect that:

1) the reduction to 2 days is no doubt a major alleviation of some the tension and difficulty to cope with the exam;

2) Many recent lawyers admitted to the Bar are having difficulty finding suitable positions to ply their profession;

3) Many, a majority, of past passing exam scores have been in the mid to low 40's;

4) That a 4 point passing grade example for admission on the July 2016 exam does not appear to raise the competency of the bar, but only admission of marginal examinees , many of whom will find difficulty in finding employment;

5) Having been involved in Legal Education for the first 25 years of my legal career, I believe the multi-state part of the exam has lowered the legal expertise required of bar examinees. Lawyers are presented with factual controversies to provide advice to clients. In my 52 years of practice I have yet to have a client present me with an inquiry such as : can you advise me if my problem is about an easement, a covenant running with the land, an incorporeal hereditament or none of the above ? This is different than writing an essay to a question in a lawyer-like fashion. I believe the multiple choice method of examining applicants has lowered the standards and should be replaced with more essay type examination questions.

CONCLUSION: No doubt there are other factors that the Court and State Bar will consider in making its decision. What I have posited is a candid opinion including my gratuitous opinion in #5. Whatever direction is taken, I am confident the legal profession in California will continue to be one of the leaders in the country.

David Baskin - Retired founder BaskinGrant LLP

We should not reduce the level of education, competence, qualification, knowledge or quality of those who are able to pass the bar exam. The problem is not the cut score. It is the declining standards of education that tolerate lesser performance standards and still pass students along to the next level.

If anything, there should be an additional requirement similar to medical internships and residencies, so that we do not unleash those who have completed the educational requirement and passed the bar on the public without any experience practicing law in a supervised setting. A year or two of public service at a paid legal clinic, mentoring programs, etc., would improve the competence of starting attorneys and benefit the public.

Richard Lund - Plageman, Lund & Cannon LLP

As our laws have become more and more complex, the day to day practice of law has become more and more demanding. I have hired many new lawyers as associates during my 32 years of private practice, all of whom passed the bar exam under California's historically high standards. Even the most capable of them struggled in the early years to get to the point where there was not a high risk of mistakes. The breadth of knowledge and analytical skills required to safely practice law today are very great indeed. The high bar presented by the current cut score is, in my opinion, justified by the high demands awaiting these new lawyers when they join the profession.

There appears to be a significant surplus of law graduates passing the bar currently, compared to the available positions practicing law. If that ever changes, I am confident the existing law schools will increase enrollment. It seems to me that the public is best served by keeping California's higher existing standard for admission to practice under these circumstances.

This situation does have harsh results for law students who have invested time and money into legal education but are unable to pass the bar exam. I would favor tougher regulation of for-profit law schools, including better data gathering and disclosure around student outcomes and employment.

I have a relative who just entered law school in Finland. There, the law schools are essentially free, but the government decides how many lawyers are needed and limits the school slots accordingly. My relative waited several years before obtaining a spot in one of the country's few law schools. In America, we seem to prefer a "buyer beware" approach, putting that burden on the students to decide if the investment is worth it. Unfortunately, the results are sometimes harsh when that gamble is taken. I would have no problem adopting the Finnish system, but that seems unlikely to happen here.

Anonymous

I believe we're dealing with the consequences of the dumbing down of American youth. I further believe that diversity for its own sake is absurd. Are we to give credence to diverse cultural notions justifying honor killings and female genital mutilation?

Absent any indications bar exams are more difficult than in the past, why demean the profession with the less scholastically accomplished. Consider someone who otherwise didn't measure up in his/her medical boards running a catheter to your heart to quell atrial fibrillation.

Cassandra Ferrannini - Downey Brand, LLP

The test was just changed from three to two days. Less rigorous. It seems appropriate to wait a while to ascertain the effects of that before further emasculating the California bar. It is a point of pride (for at least this California lawyer) that we have one of the most rigorous bar exams in the country. Frankly, there are plenty of poor California lawyers who somehow managed to pass the test as it is. This state has no shortage of lawyers. Please maintain high standards. If this is a response to the downturn in law school applications, that is an insufficient reason to change the test.

Michael Bartlett - Impact Bearing

Why not just keep the cutoff the same for wbites and asians, and lower the passi g score by 300 points for all non whites e!cept asians. Viola, diversity is increased.

Lois Valerio

I find the idea of lowering the score because the pass rate is declining appalling. This is further evidence of the "dumbing down" that is occurring on many fronts. I went to an out-of-state law school (Boston University) and took the CA Bar Exam over 20 years after graduation, when I relocated to CA. I passed on my first try. I credit this to the excellent education I received and the countless hours of preparation. Law is a lofty and difficult profession. I object to standards being lowered so those who are ill equipped can enter the profession.

Anonymous

As a person who failed the bar the first time, but was successful the second time, I feel the score should not be lowered. People will bring up the fact that there are too many lawyers in California, but as someone who went to law school during a time when applications were low and schools were lowering their standards for admission, I have to point out that the caliber of lawyer has decreased. I passed the February 2017 bar, with a 35% pass rate, and while that percentage is extremely low, it was something I achieved. I don't think lowering the cut score will do any future lawyers a favor.

Catherine Giacona

Lowering the cut rate will lower the caliber of attorney here in California. Why do we need to increase the pass rate? Do we not have enough qualified attorneys already?
If we had a shortage of attorneys my opinion might change but I do not believe that is the case. I believe law schools are lowering their admission standards because fewer qualified people are choosing to go to law school. Therefore, we are graduating more students who cannot pass the bar. Lowering the pass rate will not solve this problem.

Bruce Elworthy - Elworthy & Marshall, P.C.

Membership in the State Bar of California is a privilege and not a right. If Law Schools fail to adequately teach students to the end that they cannot pass the Bar Examination as it currently exists the fault is with the Law School and not the Examination. If the Law School admits unqualified students for whatever reason that is their choice but that should have no impact on the State Bar in terms of lowering its standards to accommodate such students.

Seth Schwartz - Law Offices of Schwartz & Storey

I am the managing partner at a firm of 6 attorneys. I attended Thomas Jefferson School of Law. The problem that this decision is attempting to address starts at the law schools not the bar exam. I would encourage the bar to focus on the rigor of the schools.

Kathleen Warner

In order to decide whether changing the required passing score from 1440 to 1441 I need to know more than how lowering the passing score to 1414 would increase the pass rate. I need to know the following.

(1) Other than increasing how many pass the California bar and that California requires a higher passing score, what considerations went into the decision to select 1414 as the proposed passing score?

(2) Does the State Bar consider the 26-point difference negligible in terms of a basic understanding of the law?

(3) Assuming a reliable statistical analysis is possible, has the potential risk to the public of lowering the passing score been done?

(4) Is the 26-point change meant to address vagaries in the skill level/attentiveness of bar exam readers; if yes, what bar reader training options are being considered?

(5) Who will most be benefitted by requiring a lower passing score?

(6) Of the test takers who are mostly likely to benefit from lowering the passing score, what are the downsides of this change?

(6) What alternatives is the State Bar willing to consider to help failing test takers increase their scores? For instance, would the State Bar be willing to consider any of the following?

(a) Has the State Bar examined the potential factors that may contribute to failing scores within that 26-point spread; i.e., quality of law school instruction, access to a quality bar review courses, inadequate time to prepare, medical issues, ways to support test takers regarding such issues?

(b) Issue provisional licenses good for a reasonable period of time to allow test takers to retake those portions of the exam they failed?

(c) Holding the schools the test takers attended accountable by requiring them to provide, free of charge to their students who need them, accredited/State Bar approved bar review programs in the subject areas the test takers failed as a condition of allowing their graduates to sit for the bar exam?

(d) Require law schools with failure rates which exceed an amount determined by the State Bar to review the course materials and persons assigned to teach the materials to propose and implement changes that address the problem learning areas.

The issue of whether to lower the passing score is far more complex than this simplistic survey suggests.

Anonymous

Option 2 suggests that because the pass rate for the California Bar has been going down, we need to lower our standard to go along with that decline in pass rate. The rationale for this seems to at California's cut line is higher than all but one other state and that the law schools are concerned that the ABA may require a pass rate of 75% within 2 years for graduates for law schools to remain accredited. This is nuts. The California Bar has always had one of the lowest pass rates in the country. What problem is this proposal really trying to solve? Are there not enough lawyers? Is there not enough diversity? Is there another problem this proposal,is trying to solve, other than help law schools wit their graduation rate and their accreditation. We would be better off retaining the current cut line and working on the root causes of the declining pass rate and working on the root causes of the declining pass rate.

Ashley Peterson

I pride myself in being a California licensed attorney. I went through the struggle of law school and the stressful hurdle of taking the bar exam twice. I wanted to be a lawyer so bad, that I went through another grueling 3 months of studying to take it again and I passed. I believe there are a lot of bad attorneys out there who contribute to the negative image the public has about lawyers, and by reducing the bar pass score, we are opening the door to more bad lawyers who may not have to study as hard or work as hard to achieve their goal. We work in a high integrity profession, and I believe keeping the pass score higher encourages that level of integrity. Just because law students aren't passing the bar doesn't mean we should reduce the score pass rate. CA already reduced the exam from 3 days to 2 days to try to be more like other states. California and NY are the two hardest exams, and we pride ourselves on that fact and the ability to say we passed the California bar exam.

Linda Lipscomb - None

The cut score is not the problem. The education is, apparently. The Bar should take an active role in reviewing curriculum and instruction, and correlating those items with the Bar pass rate. A pattern may emerge,, and an answer may be in the offing. Would you like them to dumb down the score for becoming a medical doctor? No less important to the public is good legal representation.

Anonymous

So, there is such a critical shortage of lawyers and the pool of candidates is so dumb that the bar must be lowered? Maybe you need a two-tiered system of Lawyer 1st Class (those who studied and worked hard) and Lawyer 2nd Class (those who lacked motivation or intelligence but really, really wanted to pass the bar).

P. Waide

Lowering admission standards in the state of California will only lower the quality of legal services. Every attorney admitted to the California bar to date has had to meet the 1440 requirement. There is no good reason to lower this bar simply because fewer examinees are passing.

The actual problem obviously is the quality of legal education that modern examinees have received, including bar preparation.

Perhaps by addressing THIS very serious problem, we will begin to see a concomitant rise in the pass rate.

Anonymous

I respectfully suggest that the bar either remain as it is. Please don't lower the bar.

Mark Geller - Laura M

There has been no study, to my knowledge, which shows, or doesn't show a correlation to the dropping scores and the rise of students attending second tier or non-accredited schools. I would, as a member of the Bar, be opposed, to any lowering of the standards in california, particularly in the absence of data indicating some of the plausible reasons for the drop, such as an increase in students graduating from non-accredited institutions or data indicating score clusters by institutions as this may be a systematic problem in the curriculum of the schools, not reflecting generalisations about the test being too difficult. Prior to changing any scores to allow additional passes, the bar should gather a lot more data than it has. To do so is to perhaps, allow a problem in the institutions of learning to persist which solves nothing and may simply allow marginally trained students to become marginal attorneys.

Victor Davich

I filed my public comment with Ron Pi, Principal Analyst, on 7/14/2017. If you do not have it, please let me know and I will resubmit.

Thank you for your courtesy.
Victor Davich
Cal Bar # 129242

Anonymous

The bar exam measures legal aptitude and ability. Those who don't pass the exam generally lack the analytical ability to effectively practice law. Many for profit law schools are graduating unqualified students who have not demonstrated that they possess the required abilities to be lawyers. None of these factors commends lowering the current bar exam cut score.

Darryl Yorkey - BofA

The fact that the passage rate is going down while the difficulty of the California Bar exam has not changed is because the quality of Bar takers is quickly diminishing. The takers now are part of the "participation trophy" generation, ie if they try (even minimally) they should matriculate. This is a frightening prospect for the legal profession in California.

Lowering the cut score to allow an easier pass does nothing but make the Bar exam a formality instead of a filter for competent vs less than competent attorneys. California already has an excessive number of attorneys, and an excessive number of incompetent attorneys.

Because of the lack of jobs and apprenticeships in the legal profession, California (as are many other states) looking for a dismal 20 years of legal practice where law school graduates in the practice of law that have no experience to draw from and are forced to hang their shingles independently before they are seasoned enough to practice on their own. This also is a frightening prospect for the consumers and clients in California.

Since the cut score has never been an issue in the past with the number of passing attorneys, it shouldn't be an issue now or even continuing into the future.

The Bar exam is meant to be challenging and a means to weed out and protect consumers from underqualified attorneys, not meant to be a formality. Takers must be well prepared. This has never been an issue with past generations of attorneys.

The State Bar should not be bending standards of testing because the candidates are failing to be prepared. There are a number of alternate actions that the Bar can take to remedy this sitution:

1) Eliminate accrediatation for Cal Bar approved schools.
2) Eliminate ability for students from unaccredited law schools to sit for the exam.

Rather than bending to the requests of law school deans, the Cal Bar should make affirmative statements to the deans of law schools that the large number of takers failing the exam is not a failing of the exam, but a failing of the education that they have received to prepare their students for the exam.

The passage rate is an anomaly that is mirroring the contraction of the legal field, law schools do not want to accept this natural correction. The duty of the California Bar is to prevent under qualified candidates from practicing law not to tailor a bar exam that most of the candidates can pass. If there was a lack of attorneys in California, this might present a public policy reason to lower the score, but lowering it just because the shift in law school graduates is that they do not study enough to pass is nuts.

The fact that this is even a consideration makes me feel like I am taking crazy pills. It is outrageous.

Anonymous

I'm in favor of keeping the current cut score.
As a minority and a woman who attended law school in her mid thirties that added to diversity in the class room, the bar passage rate had zero impact my decision to attend law school. I currently work at a federal agency with loan forgiveness program, I believe that law school graduates have choices when making plans regarding loan payment. Lowering the bar passage rate would be a disservice to the public would not promote neither attracting diverse students nor alleviate burden of student loans.

Anonymous

The bar is supposed to be challenging. I think the intense run up to study for the test accurately reflects the workload to be expected later. I would not like to give the impression to the public that high standards do not matter to our profession, which is the signal sent by lowering the score requirement in order to allow more people to pass. Knowing that the bar is historically difficult is one factor that I believe the public appreciates when they go to hire an attorney.

Additionally, the 2-day bar was just imposed. Shouldn't you all wait to see if that has an impact on pass rates first?

Anonymous

There are no shortage of attorneys and people should pursue this demanding profession cautiously. I worry the test doesn't weed out folks that are unsuited for this profession and perhaps needs to be changed but that is different from making it easier to pass.

Perhaps some of these ridiculously exploited law schools will shut down if they can't get their students to pass. As far as I am concerned this profession has continued to decline in the standards. Ironically the demands on lawyers by the Bar continue to grow with new obtuse rules a bff responsibilities for lawyers while the over saturation in the market leaves far too many lawyers without the work they need to afford the massive support staff required to meet all the demands and leave time for thoughtful client based lawyering.

Anonymous

I am having a hard time understanding why this is even being discussed. There is not a shortage of lawyers in California requiring a lowering of the pass rate. You have already reduced the Bar exam from three days to two days. Unless the Bar exam has somehow gotten harder over the years, the issue is not that the Bar exam is too hard but that law schools (or perhaps high schools and colleges) are not adequately preparing students. The answer is not to lower the expectations but to address the reason that schools are no longer able to turn out students capable of passing the exam. This study is caving to the law schools that seek to increase their performance statistics in an effort to attract more students and more money. Lowering the pass rate hurts the public at large. We already have too many lawyers who have passed the Bar exam but are grossly incompetent in their ability to represent their clients. Being a lawyer is not easy. Being a good lawyer ,who ethically and professionally represents your client, is even harder. If a law school graduate can't sit for three days taking an exam how are they ever going to be able to get through a trial? Frankly the bar exam 15 years ago wasn't that hard. If one took the bar preparation course you could probably pass the exam without ever having gone to law school. Lowering the pass rate is a terrible idea. We need good lawyers. Lawyers who can string a logical sentence together and who are willing to put in the time and effort it takes to be a good lawyer.

Anonymous

We have more than enough attorneys in the state of California, and should not be looking for ways to admit yet more attorneys who probably will have a difficult time getting jobs, and therefore definitely have a difficult time repaying they are gargantuan law school loans. Our serious efforts in this state should be focused on better educating our young people, beginning in grade school and continuing through high school, so that they can be better prepared for passing the bar exam and becoming a member of the legal profession.

Robbert De Klerk - Bogart, LLC

The problem that has been identified is declining CA Bar Exam pass rates. Barring evidence that the exam has gotten more difficult, this would seem to be a result of less-prepared students taking the exam. It would therefore appear that the solution should be making sure that students are better prepared. This should principally be accomplished by making sure that the quality of law school education is sufficient, and that only those students who have studied law at a school that is deemed sufficient are allowed to take the bar exam.

Of course it is important that the bar is diverse, and that underserved populations have access to legal services. But accomplishing this by making it easier for law students to pass the bar seems misguided. We should instead make law school both more affordable and better. Everyone has the right to expect competent counsel. Lowering the bar (no pun intended) is exactly the wrong approach. Lower achievement should not beget lower standards, it should beget better education.

Please know that I no longer practice law, and I have no vested interest in keeping people from the profession except to the extent that I feel strongly about maintaining both the quality of our bar and the legal services that California residents can expect from its members.

Hill Anthony

Lowering the standard is harmful to the general public. The profession already has a black eye shown by numerous incompetent attorneys not only taking money from citizens of our great state, while delivering ineffective, and miserable representation. Student loan payments, and inability to get jobs because of the lack of basic legal knowledge, is illogical, and absurd rationale to create a larger pool of incompetent attorneys. The California Bar exam can be passed, if the test taker studies, did not take short cuts during law school, and learn how to apply basis legal concepts, no different than the skill sets lawyers must demonstrate daily when representing members of our public. To be frank, the bar exam is a walk in the park as compared to the level of competence and understanding that must be demonstrated on the first day of practicing law as a licensed attorney and moving forward. We should not be lowering the standard, but rather raising the standard, maintaining a least a minimal standard of competence and protection for our public. The legal profession is becoming a joke. If you go to law school, get a loan to do so, then your should be guaranteed to pass the bar. Forget about needing minimal understanding of the law, ability to apply legal concepts, ability to write a sentence, ability to research the law, ability to understand what case law means. All of these core skills are needed to effectively practice law, essential for protecting against irreparable harm against the public, and further dedgradation of the legal profession as a whole. Although lawyers are not surgeons, but they hold the same power to destroy lives, and destroy families. Congratulations State Bar of California for contributing to causing further harm against our public as a whole, our children, brothers, sisters, parents,.. people we are entrusted to protect. There is no shortage of lawyers, and certainly no shortage of incompetent licensed California Attorneys.

Thomas Kummerow - Washington Appellate Project

Lowering the current score is one of the dumbest ideas yet. Maintain the score and make law schools be more transparent in their ability to teach and graduate capable lawyers.

Anonymous

Want to raise CBE scores? Let market forces continue to weed out California institutions with poor academic entrance standards, as happened to Whittier Law School. The problem is not the California Bar Exam. It's always been tough and has a well known reputation as such. The problem is the reduced average quality of would-be lawyers. Now that more sophisticated education consumers realize the legal profession is saturated, many high-achieving undergraduates, and students from the better universities, are opting for other professions.

Matt G

The purpose of the bar exam is to make sure those who are qualified to practice law are allowed into the profession. For those who have passed the bar and have gone through successful bar prep know that it is not a process of memorizing a plethora of laws or regurgitating a series of rules. It is being able to take the education that prepares the law student to engage in critical thinking that warrants a law license through such a high score on the test.

Lowering the bar, lowers the standard. Instead of demanding high levels of preparation and skill development, the proposed score of 1414 simply lowers the bar. It is not helping the public in the long run by providing access to attorneys. According to the ABA Statistics Figures from 2016 and the Bureau of Economic Analysis data, in California there are 167,690 active and resident attorneys with a state population of 39,250,017. This means the number of lawyers per 10,000 residents in California is 42.7, ranking California as 8th in the nation in lawyers per capita.

This demonstrates that California already has an overabundance of lawyers and admitting lawyers at a lower score will simply exacerbate this. In addition, law firms look at much more than passing the bar when hiring. Lawyers who may pass at this lower rate will have demonstrated in law school that more likely than not they score in lower percentiles than their future competition. If the idea is to provide lawyers to those who are disadvantaged, such lawyers will more likely to be employed by firms with higher standards. Instead, such lower scoring examinees might be practitioners who have entered into solo practice. This is not providing adequate legal service to those who are disadvantage.

Simply lowering the bar is not an answer to this issue. From personal experience, passing the bar is one of the most difficult undertakings. However, looking at those from my university (which is lower tier) who have maintained one of the highest pass rates in the state over the last 7 years, it is because they were diligent in their studies and applying the lessons they learned in school and during bar prep that gave them the tools to pass the bar. In addition, they have gone on to careers that have benefitted from their time in law school and the skills that were inherent in their passage of the bar.

What should be of more concern is law schools who are not effectively preparing students for the bar exam or are not transparent about the legal profession and what is involved in entering into this career. Lowering the standard does not provide the market with attorneys who will be better prepared to represent clients. Instead, it provides less than optimal attorneys who cannot fulfill the oath, because they are not prepared to meet the high standards that are bound up in that oath.

If this is a discussion about how we need to provide an opportunity for potential attorneys who have struggled to pass a very rigorous bar, then perhaps other avenues of licensure can be employed. Apprenticeship or interning for a period of time at a reputable firm with an established training program might be an alternative. There are in truth some people who are not able to withstand and take the pressure of the bar exam, however, these are exceptions rather than the rule. Those who are not currently passing the bar because they cannot meet this minimum score are representative of people who are not adequately equipped to practice law in California.

Bar passage at this point represents a high standard that California should continue to strive for, not lower in order to improve statistics. It represents the culmination of hard work and discipline that are necessary not only for a single test, but for the years of practice that follow. Lowering the score dismisses the reality that the practice of law requires diligence that is not necessarily present at this time in law school prep or the current generation of applicants.

Jonathan Eisenberg

California has too many lawyers, given the amount of paying legal work available now and for the foreseeable future. Hence there is no sound reason to increase the number of people qualified to practice law in California. So long as there is going to be a California bar exam that people have to pass to be able to practice law legally in California, rather than an unregulated market in which pretty much anyone can practice law in California, then the passing score should stay where it is.

Gregory Aisemberg

California is in serious decline, economically and culturally. We must protect the public by maintaining the integrity of the legal profession in California by not allowing it to degenerate like so many of California's institutions and values for the sake of political correctness.

Amy Leung - Gordon Edelstein Krepack

I think that if there are to be any changes, there should be greater scrutiny over the many law schools in CA. There should be more informed consent and regulations as to the student loan debt students are taking on, and the difficulty of passing the bar and finding a job after graduation. I do not think that lowering the bar passage score is the correct answer. There is already very steep competition for admitted lawyers in the job market, adding more to the job pool will be even more problematic. I do not think there is a shortage of lawyers in CA. The integrity and quality of the profession needs to be maintained, for the interest of the entire legal community.

Anonymous

The LAW profession is a profession that must maintain its integrity. I have plenty of friends that did not pass the first time. However, they persevered and took it however many times they needed to reach their goal. I do not believe we need to lower the bar to make THE Bar easier. The qualified and appropriate candidates will make their way and prove their right to be a part of this elite group of professionals that own a Bar number.

Kim Brogan - Retired

I taught legal writing at an ABA school with another instructor by my side and was disheartened at the quality of the students in our class. They were good people, they had honorable intentions, but they had horrible skills. Despite explaining certain concepts not once, twice or three times, we often had to explain something as simple as how to cite a case a dozen times. Even then many did not get it. They did not understand how to research despite hours of non-classroom tutoring. I spent hours upon hours with students in my office and even then only half of them "got it."

Why should we lower the standards we have set for practicing in California? It's not as if we have a deficit of attorneys. Knowing what I know about the abilities of the students going through law school, I highly recommend that we maintain the standard of quality that we have in the past.

Anonymous

I struggled for over 5 years to find a job as an attorney after graduating right after the Great Recession. It was extremely difficult financially and emotionally. So many people were, and still are, unemployed and under-employed. I went to a top 20 law school and passed the bar my first time. I only recently found a job as an attorney because if you don't have experience it becomes almost impossible to find someone willing to give you a job to get experience as you've already been out of law school and on the job market for so long without that first job. I think law schools are motivated by a pecuniary interest in getting more students to enroll in their law schools. Law schools would find it easier to entice students if they could "brag" about high pass rates on the CA Bar Exam. I don't think thats a good reason to lower the cut score. I also just don't think the market should be flooded with even more lawyers when they are so many more still out there looking for work as attorneys. If it's hard to get a job now, how much more difficult will it be with even more people competing for dwindling jobs in a changing legal market? Technology has already led to less jobs for lawyers. I worry about access to the legal system for ilow-income individuals as well, but I think it'd be better to spend time encouraging non-profits to hire more attorneys or increasing your programs to allow new attorneys to get hands-on experience so they can use that experience to get full-time jobs as attorneys. I also worry about the quality of lawyers being admitted if you lower the score. I suppose I am biased as I passed the first time, but while it is hard, it isn't impossible with hard work and time. As stated on one of your introductory documents, the quality of the students are in part the reason for the decline in the bar passage rates. Thanks for your time.

Terry Walker - Deputy Counsel Counsel, County of Inyo

The California State Bar has always been tough to pass, and yet we have plenty of unemployed attorneys. I went to an online school - clearly not the best, and with hard work and study, I passed in 2014.

This year the Bar went from a three-day exam to a two-day. I believe the stress and fatigue of the three-day exam was what made our Bar more difficult. You had to not only think, but have stamina. Now, with a two-day, you have eliminated the need for stamina, which makes the test easier.

In my opinion, with new technology (internet) (Google search), the ability to retain the necessary information for the Bar is making it more difficult because people do not know how to study and retain. But an attorney can't always look up something on their phone while in court - this skill is necessary. Lowering the test score will turn out more lawyers that cannot think on their feet.

Please do not cut the exam score.

Thank you for your consideration.

Terry K. Walker

Anonymous

Those law students in law School due to "diversity" (lower entry standards) and public funding are either prepared for the Bar or not. If a law graduate can't pass the Bar the as is, that candidate should study hard and retake the Bar.

Anonymous

There too many marginally qualified attorneys now.

Sunny Sarkis

When prospective lawyers applied to law school in California, we were all equally aware that we had to pass the California Bar Exam in order to practice law in this state. Similarly, we were all aware of the possibility that we might not pass that exam. We all acknowledged that possibility when we decided to attend law school.

The remedy here is not to make the bar exam easier to pass. It undercuts the great achievement for those lawyers who took the regular bar exam (which was originally 3 days long) and passed it at no small effort or expense. To cut the bar score puts our law licenses on equal terms with those who took an exam that was easier to pass, even though their licenses were not obtained with an equal amount of intellectual rigor. In simple terms, it's unfair.

If The State Bar of California is concerned about law students carrying massive debt loads from law school, I applaud this concern. Again, however, the remedy is not to make the bar easier to pass. The remedy should start with the law schools who are charging absurd amounts for students to become lawyers, and all attorneys know we desperately need change there.

It is unbelievable that a law school that does not rank in the U.S. News & World Report Top 100 Law Schools can charge $35-45,000 a year in tuition. Such schools tend to have poor or at least lower bar passage rates. Perhaps they should lower their tuition, or the State of California could enact a law mandating loan forgiveness after a certain number of failed attempts at passing the bar. Do those schools require that all of their students take a course in each subject that is on the bar exam? If not, why not? What are these and other law schools doing to lessen the debt burden on law students?

The bar exam study courses, which are widely acknowledged as a necessity for passing the bar, could stop charging students who have to retake the course because they failed the bar the first time. At $5,000 a pop, these courses are very expensive, and it doesn't seem fair that a person who failed the bar should have to pay to take it again. A person who fails the bar exam misses out on the earnings they would have made as a licensed attorney AND has to pay another $5000 to take the study course again. Why don't we ask Barbri and other bar exam prep courses to do something about that?

The State Bar of California itself could make the fee for the application to take the bar (which was $1500 when I took it) a one-time fee and then permit people to take the bar as many times as it takes to pass it after paying that fee.

If you ask any lawyer who has graduated law school, passed the bar, and looked for a job in the wake of the financial crisis of 2007-2008, the last thing we need in California are more lawyers. Job prospects are bleak for lawyers who passed the 3-day bar exam and graduated from accredited schools. I personally know countless horror stories from attorneys who could not get law jobs then and still cannot get law jobs now, 7-8 years later. Many licensed lawyers are simply leaving the field due to the dearth of jobs in the legal field.

Just for the record, vast amounts of student loan debt burden not only lawyers who can't pass the bar, but all lawyers. It is especially sad that we have so many bright, qualified attorneys who can't take jobs providing legal help to those who need it the most, even thought that was their desire when they entered law school.

With all of that said, I am glad The State Bar of California is considering this issue, even though I do not believe the answer is to lower the cut-off score for the bar examination. I hope it will start a conversation about unrealistic tuition rates and bring about meaningful change at our law schools, who seem to care solely about rankings.

Anonymous

This is a terrible idea. The bar exam is a gating factor to ensure the integrity of the profession. It should not be used to solve social issues nor should its standards be lowered to accommodate unprepared applicants. The solution is to reign in the sheer number of subpar law schools in this state (many of which charge way too much tuition for the value of a law degree from that school) and the attendant number of applicants admitted to and graduating from those schools (who clearly are not prepared to pass the bar exam). It is the accreditation standards that need a good hard look. Barring that, the state bar should offer financial help to those who need it for bar exam classes, the single most helpful thing needed to pass the bar.

Anonymous

Lowering the cut rate will result in an increase of unqualified lawyers. California is a notoriously difficult bar to pass, and students know, or should know, that going into the exam. Thousands manage to pass it even with its current rigorous standards. There is no need to make it easier, especially since the multiple choice portion of the test is undergoing changes nationwide that could soon affect California.

Anonymous

The bar exam score should be increased, not decreased. The reality of the situation is that there are already too many lawyers in this state. Employment statistics for recent graduates have been poor for some time and the prospects of a reversal anytime soon are not promising. There has been a glut of supply, without any corresponding increase in demand. Many high achieving college graduates, who would have otherwise considered enrolling in law school, have shied away from doing so because the legal market is not what it was 10 years ago. It is no surprise then that the bar passage rate is declining. Garbage in, garbage out.

In an normal industry, the market would correct itself and eventually establish equilibrium. Less students would go to law school and an appropriate number of lawyers would enter the market each year. Instead, we have seen greedy third-tier toilet law schools accept unqualified students with no realistic chance of passing the bar exam, or finding a job that will pay back their exorbitant student loans if they do. They can get away with this because they siphon federal government assured loan dollars each year without respect to the feasibility of those loans ever being paid back by their students.

The solution is clear: let the market correct itself and let these crummy law schools fail. You are operating in alternate reality if you believe the solution to this problem is to interject more, less qualified lawyers into the system to the benefit of no one except the third-tier toilets.

Therese Duncan - Therese Duncan

I personally had the good fortune to receive a classical education in the Catholic school system for twelve years, which I credit for my passing the Bar Exam on the first try. I believe many people who would make excellent attorneys are needlessly excluded from the profession for lack of that kind of educational foundation.

The solution may be to offer specialized licenses and specialized Bar Exams. Rather than lower the cut score, allow applicants to focus all their talents on the area in which they will practice.

Under this plan, an attorney licensed to practice Tax Law, for example, would not be permitted to practice Criminal Law, and vice versa. Nor would they need to focus their studies nor test on areas in which they will not practice.

This could potentially lower the cost of education and amount of educational debt as well.

Those who wish to be licensed in all areas, of course, could still do that by passing a "Super" Bar Exam (the one we presently have,

Thank you for this opportunity to comment.

Sincerely Yours,

Therese Duncan

Anonymous

Look to changing law schools, not the bar. They aren't teaching as they should. Keep the higher standards so qualified people are allowed to have licenses.

Anonymous

Lowering the cut score will not help the public. Lowering the score will result in more unqualified attorneys wreaking havoc on the public. If the Bar wants to protect the public it would seem obvious maintaining the highest standards for admission is a must.

As I understand, the Bar Exam is now ONLY two (2) days, not three. This seems to be a SIGNIFICANT reduction in admission standards. Now you want to lower the cut score too? What is the real objective here? To maintain the quality of licensed attorneys or to protect those who can't make the cut?

Almost all Law Students finish school with enormous student loan debt, whether they pass the bar or not. This is a well known factor each person must think about and accept BEFORE they apply to any school.

Likewise, it is very well known that California has one of the lowest admission rates in the country. Again, this is a "risk" each individual needs to consider BEFORE starting law school. I know this was one of my biggest concerns before I started law school in 1987.

If the Bar wants to increase services to low income communities perhaps loan forgiveness for individuals working in this field for a substantial period of time (perhaps 3-5 years) would seem a better option as it provides QUALITY representation and student loan assistance in the same package.

Finally, race should not be a consideration in determining the cut score. As history has shown, lowering standards for Law School admissions generally results in higher attrition rates for those who were admitted in such a manner.

Edward Labarre - Edward J. LaBarre

The Bar exam should be three days so that applicants can be more thoroughly tested and the exam should include written essay questions that test an applicant's ability to spot issues. Multiple choice questions partially test an applicant's ability to take tests; more so than the written essay questions. Real life law practice involves being able to spot issues and knowing how to write answers. Lowering the bar cut-off score does not serve the public. I have represented many indigent clients and minorities: blacks and Hispanics and gay and lesbian people. Attorneys who represent indigents and people of diverse ethnicity must be highly qualified attorneys in order to best serve their clients. Letting people become attorneys who are not highly qualified will lead to indigent people and some minorities receiving substandard representation and will further compromise their ability to obtain justice.

Jeff Silver

Why can't the examinees pass the exam on the same basis as everyone before them? Answer that question, first! Shouldn't the public expect that they will be hiring a lawyer who has passed the same high standard? Perhaps, as a consumer protection measure, lawyers who had been given a "social passage," should have an asterisk next to their name until the have completed at least three years of service under the supervision of a lawyer who has met the standard.

Anonymous

The standard of 1440 should not be lowered, due to the risk of incompetent lawyers.
However, it is terrible for students to be burdened with over $100,000 in school loans, but yet not be able to pass the Bar exam and get an attorney job to pay for the loans. Law schools should not accept so many students who do not have realistic chances of passing. The schools are just trying to make extra money. Also, the schools should be required to post LSAT scores and how they correlate with Bar exam passage.

Michael Hefner - GPDS, LLC

When I was a law student I certainly would have welcomed the lower cut score. But the reputation of the CalBar exam as one of the toughest in the country was an incentive to study hard and thoroughly prepare for the exam. That preparation and respect for the exam paid off with a first-time passage.

As much as a lower score would help the passage rate, after practicing and seeing how ill-prepared many attorneys are I feel the Bar would be exacerbating the problem by making it easier for less-prepared students to pass the bar exam and become practicing attorneys. We need better prepared attorneys, not less.

The issue here should be 1) the more effective screening of applicants to law school that accepts only students with the dedication and academic acumen to engage in a rigorous legal curriculum even if that means lower enrollment numbers, and 2) law schools providing a challenging and meaningful curriculum that truly prepares the aspiring attorney for both the exam and entry into the legal profession.

Pertinent to the first point, I believe many law schools are more concerned with keeping enrollment numbers up so the tuition dollars keep flowing. To maintain those numbers I suspect some schools are admitting students that are not academically strong enough or lack that burning desire necessary to succeed in law school. That does the law school, the student, and the profession no favor.

Along the lines of the second point, law schools should offer as a standard part of their coursework a skills section that goes through the typical activities a working attorney deals with every day. There are more expectations of a newly minted attorney than being able to write a senior partner memo. Learning the process for filing an action, entering exhibits, deposition best practices, etc. would be extremely useful for students. Yes, many students get that exposure from interning but many more do not. Also it burdens law firms with teaching those basic processes that the law school should be providing. The interning should be reserved for learning the finer points of the process, not the basics.

As tempting as it is, lowering the cut score is no more than taking the easy way out by lowering the standards required to study law and pass the exam. It will do nothing to provide the public with better prepared attorneys. After spending more than 35 years associated with the K-12 educational environment I learned long ago that students will rise to meet the high standards set for them if they are interested, have the self-discipline, and the acumen to do so. And really, are those not the characteristics we want for our practicing attorneys?

Maintain at the very least the current cut score. Beef up the curriculum and methods of teaching at the law schools. Support the students that truly are committed to mastering the law. Prepare them for the reality of being an attorney. Use the bar exam and the current cut score as the gatekeeper to assure the public that members of the California Bar are well prepared and able to provide them with effective legal services.

Stuart Spencer - Callister Hendricks & Spencer

If the purpose of licensing attorneys is to assure the public of competent legal representation, I see no reasonable purpose for lowering the score in reaction to declining scores. The only thing that may justify this would be a shortage of attorneys in the state. If such a shortage exists, I have heard nothing of it. Any other justification is a statement that the Bar cares more about taking care of attorneys than about protecting the public: letting less competent or less prepared people practice law is not the answer to a declining pass rate.

The more reasonable and logical solution would be to go upstream in the process and look at the quality of the schools that are allowed to give graduate degrees. As I understand it, more and more "lower tier" schools are allowed to give state-recognized law degrees. Logic says that the declining rates are more likely associated with an increase in students graduating from programs which are not properly selective or not rigorous enough in their academic and practical preparation.

Lee Horner - Goldstein Legal Team PLLC

You should consider doing away with the performance exam. That really serves no purpose at all -- the point of the bar exam is to determine whether or not the candidate knows the law. There is plenty of time to figure out how to write memoranda to senior partners, briefs etc -- the focus should be but is not how well the candidates can spot issues and relate to the legal points in play. Perhaps doing one day of 12 essay exams, 30 minutes each as Arizona does for example, might be a solution. Knowledge of the law is more important than knowing how to be a law clerk.

David Woolley - self

The score and the score marking method should not be changed. Although I would prefer a higher score requirement, I understand that is not likely. No societal benefit of any kind will be created by lowering the score so that intellectually less well qualified persons are admitted to the Bar. Society will be damaged by increasing the number of only marginally competent lawyers.

The only criterion for legal practice should be "ability". The Bar Exam tests the ability to identify and address legal issues under stress, a situation that mirrors a lawyer's daily environment. A lawyer who fails the Bar Exam has shown a lack of ability to discover issues and facts of relevance promptly, and so has self-demonstrated an inability to function on a basic legal level. The Bar Exam is not a perfect test of ability but it is better than any alternative.

There is an assumption in a reduction of scores that more applicants should pass the Bar Exam because more lawyers are needed: there is no evidence of that assumption, and substantial empirical evidence exists that fewer lawyers will be needed in future.

The public is not well served by inadequately educated, or inadequately skilled, or inadequately prepared lawyers, which would be an inevitable consequence of lowering the score.

The "underserved population" (whatever that means in a legal system which permits both contingency fees and class actions to address impecuniosity in civil cases, and public defenders in criminal ones) is not well served by scarcely competent lawyers.

The "minority" issue is irrelevant. The quality of a contract is not determined by the color of the writer's skin, nor is a brief, nor (most times) is a trial.
It doesn't help judges, litigants, clients or administrators if the lawyer is incapable of understanding the legal propositions involved in the case, regardless of skin color.

The Law School Debt situation is indeed scandalous, but legal practice is not designed as a debt-reduction scheme, but a public service.

Lawyers want, and society needs, better lawyers, not worse. Lowering the score is unlikely to increase the supply of better lawyers, and is certain to increase the number of worse lawyers

Sandra Barrientos - Office of the Attorney General

The issue may not be the bar exam itself. The issue may be in the quality of individuals taking the bar exam. Perhaps the State Bar should look at the current crop of people taking the bar. The bar exam went from 3 days to the current 2 days. This change is apparently not helping the bar passage rate. The State Bar should focus on the caliber of attorneys, not the number.

Anonymous

This proposal is completely backwards. I have seen no evidence that lowering the standards for admission to the bar will improve the quality of legal services in this state, increase access to legal services for underserved populations, bolster the employment prospects of newly admitted attorneys, or end the disgraceful tactics of poor-quality law schools that enroll students with little chance of passing the bar or working as attorneys. Practicing law is difficult and demanding, and incompetent representation has devastating consequences for clients. I am surprised and disappointed that the bar is considering lowering its licensure standards. It appears that the primary impetus for this proposal has been law schools, which have chosen since the financial crisis to admit ever-weaker students rather than shrink their class sizes, and have now seen their bar passage rates decline. Making the bar easier is not the solution; rather, the solution is for law schools with sub-par passage rates to shrink their classes or simply close. By way of comparison, it is difficult to imagine that any state medical board would contemplate lowering its standards in response to requests from medical schools that could not prepare qualified candidates. We don't need incompetent lawyers any more than we need incompetent doctors; the problem of access to legal representation will not be solved by lowering our standards any more than the problem of access to health care would be solved by making the medical boards easier. The law schools supporting this proposal appear interested in maintaining their revenue streams, rather than in improving the quality of legal services in this state. Rather than acquiescing, the Bar ought to crack down on law schools with low passage rates and impose meaningful passage-rate and employment requirements on accreditation. It is astonishing that schools can remain accredited with passage rates and employment rates of one-third or less. If a school can't prepare its students to pass the bar, it should close down, rather than leaving the majority of its graduates unemployable and saddled with a lifetime of non-dischargeable debt.

Anonymous

It would be reckless to lower cut the score. In fact, it was reckless to change the exam from three days to two. The State Bar has and is taking steps to continue to oversaturate the attorney pool in the state, with the addition of unqualified attorneys. If this is being driven wholly or in part by pressure from law schools to help raise admissions, then shame on the State Bar. Based on the actions taken and suggested by the State Bar to date, this attorney finds no confidence in the leadership of the State Bar.

Anonymous

By lowering the cut score we will be enabling the for-profit non-accredited law schools (of which there are too many in California) to continue to encourage under-qualified persons who hope to become lawyers to take out loans to pay the tuition who, after passing the lowered cut-score bar exam, will simply add to the glut of unemployed lawyers unable to pay their tuition loans. By keeping the cut score high, we will allow market forces to curtail enrollment in for-profit non-accredited law schools, thereby ensuring better qualified lawyers who can find employment.

Anonymous

I would be very interested in hearing the responses from law school professors. I teach undergraduates a law-based course at a prestigious public university. I realize that pressures on students are enormous and I have seen the economic and societal pressures increase over a 10 year period of time. That being said, I have also seen the level of effort and commitment diminish and have witnessed that despite being understanding and adapting on students' behalves the tendency of many students is to have the greatest expectations of high grades and rewards with the lowest amount of effort required.

Is there research on the amount of time spent by applicants to study for the bar? Are courses such as Barbri which are so helpful including instructions on the amount of time required to study considered regarding bar success? What are different types of law schools doing right and/or wrong in terms of preparation, what is offered to graduates to help them prepare for the bar?

For me it is simply too easy to say let's lower the "bar," without knowing the factors involved in bar failure--is it possible that applicants are simply not spending requisite amounts of time for studying, but rather too much time in other endeavors?

thanks for your time...

Anonymous

The cut score should be HIGHER not lower. There is already a glut of attorneys in the state with many recent graduates unable to find suitable work. Clearly, there is an imbalance in supply (too much) and demand (not enough). Other legal systems (e.g., Japan) have much lower pass rates (single digit) and, overall, it leads to a much more balanced, productive society. People who aren't particularly motivated to become lawyers will put their efforts elsewhere.

Najmeh Bagheri

Keep the score the way it is now

Anonymous

Dear Committee Members:

Lowering the Bar Exam Score should not be done for a number of reasons: (1) By making it easier to pass the exam it will potentially allow many unqualified candidates to practice law, thereby potentially more disciplinary action, litigation, loss of consumer confidence in the profession and over saturating a state that has more lawyers per square inch than any other state in America. (2) It is really not fair and right to the 300K+ CA Bar Members, who worked and studied hard to pass the Bar exam at this score, it diminishes their hard work and effort and sends the wrong message to the consumers.

Jodi Woodsmith

So, you're considering dumbing down the Bar? Cause it's too hard? Aw, shucks. Let's make sure everyone feels good about themselves and passes! Heck, no one should fail because that would be, just, harsh. Why not let everyone pass who shows up for the exam! ARE YOU KIDDING? What idiot thinks passing the Bar should be easy? It's a weed-out-the-unfit exam. Period. Have they dumbed down the medical licensing tests, too?

Sheri Tucker

To the State Bar of California,

What will you tell all of the students who, through the years, took the Bar and whose scores fell between 1414 and 1440? Are you going to admit all of them to the profession? What about just one or two or three years before? The better plan of action is to use the data at hand and analyze the Bar pass rates of law schools and address the issue at the source.

I am currently a doctoral student in the CSU system and will earn my degree by the end of 2018. The program is as rigorous an endeavor as I have ever encountered and not all who began, will finish. The cohort with whom I have been attending classes since August 2015 has been reduced in numbers by the demands of the program, just as is the case with law school; not everyone is designed to hold an advanced degree, not everyone has the ability to be an attorney.

As a California native citizen, I have always had the confidence in our legal professionals knowing that the California Bar Exam is one of the toughest tests in the world.

California has more than enough lawyers. We do not need to make it easier to become one and dilute the quality of the California legal profession. If students are graduating from law school and can't pass the Bar then look to the quality of the school. Are their admissions policies tough enough? Is there sufficient rigor in the coursework? Are the available refresher courses more interested in collecting registration fees than in ensuring that their clients pass the Bar?

Keep the Bar exam tough, do not jeopardize the lives of future clients with unqualified representation.

Anonymous

We need to protect the integrity of the legal profession and the consumer public. Lowering the cut score to 1414 will undermine not only the profession, but the utilizers of legal services. This proposal is utterly preposterous. If enacted, I will immediately resign from the State Bar.

Mark Patlan

The California Bar cut score should be maintained because that best serves the public. California laws and regulations are complex. Law practice is complex. Professional responsibility is complex. Attorneys must be able to deal with complexity. If they cannot, this harms clients, attorneys, and the public. This reduces access to justice by the needy. The Bar Exam cut score is a proxy for competence. The California State Bar should take a step back and consider a larger problem.

California laws and regulations are complex. California regulation grows ever more complex. This places ever more demands on attorneys. Most attorneys are small and solo practice. They lack the resources of large firms. They must be able to manage growing legal complexity.

Law practice is complex. Most attorneys are small and solo practice. They must manage a small business (in compliance with the Rules of Professional Conduct). Large firms (with more resources) are better equipped manage this. (The cost is passed on to clients.) Most attorneys (small and solo practice) must manage this complexity (with less resources).

Professional responsibility is complex. It is an evolving standard that includes technology (including social media). This places an even greater demand on attorneys. Again, most attorneys are small and solo practice (making the burden harder to bear).

If attorneys cannot manage this complexity, this harms the client, the attorney, the profession, and the public.

- The client can be directly harmed.
- The attorney bears the cost of that harm.
- The profession is harmed because the harm is "socialized". (The harm triggers higher malpractice insurance rates. Rates must reflect this higher risk.)
- The public is harmed because attorneys must pass these costs on, to their clients.
- Higher attorney fees reduce access to justice by the needy.

It can be argued that the higher cost of "justice" is passed onto the public (at large) because it is "socialized". (This indirect cost is reflected in higher costs of goods, services, housing, etc. in a very expensive state)

The Bar Exam cut score is a proxy for competence.
- The cut score measures a candidate's ability and willingness to deal with complexity (and to work hard).
- The California Bar serves the public - not law schools. Law schools must make admissions and tuition reflect legal realities. (Otherwise, they do a disservice to students and the public.) The California State Bar should not be in the business of "privatizing profits and socializing losses". (Heads they win, tails we lose.)

The California State Bar should take a step back and consider a larger problem. The larger problem is the complexity (and difficulty) discussed above. The costs of legal education and difficulties of law practice make it an ever less attractive profession.

- This reduces the number and quality of law students.
- This reduces the number and quality of law graduates,
- This reduces the bar pass rate.

How will the State Bar deal with this?

- Lower the cut score. This is harmful, for the reasons above.
- Lower the cut score and mitigate the harm through Bar fees or mandates (e.g., mandate free legal assistance or fee-supported free legal assistance.) This makes the profession less attractive and worsens the problem.
- Lower the cut score. Mitigate the harm through "social insurance" (e.g., public malpractice insurance or state-funded legal assistance). These solutions have the "healthcare" problem: "third-party payer". Either malpractice rates would skyrocket or the courts would buckle under the load of frivolous actions.

- Regulatory measures. These would have unintended consequences that would trigger other regulation with unintended consequences, and so on.
- Keep the cut score. Supplement legal tuition. This would result in ever higher tuition (already skyrocketing) at a third party's (public) expense.

These are all problematic. They make California worse off.

For the reasons above, I urge the California State Bar to maintain the cut score. The State Bar should treat the problem, not the symptoms:

- The bar pass rate is not the problem.
- The cut score is not the problem.
- Law school admissions is not the problem.

These are symptoms (not problems). They are lagging indicators of larger systemic problems.

- The cost of higher education has skyrocketed.
- The demands on the legal profession grow ever worse.
- The needy have ever less access to justice.

The legal system (conservative by nature), lags the needs of developing society. Our common law reflects an evolving legal system. Once, there were courts at law, courts in equity, legal formalism, etc. In the modern era, these institutions evolved and changed to reflect different demands. The progressive State of California creates an evolving landscape. How will the State Bar, the courts, and the legal profession adapt to this evolving landscape? Not by lowering the cut score.

Ensieh Jeldan

Keep everything the way it is now.

Simon Umscheid - San Bernardino County District Attorney

I do not believe the answer to the growing number of applicants failing the bar is to just lower the standard. The underlying reasons need to be evaluated. I am sure that the highest percentage of applicants failing is probably coming from unapproved schools and online schools. Those applicants are probably failing because they are sitting for the exam ill-prepared. Law school should be a rigorous process to make sure only qualified people are sitting for the exam and becoming attorneys. Do not lower the standards to meet the lowest common denominator of schools. Keep the standard where it is an force schools to either improve their respective programs or go out of business.

Anonymous

I think that California should maintain the high standards that they have for admission to the bar. We should not lower our standards for a profession that is charged with such important responsibilities as being a fiduciary for others.

Mark Rockwell - rockwell law firm

The cut score she be even higher. CA is too open to wannabe lawyers with its unaccredited law schools, mini bar exams, State Bar-only accrediting of law schools and the like. There is no socially compelling reason to "lower the bar" other than giving less talented and lower ability people the chance to become lawyers. Why?? The July bar average pass rate when I took the bar exam was a tad less than 50%. It was about 51% for the July 1983 bar. CA is a tough place to practice law. It's laws are complex and full of traps for the unwary. Only the best should be licensed to practice.

Anonymous

The cut score should remain as it is. Neither the public nor the profession will be served by lowering the standard required to practice law. The legal market is already flooded and employment for new members difficult to find - increasing the number of candidates for the same amount of positions will not help.

Anonymous

I cannot support any change to the Bar Exam that makes it any easier to pass than the exam I had to endure.

Anonymous

California has an oversupply of attorneys. The industry has become saturated with both qualified and unqualified attorneys. The bar needs to do a better job of controlling the number of attorneys entering the profession and ensure that only qualified attorneys are entering the profession. The over-saturation of attorneys in the job market and competition for jobs is affecting the industry because attorneys can not find gainful employment. There are also a significant number of attorneys without jobs or underpaid jobs. A significant number of attorneys have to take jobs outside of the profession due to the lack of meaningful jobs. There is a lot of stress and displeasure among attorneys due to the current climate of the legal profession.

Russell Behjatnia - Law Offices of Russell F. Behjatnia

The integrity of the profession and public interest requires that we make sure those licensed as professional lawyers are properly educated and trained to represent the profession and the needs of our general public in the State of California. These interests are best protected through making sure those who are considered eligible to sit for the Bar have met the minimum requirements and their ability is properly tested.

Instead of lowering the passing score for the Bar, emphasis should be placed on Law Schools and the quality of education they provide so that we can address the current situation at its core.

Changing the passing rate would be similar to taking a pain reliever for a headache that is caused by cancer. So long as we do not address the underlying cause, we will be feeling the pain even if the passing score is lowered even further.

The natural reaction of Law Schools and law students to lowered passing score will be to be encouraged to lower the educational standards even further and wait for yet another reduction in the passing score in few years.

I disagree with lowering the cut score and hope someone reads and considers these issues carefully.

Best wishes,

Russell Behjatnia
Tel. 818-571-8293

Meiers Steven - Ret. Former Partner of Gibson, Dunn & Crutcher LLP

The bar exam is intended to insure that those allowed to practice law in California have the educational background and competence to do. That is primarily a public interest standard. Also important is that the competence or incompetence of lawyers reflects on the profession as a whole.

The answer to a higher percentage of applicants not passing the bar is not to lower the standards for passage, which is consistent with a lower level of competence.

There are already enough incompetent lawyers.

One caveat of course is how much the bar exam is actually predictive of competence in the profession. I have assumed the bar exam is an important factor in that respect -- if not, why have it, really at any level, at all.

Two more considerations, please. Increasing minority membership in the bar is not a reason to lower an acceptable score. The unintended consequence of doing that is to tell people that minority members of the bar are less competent than non-minority members, which is not a messages the bar want's to give. Providing more lawyers to less well to do people is also not a reason to lower standards -- there is no assurance those admitted because of a lower standard will provide services to the less well to do or, if they do, that those services will be productive.

Anonymous

The priority of the State Bar should be to the integrity of the profession, the maintenance of the quality of its practitioners, and the protection of the populace against the incompetent and unscrupulous; and not the bar passage rates and ranking statistics of certain law schools looking to increase their tuition revenue.

Anonymous

California has many unaccredited law schools. Graduates of these schools may not be as well prepared for the bar exam as graduates of ABA-accredited law schools. The low educational requirements for taking the exam inevitably affect the passage rate. First and foremost, California owes it to the public to make sure licensed lawyers are competent. The cut score must not be lowered to achieve social goals.

Norman Fletcher

Instead of considering lowering the standards, we should be asking ourselves, WHY are so many applicants unable to pass the Bar? Are they unqualified? If over 40% can pass, why can't the remainder pass? Inadequate students and/or inadequate education? I do not want to see unqualified lawyers practicing law.

Anonymous

I knew this would eventually occur with the advent of the ever present cell phone in our current society. It has caused an incredible lack of discipline and focus. Most of the younger generation can not go for more than ten minutes without checking their phones, Sitting for three hours straight while concentrating on the test at hand which is required to pass the bar exam has simply become too difficult for many to bear. This should not be a basis for lowering the standards of the exam and the profession.

Anonymous

EL OH EL, YALL SO DESPERATE FOR MONEY YOU GONNA LET SCAM SCHOOLS TAKE OVER? Woof.

Angela Gill - Chapter 13 Trustee

Making the test easier will not increase the quality of professionals in an already saturated market. In my daily practice I see many practitioners who are underqualified already. Law students need to understand the risks of failing the bar exam before they enter law school and should attend ABA accredited schools to maximize the chance of passing. Likewise, law students need to weigh the high cost of law school with the risk of failing the bar exam and their job prospects - which are increasingly low in this state. Making the exam easier will not lead to higher salaries, greater job security, or decrease the burden of student loan debt. The problem of student loans needs to be addressed by reducing the cost of legal education, offering lower interest rate loans, offering more loan forgiveness programs and allowing interest paid on student loans to be tax deductible. Making the bar exam easier is not the solution. Greater mentorship and training while in a good law school is the solution.

Anonymous

Let's not water down the bar exam. The bar exam is not a place for political correctness

Edith Warkentine

Law schools in California have been lowering their admission standards year by year to keep up their entering class sizes (although at least one school is now closing down and others may follow). The lower bar pass rates could have been predicted when the lower-credentialed students were admitted. Law schools should be held accountable for admitting students who are not qualified - standards for admission to the bar should not be lowered.

Anonymous

There are too many lawyers. Why even discuss lowering the score? Lower passage is a sign more unqualified candidates are taking the test. Having more attorneys serves no useful purpose other than to drive down the price of our services, create work for ourselves at society's cost and further degrade the value of our profession in the public's eye. The answer to new lawyers with high student debt is not to make the exam easier so they can get a job. The answer is to stop going to law school. The public considers physicians smart and trustworthy, this is far from the case for attorneys. Diversity is a red herring. Check out CMCP,, California Minority Counsel Project, there is a ton of diversity in 2017. Check the general counsel and legal staffs of the largest businesses in California like Toyota, Herbalife, Kaiser Permanente, SEMPRA Energy, Walmart, Costco and the list goes on. Check the staff's of the firms who handle those corporations' files, you'll find plenty of diversity there too. Walmart, for example will not do business with any vendor, including law firms, who do not comply with strict diversity requirements. I applaud these companies' actions. But let's face it, its not 1967 any more. Time to sing a new song. Lastly, the poor have plenty of access to legal services. Go to a low income area and you'll see plenty of law offices. Go to the WCAB and it is filled with the poor accessing legal services. And the Workers' Comp attorneys there refer their clients to civil attorneys at every time its appropriate. There is no such thing as a poor person who can't access an attorney in California.

Anonymous

This proposal really upsets me.

There is already an oversaturation of licensed attorneys in California, causing an extremely high underemployment rate among attorneys (see https://www.lstreports.com/state/CA) that far exceeds rates of other states and other careers or professions. I personally know of attorneys that have already moved to less saturated markets with a lower cost of living, such as Texas. Most attorneys, excluding the few that are employed by large law firms, are struggling financially. Lowering State Bar admission standards will only flood the state with more attorneys, exacerbating this problem.

Additionally, in my personal experience, many (if not the majority) of California attorneys I have come across are, to be blunt, incompetent. What percentage of the attorneys that you know do you really feel comfortable referring to your parents or siblings? Lowering State Bar admission standards will only increase the state with more unqualified attorneys, which not only hurts clients, but will also tarnish our profession.

The value and prestige of a license to practice law in California will decrease as it becomes easier to attain it and as the supply of attorneys increases.

Brian Finerty - Retired

Wait to see results of other studies before making change. Why rush and get it wrong

Hugh Thomson - retired

Excellence and not equality should be the goal of the State Bar. When we deviate from that goal, bad choices result.

Philip Vineyard - Vineyard Legal Services

It is my belief that the lower pass rates are primarily caused by less-qualified law students and the law schools that are accepting them. This result was pre-ordained 3-4 years ago when it was highlighted by several CA newspapers 3-4 years ago. When law school costs and enrollment outpaced the salaries and job openings available, the number of law school applications declined, leading some schools to accept students they would otherwise not take. The state is reaping the consequences of those policies. The free market answer is for law schools to reduce their costs so that the cost/salary correlation makes sense to higher qualified individuals.

James Irish - Law Office of James H. Irish

I took the bar examination 36 years ago after graduating from Hastings College of the Law. I passed the bar on the first attempt and then took the New York State Bar in February 1982. In my view, the New York Bar examination was far more difficult than the California examination. More practice areas were covered and more specific knowledge of statutory law and procedure was required. I passed that bar on the first attempt. I was raised by working class parents who did not attend college and, though white, I never considered my family to be rich or well-connected. I navigated the LSATs, application and law school with no family help. I would like more working class and even indigent students to graduate and become attorneys, but I do not support lowering the score to allow people who either may not be qualified or who have not received (or applied themselves to take advantage of) a high quality legal education. We are representatives and advocates and every time we write, speak or act, we do so on behalf of someone else, someone who relies on the State Bar Association to assure that lawyers will be up to the task of representing them.

It may be said that the bar exam and the practice of law are not the same thing, or even that the multi-state exam and real world practice are not equivalent. I do not, however, think that we can say that standardized testing is unfair as a means of entry into the profession. By the time someone takes the bar exam, they have shown proficiency in the SATs and the LSATs. They have also graduated from law school. Welcome to the deep end of the pool.

Finally, failing the bar does not foreclose all opportunity. One of the smartest people I ever met while practicing failed the bar exam and became the top broker at Marsh & McLennan in the very difficult areas of Directors and Officers Liability Insurance and SEC Liability Insurance. He spoke on more bar association panels (NY and ABA) than any lawyer I know and he was exceptionally insightful. Before passing away at 81, he edited a book on cybersecurity written by a New York lawyer.

I wish everyone who enters law school a love affair with the law and a rewarding career, but I feel we must not erode the standards that have prevailed and worked for as long as we can remember.

Anonymous

I think the major issue with respect to why many folks are failing the California Bar Exam is NOT THE CUT SCORE, but the composition of the exam itself. I am in an unusual situation as I have taken the bar exam in five states, over the last three years. In total I have taken seven bar exams back-to-back since graduating law school in 2014. I failed the California Bar Exam twice, before passing the California February 2016 exam. I have passed all of the other state's bar exams and am still awaiting Nevada's results, though I believe I passed!

Having studied for the bar in several states in three consecutive years, I think I can give the Bar or the California Supreme Court some insight as to why folks are failing and what they can do to improve the exam. Every state assigns a different percentage to the essay component, mbe and performance exam. Some states, such as Florida (which is a HARD BAR) does not even have a performance test as part of the bar. Some states put more emphasis on the written portion, such as Nevada, and California's old three day Bar and so the MBE is only worth 35% on average instead of 50% like in most states. California has corrected this problem, and now the MBE is worth 50% which should increase pass rates in my opinion. The MBE is in my opinion the most important aspect of any bar exam because it tests all of the 1L subjects and the majority of issues a lawyer will have to face in practice. It should be worth at least 50%.

The MAJOR issue with respect to HIGH FAIL RATES is centered on the PERFORMANCE EXAM!!!!!!!! I cannot stress this enough. The performance exam is the reason I failed the California Bar Exam twice, not the essays, and not the MBE. I think bar examiners need to take a trip back to law school and envision themselves back in 1L working on a Legal Memo in their legal research and writing class. This is not the type of assignment you put on a timed exam setting. I don't care how high your IQ is, writing a legal memo is like painting a mural. IT TAKES TIME if you want something worth reading! That said, the performance test does test skills a lawyer needs in practice, but you cannot make it worth 24% of the grade as California did on the three day bar.

I have passed the following bar exams: California, Florida, Arkansas, and the District of Columbia. I will know the results of Nevada in October 2016 (but after these many bar, I know I passed!) Out of all the bars I have taken thus far, the three day California Bar Exam is by FAR the HARDEST bar exam! NOT because of the CUT SCORE, but because of the two 3 hour performance exams that are worth 24% of the grade!!!!!

If the Supreme Court of California wants to make their bar exam FAIR and ensure COMPETENCE is not compromised, they should adopt the format of the NEVADA BAR EXAM! I don't agree with Nevada making the MBE worth only 33%, but they have only one performance test that is worth only roughly 10% of the overall grade. Roughly 56% of the grade consists of eight essays. It's probably the most fairest bar exam I have taken because if you have to write eight essays, you MUST have a decent understanding of all the subject to do well, so this ensures competence. They realized that the performance test is important, but it should not make or break the grade, so they only gave it a minor role in the grading.

In a perfect world, I would eliminate the performance test, increase the number of essays, and make the MBE worth 50% of the grade!. THEN and ONLY THEN, can we talk about what the CUT SCORE should be. The Supreme Court is looking at the problem with one eye shut! They need to be looking at the format of the exam AND the CUT SCORE.

The two day bar exam seems to have come close to what I suggested, but I am not sure what the one 90 min PT is going to be worth grade wise. If it's still worth 24%, then people are STILL going to keep failing at high rates.

At the very least, NEVADA's current bar format is the best one I have seen thus far! It protects everyone's interests!

That is my two cents. I am shooting to be licensed in all 50 states so I think I have a couple more bars to take and can waive in the rest of the states.

In closing: GET RID OF THE PERFORMANCE TEST!!!! ADD MORE ESSAYS!!! MAKE THE MBE WORTH 50% OF THE GRADE! BAR PASS RATES WILL SKY ROCKET!!!!!

Anonymous

I came from a non-ABA law school, I went to school part-time in the evenings, worked full time during the day - all mind you - with an infant. I passed the bar on my first try. It was daunting, exhausting, and emotionally draining, but the accomplishment I felt in passing the hardest bar exam in the nation was incomparable.

I was prepared for the exam being extremely difficult and was even more intimidated coming from my educational background. It was a mental game to overcome the fact that I would be taking the exam next to Ivy league graduates, Dean's list scholars, and perfect LSAT scorers - an intimidating fact in itself. However, I was determined and focused to pass.

I found the exam as tested did in fact test practical knowledge and applications of legal theories and concepts. It made me think strategically for tasks that I have since used in my practice, and those I was not asked to prepare in my law school. Specifically, in the Practice Exam where we were faced with a subject matter we knew nothing about but still had to use the information in front of us to draft and complete the assigned task at hand. I felt the exam, as structured, was difficult, but is meant to be so as to ensure that the most qualified future attorneys make it through to the other side.

I feel that the Deans of schools supporting a lower pass rate are essentially looking out for their own interests - i.e. lower pass rates means possibly lower enrollment and in turn a lowered "standing" amongst law schools in the nation in terms of passing rates. The difficult nature of the California bar exam and its pass rate maintains the highest level of integrity to the profession.

Furthermore, as a student from an unaccredited part-time law school, I am proof of the fact that passing the bar exam is possible - and on the first try. I found that there were plenty of surprises in the preparations and sacrifices required for studying and preparing for the bar exam. However, this is the case in preparation for most professional occupations. For example, a student in medical school must be prepared to move across the country (with family) once assigned to their "match" school - and possibly uproot their life permanently. A similar vein of sacrifice is required of law school students in preparation for the bar exam.

I researched the cost of the bar exam prep courses (on my own) and learned that BARBRI provides a savings plan to save money each month toward the prep courses. The expense of these courses is huge and can be a surprise upon graduation. Furthermore, I was prepared in saving money during the course of law school to map out a period of time where I would be able to not work for three months prior to the exam to focus on studying.

I felt that throughout my law school education, there was little mention from my school board of the sacrifices that would need to be undertaken to prepare a focused and detailed "plan" of study in preparation for the bar exam - both financially and educationally. I felt lost and floating during that period with little guidance from my school. Perhaps an idea would be for law schools to provide curriculum or counseling on preparing students for the few months prior to the bar exam and advising on strategies to devote a focused plan for the exam to ensure that students are devoting enough time to study and prepare.

Jay Johnson - Retired

I fail to see how lowering the cut score serves the public, protects the public or adds any credibility to the Bar.

Polin Cohanne - Retired

I passed the Pennsylvania Bar Exam in the 1970s. I thought the exam was difficult and feared I didn't pass. I was much relieved to have passed the first time. At law school in Pennsylvania, we believed the California Bar Exam was extremely difficult based on the very low pass rate.

While serving in the Marine Corps in California, I decided I wanted to live in California after I completed my service, so I studied to take the California Bar Exam. Because of the low pass rate, I was quite worried about passing. I was pleased to realize the Exam was easy, and I passed the first time.

After living in California for several years, speaking to other lawyers, reading about the numerous unaccredited law schools in the state, and reviewing the breakdowns of who was passing and who was failing the Exam each year, it became clear that the Exam was not difficult for those students who had attended the State's accredited law schools.

If California wants to increase the number of minority students passing the Bar Exam, it should provide qualified students with the financial resources needed to attend the accredited law schools in the State.

Anonymous

What has the profession come to when the proposed solution is lowering the standard for admission to practice. The real issue here is too many sub-par law schools that do not adequately prepare students, and too many students that come to law school grossly unprepared. The profession should not gloss over this issue by simply lowering the standard for admission. That approach devalues the entire profession and exposes too many clients to inadequate or incompetent representation. Why is there no discussion of tightening the standards for law schools? For most aspects of the profession, practicing law is a competitive undertaking. What good does it do for the profession, or for the public, to turn out more lawyers who are not adequately prepared to compete. There are already too many attorneys in California who submit poorly written "briefs" that require inordinate amounts of time to address. Lowering the thinking and writing standards will only make this worse.

Anonymous

The duties and responsibilities are not to admit unqualified individuals. All Law Schools should cease immediately admitting unqualified students.

Steven Rhoads - RHOADS APPELLATE GROUP

I've been practicing for 35 years and am disappointed by the decline of the profession. I'm referring to a couple of things:

1. Far too many lawyers, primarily those who have been practicing fewer than, say, 15 years, show little respect for their duties as members of the bar. They fight and squabble over minor issues that can be, and should be, resolved by courtesy and fairness, not anger and self-righteousness.

2. As a civil appeals lawyer, I am more and more surprised at the low quality of the work performed by many lawyers, again primarily the less experienced.

3. It's obvious to me that more lawyers these days don't care about maintaining the integrity of the profession.

4. It is possible to be an effective advocate for decades without ever having sanctions awarded against you, or being subjected to state bar discipline, or malpractice claims. And this can be done while building and maintaining a reputation of an honest, fair, but effective advocate. I know because I've done it.

Making it easier to enter the bar will harm the profession and the public we serve. In fact, I'm surprised and rather bewildered that lowering the threshold is being considered. It would be a shameful mistake, an indication that we care more about ourselves than those we serve.

Thank you for the opportunity to be heard on this important issue.

Harvey Klee - Law Offices of Harvey H. Klee

Declining pass rates in California is a reflection of the dumbing down of the state and the country as well as evidence that those going to law school don't belong there and should seek and should pursue another career where they might be more qualified. How can lowering standards improve the quality of anything? Who the hell came up with this dumb idea? As an attorney licensed in two states, including California and admitted to practice before the United States Supreme Court, lowering pass rates is an insult to my profession.

Robert Millsap - Retired

I did not take time to read the study/report reference in the introduction to the survey so don't know if the assumption upon which I based my answers is valid. I assumed that the exam is substantially the same in difficulty as it was when I took it in 1971. I do know that an ethics system cation has been added. I also understand that some questions are not entirely essay type. So, while I know there are some differences in form, I have assumed that the dusts five challenge presented is the ssme. Also, while I rated some of the factors suggested as possible considerations in changing the score as not relevant, at all, that does not mean that I rated them as otherwise unimportant. I just don't think changing the cut score is the way to address them.

I am somewhat surprised that the California bar is rated so high in difficulty but (except for Boalt and Stanford) it's law schools consistently rate below eastern schools. I attended Hastings, graduated at the top of my class and passed the bar easily on the first try. Yet, Hastings' rating was not terribly high when I attended and has slipped since then. How do people like Hillary Clinton and Kennedys attend top law schools like Yale and Harvard and flunk the bar in easier exam States and I attend a lower rated school and pass the bar in a very difficult state on my first try.
U

Stacy L Raphael - Hewitt & Truszkowski

There are currently too many attorneys practicing in Los Angeles County. Lowering the current standards for passing the bar will simply cause more lawyers to enter the market who will be potentially less qualified. I do not believe the answer is to make the bar easier; the answer is to figure out why more students are not passing it (or why the law schools are not preparing them to pass it).

I have practiced litigation since 1983 and, over the the past several years, I believe there has been a marked decline in both the abilities and work ethic of new admittees. First and foremost, a large percentage of them cannot write in a succinct, cohesive and analytical manner. We constantly interview young lawyers who potentially have the talent to practice sophisticated law but cannot express themselves on paper, either in reports to a client or in briefs presented to the court. My colleagues and I have frequently found ourselves exchanging complaints about the dirth of quality legal writers and asking, "How did that guy pass the bar??" I suspect that many of those who are not passing the bar the first time are students who have not been adequately taught how to think and write analytically and professionally. A difficult bar exam may weed out these individuals.

Second, new admittees, particularly "millenials," do not seem to have the same work ethic as their more seasoned colleagues. So many young attorneys want excellent compensation and benefit packages as befit a member of the bar; however, they also expect to work bankers' hours and find it offensive or unfair when asked to stay past 6 p.m. or work the occasional weekend in order to meet their basic job obligations. How and when did this happen?? Again, one must ask whether lowering the standards for passing the bar will allow more individuals with such a work ethic (or lack thereof) to enter the profession.

I am not alarmed by the decline in the rate of bar passage in California. The lawyers currently practicing managed to pass it the way it is, and keeping the cut score where it currently is will hopefully weed out individuals who lack the necessary talent, motivation, or ambition to work for it.

Thanks for letting me put in my two cents.

Anonymous

There is nothing wrong with California having a more difficult Bar Exam than other States. California is a large, populous State with very complicated laws. Many of our laws are unique to the State and require more stringent testing. As long as there are enough lawyers, there is no reason to lower the standard. So many attorneys who have passed the Bar cannot get gainful employment. Forcing them to compete against others who did not even pass the current level of proficiency set by the Bar would serve no purpose other than to dumb down the profession and further glut the market. Really the Bar should be looking at ways to improve the profession and not focus time and resources on saving law schools with lower admissions standards.

Anita Webster - Webster & Associates

Dumbing down the bar exam doesn't serve the general public or the legal profession.

John Kontrabecki - TKG International

There issue is not the cut off. It is the way in which the exam is given. I am a member of the Illinois Bar and this bar has a very similar exam to the California Bar. Both have the multiple choice section, which are identical. Both have an essay part, which are different. In the Illinois exam, the applicant is given one blue book in which to write the answer to one question. The applicant is told he or she has one hour to answer the question and are encouraged to spend the first 15 minutes thinking about the answer and creating an outline to organise his or her thoughts. The applicant is told the essay will be graded on the clarity and cogency of the argument, and a well reasoned argument that reaches the wrong conclusion will receive a high grade. The essay is used to test the way a lawyer thinks and expresses oneself.

This is not the way the California essay portion of the exam works. The California essay portion is an exercise in issue spotting and speed writing. Change the manner in which the essay portion is administered and graded and you will fix the problem the right way by testing what is important to good lawyering.

Anonymous

The level of knowledge and competence of California law by its attorneys should not be degraded by a lower test score. By lowering the test score, the State Bar is telling law schools its is alright not to teach their students what is required of them to be knowledgeable and competent practicing attorneys. In my practice I have come across too many attorneys that should be disciplined or disbarred for their lack of competence. By lowering the cut score, we will have even more incompetent attorneys. Additionally, there are a lot of attorneys in California, and by keeping the current cut score, the numbers do not swell more excessively than they already are.

If there is a problem with the current law students passing the Bar Examination, the solution is not to lower the cut score, but look into what the students are being taught (or what kind of students are being accepted), and correct/penalize the schools for their failure to teach their students. If the schools are not up to par, then remove their credentials.

California has standards. The public is put in peril when the standards are lowered.

Anonymous

I believe that there are more than enough attorneys practicing in the State of California. California is a very litigious state, and if lawyers are going to practice here, they need to know what they are doing, so keeping a higher cut score helps to ensure this goal. People need to take the bar exam seriously. Whether someone spent a lot of money going to law school and cannot find gainful employment afterwards should not be a consideration in lowering the pass rate, especially since many of those who did pass are having issues finding employment as well.

Craig Delk - Thorndal Armstrong

My wife and I passed the CA Bar Exam in 1979 (first try--as well as in Nevada the following year, also first try). It can be done. Get rid of the so-called "Practical" section--what a waste of time!--and also the Multi-state (multiple choice is for the third grade), and go back to 3 days of essays. To be useful in weeding out unqualified applicants at this level of experience all you need to know is whether they can analyze a fact situation and apply the law. Period. The Multi-state poses nothing but a bunch of trick questions where a "pass" or "fail" depends on a coin toss between two nearly equally "right" answers. Hell, the first thing you learn in law school is that there is no such thing as a "right" answer, it all depends on the facts, and after 38 years of trial practice I can tell you that facts are fluid. Leave those intellectual conundrums for the real world. Regarding the Practical section (adopted long after my Bar Exam days although my daughter recently had to deal with it on the Nevada Exam so I am quite familiar), if the applicant was fortunate enough to have clerked or interned during law school they will pass; if not, probably not. It is completely unfair to expect someone who has no practical office or clinic experience to demonstrate a practical office- or clinic-learned skill set within the artificial time constrictions of the Bar Exam, and a travesty to fail them for it. Get back to basics: 3 full days of essay questions, average grade of 70 (or is it 75?) pass, below 70(75) fail. Simple. Effective. Predictable. Comparable. Repeatable. Fair. Isn't that what it should be all about?

Anonymous

By in large, the ABA accredited law schools are still producing law students who pass the bar at the historic rate of > 70%.

California need to take a hard look at the continued acceptance of California accredited and unaccredited law schools. Most states only recognize ABA accredited law schools. The reason is obvious: the higher standards of ABA accredited schools produce competent lawyers.

The argument that non-ABA accredited law schools produce lawyers who serve disadvantaged groups is just not compelling. These non-ABA accredited schools simply produce law students who are saddled with debt and cannot pass the bar, and those few student who do pass the bar are largely substandard lawyers who hurt the profession and their clients through their incompetence.

Kendra Atkinson - CVS Health

I disagree with lowering the bar, literally, for incoming lawyers. The bar exam was already reduced from three days to two, and now to lower the cut score, to admit even more marginally qualified applicants... I fail to see how that benefits the profession. The State Bar survey cited factors for reducing the cut score, including increasing diversity and improving access to public service/interest lawyers... what would that do but to provide those most vulnerable clients with even less qualified attorneys? Another reason cited was the crushing loan debt and the inability to pass and find gainful employment... while I do sympathize with that, there has been a glut of law school graduates/young attorneys unable to find work since the recession. That is a fact. Allowing even more attorneys into that glut, to make it even harder for those that can pass the bar at the current cut score, does not solve the problem. I myself took the CA bar twice, once was an eye opener; studying for the second time made me a better person and a better attorney. Lowering the bar would have done me no service. Although the cited reasons are important in themselves (increasing diversity, increasing access), they are not and should have any connection to the cut score. Lowering the bar is not the answer.

Kathryn Kirkland - Law Offices of Kathryn Kirkland

As observed by Judge William Fahey, there is no shortage of lawyers in California. More importantly, it is very important to maintain a high level of proficiency in the practice of law. The statistics regarding "decline" do not distinguish among the types of law schools which have higher or lower pass rates. Regardless, applicants who pass the bar exam at the current level are more likely to be better lawyers.

It is tempting for older members of the bar to think that the bar exam was more difficult in decades passed. One factor which may contribute to that perception is that the questions are moving much more toward a "multiple choice" or "single issue" set of questions. The Bar has become so "suit averse" that it is sacrificing quality for protection from challenges by persons who did not pass the exam. Law is certainly not "multiple choice" or "single issue".

In addition, by moving away from a true essay answer, the Bar is contributing to the poor quality of written documents, especially pleadings. Even a short conversation with Civil Law and Motion judges will reveal a frustration of judges of having to wade through pages and pages of drivel because the author cannot construct a clear, cogent legal argument. Unfortunately, judges tend not to enforce local page number rules, so the problem is somewhat of their own making.

Anonymous

Does lowering the cut score benefit the public? Probably not.

I have seen no evidence that there are an insufficient number of lawyers in California and I am assuming that higher "cut scores" limit admissions to higher caliber (more capable) attorneys. Of course, maybe the bar exam is no rationally related to weeding out lower caliber attorneys. But reforming the bar exam to accomplish that goal is not the subject of this survey.

I believe that the public is best served if

(a) there are sufficient lawyers available to both satisfy the need for legal services in California and to provide healthy competition among the lawyers to keep costs low and

(b) the lawyers are of the highest possible caliber and ability.

So, assuming there are enough lawyers in California to satisfy the public need AND the bar exam weeds out lower caliber attorneys, why would we take action which would result in an increase in lower caliber attorneys serving the public?

Gael Mueller

We need BETTER lawyers. We need more practical education especially with new issues of technology and ethics. We need to be even tougher.

Monique Martin - n/a

In a world of declining standards and disappearing ethics, California should (again) lead the way and continue only to accept the best and the brightest to its bar. There is a moral and ethical obligation to provide the best representation for our citizens. A lowering passing rate doesn't change that. Lowering the score is willingly putting substandard attorneys in practice. We're better than that. California is better than that. Our bar is among the best in the nation; it should remain so. Stand firm. Accept only the best. We'll all be the better for it in the end.

Chilton Lee - Retired sole practitioner

The cut rate should not be lowered:

The goal of increasing diversity should not be reached by lowering the cut rate. If a candidate cannot overcome a substandard education from a poor school district, assuming the poor school district is a cause of the lack of diversity, after 4 years of college and 3 years of law school, and cannot pass the bar, he or she should not be admitted.

The existence of a large student loan debt should not be a reason to lower the cut rate. The law schools have a duty to select students based on their chances of passing the bar, not just to increase their enrollment figures and profits. Students also have a duty to be realistic in assessing their chances of success and not just go to law school because they could not find a job after graduating from college.

Although everyone has a right to competent representation, lowering the cut rate would not guarantee that the selected attorney will be competent and in fact would decrease the chances of obtaining competent representation.

The State Bar has a duty to maintain the integrity of the profession and lowering the cut rate would make us look bad, especially given the publicity this issue has received.

Charles Kirk - (retired)

The CA high failure rate is due to CSB permitting any breathing object to take the bar exam. I am unaware of any state allowing such wide-ranging "qualifications" or NO limits on taking the exam. I personally know two people demonstrating such excess: one took the bar 14 times before passing, the other took it 17 times. Not surprisingly, neither was a decent lawyer. I also belong to the Oregon bar. You can take that exam 3 times ONLY. Oregon does not permit matchbook-cover law school applicants to take the bar; they must attend an accredited school. I believe I saw a statistic a few years ago where there was one lawyer for every 100 CA residents; a far greater ratio than with doctors or dentists, both of whom perform more necessary services than lawyers.

It is true that poor people are somewhat underserved. But the greatest underserved population is the middle class. The rich can always afford a lawyer. The poor always have public defenders in criminal cases, or legal aid in many civil cases. The middle class gets neither, and can only obtain justice under the law by expending all their assests. Our legal system is unfair.

It is misguided to lower standards to achieve "diversity." A bad lawyer does no service to the client and damages the reputation of the bar.

More lawyers is not the answer to our broken legal system. Our system (particularly in CA) is too litigious, which benefits the rich and powerful who can always afford lawyers and use Fabian delay to drain the purse of their opponent. The legal system (particularly in CA) is drowning in its own excesses, particularly with criminal law, which consumes far too much of our legal resources. Defendants are entitled to a fair trial, but not a perfect one; something most appellate (and federal district court) judges have forgotten.

One remedy may be to remove lawyers (and the legal system) from most disputes, replacing it with arbitration, or with something akin to administrative-law hearings (or perhaps the 3-judge European system). I know of no modern civilized country that has such expensive and all-consuming litigation. Our English cousins--from whom we supposedly inherited our system--do not have our problems in either civil or criminal cases. Continental European countries do not wallow in legal excess. It is time we looked elsewhere for ideas which might be applied to our system which is broken and does not serve the functions for which it was originally intended.

Anonymous

Perhaps the State Bar could learn from similar licensing entities like FINRA, which employs several "psychometricians" and statisticians--along with scores of industry volunteers--who contribute monthly to both the art and science of entry exams. Sending out a poll on whether to move the cut line by 26 points seems neither an artful nor a scientific solution to this problem (assuming a lower pass rate is really a problem in the first place).

Thank you.

Henry Harris - retired

I graduated from the University of Wisconsin Law School in 1966 and was admitted to the practice of law in Wisconsin upon the recommendation of the Dean of the Law School, as were graduates of Marquette Law School in Milwaukee. So I was not required to take a bar exam.

There were many of my classmates whom I thought were not qualified to practice law. Most, if not all, dropped out of law school. I later came to California as a member of the US Navy, and took the bar exam in 1976, for those attorneys who had been in practice for 5 years, although it had been ten years since I graduated from law school. The bar exam was tough, as I remember only 7.6 percent of the prior bar passed before I took the exam. Again, I recall only about 37 percent passed my exam.

I realize that some criticism of their pass rate is that some law school graduates, who have not passed the bar, were unable to secure a position in the legal field. While I have some sympathy for them, it is the public that we need to protect. If they have graduated from a for profit law school with a low pass rate, or an accredited one with a poor pass rate, it should be the State's responsibility to inform the public of the danger of attending those schools. To lower California's standards to reward those schools, will be a disservice to the public.

Alfred Vargas - Law Office of Alfred Vargas

In an era where every child gets a trophy for simply participating in soccer, I had thought that the State Bar would be immune to such a notion. First, you reduced the bar examination from a three-day to a two-day endeavor. Now the State Bar contemplates lowing the cut score, further lessening the entry requirements and endangering the public. There are enough bad attorneys who got through under the old requirements. This will make it worse. Obtaining a law degree does not automatically entitle one to a law license. If the State Bar chooses this course, perhaps you should consider removing the State Bar logo from the Admissions Certificate and replacing it with a picture of a soccer participation trophy.

Anonymous

I believe the cut score should remain as is. I do not believe making the bar exam easier to pass is the solution to low bar passage rates. Bar passage rates can be improved by better education, time management and application of skills learned.

If there is an influx of less qualified attorneys into the market, this may make it harder for those who have passed the bar to find jobs.

If there are concerns about the bar exam itself and qualification of attorneys; perhaps the test itself can be changed to test and gauge the ability of future attorneys to practically apply the law and address issues that will come up in day to day practice.

Frank Ruiz - County of Kings

The bar is a difficult exam. There are already more attorneys than there are jobs. How law schools can continue to pump out the number of law students that they do with the lack of jobs, outrageous law school debt, and low pass rates, makes this an easy choice for me. I agree with Option 1.

Bryan Pate - ElliptiGO, Inc.

If we believe that the bar exam selects for better attorneys, then don't lower standards to accommodate degrading performances. The solution is to improve the preparedness and caliber of the applicants. There is no shortage of attorneys in California and I am opposed to lowering the quality of legal practice in our state because there has been a decrease in bar exam scores.

Anonymous

As a lawyer in private practice who also teaches as an adjunct professor, we have witnessed declining enrollment in our law school classes. As a result, students who may not have otherwise applied for and been admitted into law school are now comprising law school classes.

Regardless of student loan debt, regardless of the limited availability of incredibly lucrative starting salaries, and regardless of any well-intentioned plan to lower the hurdles to the profession - lawyers' obligations remain the same. I have learned that a client does not care where you went to law school, what your LSAT score was, or whether you were on Law Review. The client wants advice and help. Perhaps legal services are becoming a commodity, but most clients think all lawyers - and all legal advice - is the same. Those of us in practice know there is a great difference between board certified lawyers and new practitioners, but the public does not always know the difference. Given the ability to create "a professional looking website in minutes," the divide between marketing and experience is often missed by clients.

This is why law schools and bar exams bear a significant burden in making sure that there is meaning in passing the bar.

The bar exam is not impossible; it just requires effort. And time. And study. An argument can be made that students who have to work to support themselves while studying for the bar are at a disadvantage to those than can take off two to three weeks to study exclusively. And that is a fair argument. Nevertheless, just as a client does not necessarily care how much time it took for the lawyer to give them the right advice, studying for the bar exam is an exercise in grit. And many days grit is the cornerstone of a lawyer's practice.

Recently there have been articles discussing the lack of readiness of our military, specifically, regarding the training and qualifications and work ethic of incoming recruits. Due to low numbers, many young people who would not have been accepted into the military now comprise large portions of the armed forces. And in peacetime, this doesn't pose a problem.

There is seldom peacetime in an adversarial system, and just as the rules of evidence are not being relaxed for the "cut score" to lay the foundation for a business records, we may want to be cautious about relaxing requirements elsewhere in our profession.

Anonymous

Just have the schools regardless of ranking or station explain the truth about the challenging marketplace for lawyers. Truth: not some marketing nonsense to keep schools going. I went to a CA only accredited school and know first hand the challenges New lawyers will face not to mention oppressive debt. I don't regret my choice and make a fair living at it. The rewards today do not justify Cost for many students. Maybe tomorrow but not today.

Anonymous

Since the test will be a two day test for the first time ever, I think it would be better to wait to change the cut score until you know what the impact the new test will have on the pass rate. Otherwise, how will you ever know. Maybe the two day test increases pass rates. 50% of the Bar exam is the psychological. My knees buckled when I walked out on the third day. The two day test might make all the difference.

Theresa Buckley

I think that the cut score needs to stay high for several reasons. First and foremost, California allows several law schools to operate that are not ABA accredited. These law schools tend to enroll students who could not do well enough to gain admission to a regular ABA accredited law school. If California is really serious about helping students avoid the yoke of massive student loans and the risk of not passing the bar, this is where they need to focus their energy.

Second, the contention that lowering the cut score "helps" under served populations is incredibly insulting. Implicit in this argument is the premise that the lawyers who can barely pass the bar are going to go into positions of serving indigent/under served communities. Why should the most vulnerable people in our society be served by the weakest law students? If I could have my way, I would want the best and brightest serving these communities, as they largely do through very competitive public interest jobs (e.g., the ACLU, Legal Aid Society, Public Counsel, etc.). Honestly, the most vulnerable communities need the smartest lawyers, the type of people who can problem solve and show creative and analytical reasoning for this high needs population. If you cannot manage to figure out how to pass the bar, how are you going to take on these cases under incredible time pressure and stress.

Third, we all know that there is an excess supply (not a shortage) of lawyers. As a graduate during the great recession, I know personally how disposable many of us lawyers, including those from top law schools, were when the financial pressures hit. There may be a need to realign incentives to get the lawyers in the coastal areas to relocate to rural areas that need lawyers. But that isn't the same thing as needing the pass rate to be lower. Lowering the pass rate isn't going to change people's desire to live in the more popular coastal areas. Let's address that problem directly instead of lowering the bar, so to speak.

Finally, I am completely aware of conditions that may have made it easier for me, a relatively well educated and middle-class law student able to pass the bar the first time. Rather than lowering the bar cut score, I would instead focus on raising the level of analytical reasoning and teaching students the various aspects of the law covered by the bar. The law is interesting. I don't know everything. Studying for the bar forced me to expand my knowledge beyond the few bar classes required at my school. It has been useful as I have ventured into new areas of law. If I hadn't had the pressure of passing our relatively rigorous bar, I don't know that I would have learned as much. That would be a shame since you don't necessarily stay in one practice area as a lawyer. That hasn't been my experience at least.

Brent Mackenzie

Law schools which are charging tens of thousands of dollars per year in tuition should be held to task to properly prepare students to pass the bar exam. Lowering the cut score will only serve to license more incompetent attorneys who put the public at risk and destroy what little faith the public has in the bar. I am speaking as an attorney who has been in practice for 41 years - of which 31 years is in California.

Paul Raub - retired

It is my opinion that by lowering the Bar Exam score, the membership of the Bar will only become diluted with questionably qualified individuals. Further, this issue should not be influenced or determined by the various law school deans who fear lower enrollment due to the difficulty of the Bar exam. That should be the last consideration given if at all for any decision to lower the score. In the past and it seems the trend continues that the pass rate for the Bar exam fluctuates on a regular basis from year to year. Yet, people still pass. If one does not pass the first time, further opportunities are provided until the individual passes or gives up. Let the individual chose his/her own route and then when the notice comes in the mail that they passed, they can proudly say they passed one of the most difficult bar exams in the country. Otherwise, by lowering the score, there is little distinction between that and affirmative action, where intelligence, determination, fortitude, and stamina all take a back seat to an artificial criteria for excellence.

Larry Acquistapace - solo Larry Acquistapace 133655

this is another attempt of society to "dumb it down" just to say more individuals can be included.
In my humble opinion it is not in the best interest of California residents who already have an abundance of choices for representation.

Anonymous

Already we have a large number of unemployed lawyers that, having passed the 1440 exam, still can't find work as attorneys. The jobs just aren't there as they once were. Anecdotally, a barista at the local Starbucks passed the bar 18 months ago and is still looking for lawyer work. Do we really need more unemployable attorneys?

While access to lawyers by low income people has something to do with the number of lawyers, the unconscionable fees currently in vogue are more at fault. Dumbing down the bar exam will not solve the problem of access to lawyers. Moreover, the quality of lawyers will suffer by lowering the bar (pun intended).

The current low pass rates have more to do with unqualified applicants than the difficulty of the exam itself that has slowly declined over the years; shorter exam periods, multiple choice, etc. The proliferation of unaccredited, for profit law schools encourages and leads to unqualified applicants. Perhaps it is time for the pendulum to swing back from the lawyer boom of the 1980s and 1990s to reflect the real need of society for qualified, honorable attorneys, people of integrity and intelligence.

It is unprincipled to move the goal posts, lowering the cut score, after the game is concluded, the exam is over. What's next, participation trophies?

Francis Thomas - THOMAS LAW FIRM, Chartered

Students coming out of law school are generally far less learned than those of 20 to 30 years ago. Even those from "high end" schools cannot write a cogent paragraph..The standard (cut rate) should, if anything, be increased!

Anonymous

I am not surprised that the State Bar is considering lowering the cut score, but like many (I imagine), I do not think that the Bar should lower the bar and admit less qualified attorneys. Yes, the bar exam is tough. But it must be, for so many reasons. The stamina required prepare for and pass the bar exam demonstrates the dedication that an attorney must bring to the profession. If anything, the Bar should focus on regulating substandard law schools and Bar study courses. In my opinion, making the bar exam easier is simply not the answer. If the student doesn't have the education, drive and perseverance to pass the exam - that every other attorney has passed- then they shouldn't be admitted. This may be a hard line approach, but if the Bar lowers its standards, then it is compromising our profession.

As background: I passed the bar my first time. Because I studied my ass off. And then I did it again in another state and passed there too. It can be done, and we don't need to lower our standards just to admit a few more people. The Bar is exclusive, and it should be. It was organized this way in the beginning for good reasons and we don't need to lose sight of that simply because students don't work hard enough to pass the test.

Anonymous

Declining bar passage rates should never be the reason for lowering the cut score. Apparently law schools are either accepting marginally qualified candidates, or law schools are doing a poor job in providing law students with the skills and knowledge needed to pass the bar and effectively practice law. I understand and support the need for diversity in the legal profession, but this goal should never be used as a reason to lower the cut score. People expect attorneys to be highly skilled and qualified professionals; people usually hire attorneys because of a sudden tragedy in their lives, be it an arrest for a crime or a civil matter such as an injury or divorce proceedings. These people will ultimately suffer if marginally qualified individuals became attorneys because the cut score was lowered.

I've been a prosecutor for over 20 years; I've spent many years in court handling calendars, motions, and jury trials. I am often amazed at the poor oral and writing skills of opposing counsel. I can only imagine how much worse it will get it the cut score is lowered.

Anonymous

My opinion, as a recent multiple repeat taker who passed on the third attempt, is to leave the cut score as is. You have already made recent changes which have drastically changed the nature of the exam from three days to two days along with scoring changes to address the differences for the removed sections. To change the cut score prior to a discernible impact of these recent changes to the structure would be premature.

Also, as you are likely aware, the passing rate that gets passed around publicly is an inaccurate metric that shouldn't be used to evaluate a need for scoring changes. For example, the passing rate that many discuss publicly for July 2016 is that only 43.1% passed the exam. However, if you break down the numbers (http://www.calbar.ca.gov/Admissions/Law-School-Regulation/Exam-Statistics), the overall passage rate for "First Time takers from ABA accredited Law Schools in the State of California" for July 2016 is 62.4%. Again for July 2015 the number discussed that leads too much of this discussion is that only 46.6% passed. However, again the passage rate for First Time takers from ABA accredited Law Schools in the State of California is 68.2%. Repeat takers (myself included), out of state test takers, and non-ABA approved schools bring these averages down significantly. Please note that I have intentionally omitted February Testing data due to limited sample size for that population of takers.

Yes, the bar exam is a hard test. While there are always exceptions to any rule, the general numbers indicate that if you want to pass the CA bar exam on your first attempt, go to an ABA accredited law school in the State of California. Based solely upon my own recent experience, the students I anticipated passing on their first attempt passed. They studied hard all three years and they put forth the effort, discipline, and skilled required for the bar exam.

Also, there may be some insistence from Law Schools asking to change the cut score and test, but please consider their vested interests and potential conflicts of interest in seeking this change. A commonly held belief is that if the tests is easier to pass more students will apply to and attend Law Schools which would help react to the decline in attendance and admissions to Law Schools around the state. However, my belief is that the real challenge driving this shift is the nature of the modern legal market is changing. As attorneys become increasingly more efficient due to technology and resources available to individuals, the work one single attorney is capable of handling increases while at the same time the hours associated with this work decreases. This shift is leading to more attorneys competing for less work and resulting in legal services becoming somewhat commoditized. Ultimately this competition leads to a reduced earning capacity for average attorney’s which leads to less student’s perusing the profession. Reducing the cut score to drive enrollments will only lead to the same issue the practice faces today, dropping enrollment numbers. A reduction today only serves to delay the inevitable; the practice is changing and becoming less attractive profession for many potentially qualified candidates. However, reducing the passage rate to accommodate for less qualified candidates removes the final filter and increases the potential impact of allowing those not capable of adequately performing the practice of law to harm the public.

I would strongly ask that you reconsider any changes to the score given that the impact of recent changes to the test structure have yet to be seen, that public perception of passage rates is flawed, the impact if may have on the current members of the CA Bar, and the potential harms to the public of those not adequately qualified to serve.

For these reasons, I am against any changes to the scoring at this time.

Anonymous

The current "high" cut rate does not ensure skilled and competent attorneys, which is currently evident within the present-day community, but lowering the cut rate would most assuredly decrease the skill and competence of the future-day community.

Matthew Butterick - self-employed

What is the primary purpose of the State Bar? According to its website, its primary purpose is "protecting the public":

http://www.calbar.ca.gov/About-Us/Our-Mission/Protecting-the-Public

Or in the more precise words of former Deputy Executive Director Robert Hawley, "the State Bar of California is not a bar association, focused upon member concerns ... The primary goal of the State Bar is to protect the public from attorneys." (Email from Hawley to Butterick, 12 Feb 2013.)

There is no possible argument that lowering the cut score of the California bar exam will help the State Bar protect the public. On the contrary, it will expose the public to the risks of a new set of attorneys who are currently considered unqualified to practice law.

Does the State Bar contest this fact? No. In the "Executive Summary" for this project, the State Bar concedes that lowering the cut score "is likely to increase the risk of harm to the public". (Executive Summary, page 8.)

What more needs to be said?

Maybe one thing: in June 2015, the California State Auditor issued a report highly critical of the State Bar, concluding that it "has not consistently fulfilled its mission to protect the public from errant attorneys":

https://www.bsa.ca.gov/pdfs/reports/2015-030.pdf

Against that backdrop, this hardly seems like an opportune time for the State Bar to be weakening the cut score of the bar exam, one of its primary tools for protecting the public.

Theresa Lorin

I feel that current standards should remain. Too many lawyers as it is and if they want to join CA State Bar and to practice law in this great state then they need to meet the standards. I am proud that CA has 2nd highest threshold for passing.

Further, lowering threshold does nothing to provide more access to l more access to legal advice to undeserved population

Sergio Rudin - Burke Williams Sorensen

Lowering the score is a terrible idea. Lawyers enter practice minimally prepared as is. If anything there needs to be an increased score and additional skills training and testing. Don't facilitate poor quality law school training by lowering the bar to entry.

Molly Mosley - California Attorney General's Office

If attorneys can't find jobs when they graduate, perhaps there are too many attorneys already. It seems to me that it is important to maintain high standards. I'm proud to have passed the hardest bar exam.

Anonymous

It seems to be more prudent to ensure that the validity and relevance of the test questions to actually practicing law in the State of California is more important than an arbitrary cut score.

Anonymous

CA legal's environment is already saturated. Please don't just open the floodgates to everyone as this is not appropriate, wise or fair. I (like many of my peers) missed the bar pass rate by less than two points the first time around (father had just passed away). This disappointment didn't cause me to quit but rather motivated me further. I know many amazing attorneys who have taken the bar exam over four times.

The legal profession don't get easier once you pass the bar - don't set the "bar" low as this is not the example we want to set in California.

Anonymous

Dear California Bar:

One problem is that people entering the legal profession currently need to study harder, take the exam. Ore seriousky, and actually prepare for the exam. California allows students from non-accredited schools and other backgrounds to take the Bar Exam; many don't have the discipline that is learned via an ABA Accredited School. Some don't have the academic foundation upon which they may pursue a legal career as a Board Certified Licensed Attorney. For example, Florida will not allow anyone not graduating from an ABA accredited school to sit for their State Bat. California has allowed the legal market place to become flooded with all types of individuals that Willy-Nilly decide to become a lawyer. What are th motives in joining our practice and brotherhood/sisterhood of legal scholars? I have tutored individuals taking the Bar Exam, many need to actually bite the bullet and set aside the time and STUDY. It takes 8 hours a day for about 10-13 weeks. This is a serious career choice and the abat shouldn't "dumb-down" by lowering the current cut level below 1440. Of students practice writing essays and follow a certain format that is required to gain a high score; and also complete multiple daily practice sessions of the MBE, they can pass! Taking the 3 Day Exam is also a sample of what a 3-Day Trial may be like. If one wants to be a lawyer in our Great State, The Golden State, perhaps they need to put the time in and prepare for the exam. People need to learn how to balance the required study material with the onset of social media and other electronic devices and apps. We shouldn't lower our expectations on a Standardized Exam. If the Bar wants to add some other alternative together with a mediocre Bar Exam score, such as a 4th year requirement of full-time education; or, perhaps have the imdvidicuals be required a on the job training such as they have in the U.K., maybe then and only then should lower the bar be considered. Please Do Not Flood The CA Bar Membership with people that cannot pass the current exams. Those who can't pass can go try to take the exam in a smaller, more mediocre State. California needs to keep its integrity. The Bar Exam should remain unchanged. If anything, it should be made more difficult. It's not an easy career.

Anonymous

Please do not dumb down the CA Bar exam. The lower passage rate is likely attributable to law schools, desperate for bodies and money during the recession, accepting people who are unqualified. This practice seems to be continuing. I am sorry for the applicants who are overburdened with debt and who were sold a bill of goods to get them enrolled. The Bar should maintain its usual criteria without lowering or compromising anything. Put the problem straight at the feet of the people responsible for it: law school deans.

Anonymous

The State Bar of California, subject to its legally-determined interaction with the Supreme Court of California, is permitted to regulate the legal profession. Such self-regulation has inherent advantages and disadvantages vis a vis public policy: self-regulation puts the control of the profession in the hands of those presumptively most knowledgeable about how to serve the public interest; yet, self-regulation could result in "guild-like" protectionism and self-interest overriding public policy responsibilities.

At its best, self-regulation of admission to the practice of law ought properly set an entrance qualification in two vital respects: adequate knowledge of the law in order to practice effectively in clients' interests; adequate knowledge of professional ethics in order to avoid mishandling clients' affairs.

I presume that the Bar examination addresses both areas; I have not studied the examinations and took mine for than half century ago.

I do not think that the rate of failures of the exam is the least bit relevant, either as a trend within California itself or as compared to other states' rate of failure. If the exam is set up in order to preclude admission to the Bar by any applicant who is deficient in either aspect it addresses, that is all that matters. It ought not be altered to address issues of the demographics of those who pass and those who fail or of anyone's supposed prediction of who among those who have failed might represent what kind of clients.

Even in the "good old days" when there were far fewer applicants, many passed and were admitted to practice who I thought must have been unbelievably lucky to have passed. Some had taken the Bar examination many times. The cut-off point was not high enough, I speculated. That is another reason I do not presently think it should be lowered.

Charles B. Cohler
San Francisco
State Bar #: 37415 (Inactive)

- Government

The fact that the bar passage rate is low does not mean you should lower the standard for entry that attorneys practicing in California all had to meet. Because something is hard doesn't mean it should be made easier just because people cannot make the cut. The change here has not been the exam, it has not gotten harder. The change here is he quality of students taking the exam. The exam as it stands has created a field of qualified attorneys that ALL had to fight to become a part of an industry with high standards and integrity. The exam is hard for a reason. We do not want unqualified individuals to enter into an industry that is very intellectually tasking and requires a high level of trust and integrity. Applicant rates for law schools have declined, which has led to the standards for entry into law school being lowered. This is the likely culprit for the decline in the bar passage rates and not sufficient grounds to lower the standards for entry into an industry that requires a high level of integrity.

Joan Dillon - Retired

Sadly, the quality if education seems to have been declining in the United States over the past twenty years. This, however, is not a reason to lower the standards for, and thus the professionalism of the bar. Dumbing down the criteria for passing the bar is a disservice to the reputation of the profession and to the clients who seek, and expect to receive, services that meet the highest standards. The year I passed the bar, about 1984, only 23 per cent passed, but the bar kept its integrity. This slipping of criteria, and reduction in standards can only hurt the practice and it is appalingly disgusting that it should be considered as the answer to a reduction in the quality of candidates admitted. Maybe California needs to do something about it highschool, college and law school standards for passing rather than dumbing down the profession in the name of "inclusiveness" or some other highly irrelevant criteria. If I hire an attorney, I do not expect, nor would I want, someone who made the grade because standards had lowered.

Anonymous

Complaining about 43% passage rate?! Hell, that's almost twice what it was when I passed. I doubt seriously the CA State Bar is going to care about what we attorneys think. Illegals are already allowed to pay dues to the Bar, so that the Bar can maintain their posh surroundings in San Francisco. This nonsense about diversity is nauseating. Keep the exam tough to pass, and allow the best of the best to represent parties in California. Getting tired of the endless lowering of standards for the sake of appearances.

Peter Veregge - Cislo & Thomas

A recent article by Judge William Fahey, published on the Daily Journal website, https://www.dailyjournal.com/articles/342590 sums up much of my reasoning for maintaining the present standards. While most attorneys are competent, we are still admitting attorneys who are simply not qualified to practice law. Maybe that speaks to a problem that cannot be rectified by the bar exam, but the exam sets a bar over which all must pass. Letting larger numbers of less qualified attorneys to join the bar ranks will do nothing to maintain the standards of the profession.

Law school is an option. It is not a job guarantee. I am appalled at how much law schools charge for tuition these days (my alma mater has more than tripled tuition since I graduated 25 years ago, inflation has not been even close to that).

But "dumbing down" the bar exam will have no effect on tuition. In fact, law schools may eventually realize that inflated tuition keeps away more qualified candidates, who are smart enough to realize that the cost-benefit of law school is no longer advantageous. Reducing the cut score will only allow law schools to continue to boast their pass rates--to the detriment of potential students who think that passing the bar will lead to a lucrative job. If law schools want to increase their pass rates, they need to get better candidates, not reduce the test difficulty.

Anonymous

I share the views set forth in the Hon. William F. Fahey's August 8, 2017 article in the Daily Journal, "The case against a lower pass score."

Anonymous

Generations of California law graduates have had to meet the high CalBar standards for admission and have successful done so. The Bar Exam is not supposed to be easy and instead sets a high threshold over which all lawyers must pass to obtain their license to practice. The toughness of the Bar Exam is necessary in order to maintain the skill level and integrity of the profession - and particularly with the number of unaccredited, online, and other questionable law schools who crank out lots of people who simply do not have the intellect and/or drive to be successful lawyers.

The issues in the Survey such as diversity and student loan level indicates that the real motivation behind the proposed cut score drop is appeasing the diversity types who have had exceptions made for them at every step of their lives and now want what is in essence an exception for the Bar Exam to make it easier for them by lowering the cut score for everyone. The Bar Exam has no no exceptions for anyone or for any factors based on race, national origin, color, sexual orientation, student loan level, and the like - and that is precisely the way it should be. If people cannot pass the Bar Exam in its current form (which I think is easier than it was in 1978 when I took it), they don't deserve a license. This exception in the guise of a cut score drop should be rejected. There are too many lawyers now. If anything, make the exam harder.

Steven Lund - Public defender

The pass rate was 32% when I passed.

Patricia Kent - self

dumbing down the standards does not reflect well in what we are teaching. it is the method and means of instruction- to create independent and critical thinkers who are capable of analysis- that matters. not how well they test. regurgitating what has been "taught" does nothing for the future of the profession. it would be good to know if those that do not pass and from what schools they come from really tells any story regarding gender, culture, or the cost of education. Simply because law school is available at private institutions for a price, does not mean that the standard to admission to practice should be lowered. where is the data here on passing vs not??

Thomas Conway - Diversified Investment Services, Inc.

We certainly don't need to make it any easier to become an attorney in CA. Including myself, I know many people who passed the bar on the first attempt. I see NO need to make it easier. Passing the bar isn't rocket science. If properly schooled, then it simply requires time/dedication and discipline to study for and pass the exam. This is one area of society we don't need to "dumb down" to accommodate those not willing to do what it takes to pass the exam. There is a reason we have some of the best attorneys in the country.

Michelle Diaz - The Law Office Of Michelle E. Diaz

The State of California is not suffering from a lack of licensed attorneys. It is a large and incredibly diverse place. It is incomprehensible to me why we should LOWER the requirements to become an attorney in California. In an increasingly complex world, why should entry into the legal profession become easier? It would undermine the integrity of our profession and it would undermine the public trust in our profession.

John Morris - Law Office of J. Jeffrey Morris

Keep standards as high as reasonable.

Anonymous

I passed the hardest bar in the nation in 2009 (on the first try) and there was no suitable employment available to me. Last year when I temped at MoFo, I noticed that they hired a new Harvard Law grad who hadn't been admitted to the bar yet. Thus, law firms are more interested in well-connected applicants than bar passers. Lowering the cut score is probably intended to benefit these firms' friends and relatives, so that they don't have to wait for them to retake the exam.

When I told my story to the leader of the Student Loan Justice Organization, Alan Collinge, he said, "I hear that frequently from law school grads...shameful."

John Carsel - John M. Carsel, A Professional Law Corporation

I don't believe in lowering the standards because less applicants are passing the bar. That demeans them and all existing attorneys and potentially harms the public with less than qualified attorneys entering the profession. The bar exam is the common denominator which sets the minimum requirements. And it is a minimum. It is no guarantee of competency, but it does set a benchmark. The problem is not in the exam. Law schools need to look to their standards for acceptance and their teaching.

Anonymous

I am astonished that a low pass rate is being used as a justification for lowering a cut score that has not itself changed since higher pass rates were the norm. The low pass rates are pretty clearly the result of the low quality of many law schools and the low standards for admission to many law schools. If there are too many unqualified people taking the Bar, that speaks to the sad state of legal education and perhaps the decreasing desirability of a career in law. Neither of these is addressed by lowering the cut score.

William Maher - SFO

Law school applications have declined by at least a third over the last decade yet few or no law schools have closed and the number of unaccredited law schools has risen. The result is that many law schools have gone deeper and deeper into the applicant pool to stay afloat. This, of necessity, increases the number of less qualified candidates. Law schools do this in an understandable effort to ward off closure, maintain their faculty and pay their bills but the effect is extremely negative. This behavior leaves more and more students with unaffordable debts and creates significant pressure to lower standards. These pressures endanger the public protections and further reduce the respect for law and the legal profession amongst the public. A better solution would be to explore ways to reduce the number of law schools. Some must close so that the pool of qualified candidates more accurately reflects the available number of seats available. Until we do this we will continue to be faced with pressures to ever lower qualifications. While it is quite important for clients to see people like themselves in the profession there are better ways to achieve this them lowering standards. Reducing standards will only most hurt those groups we are trying to help, by providing an ever larger pool of unqualified candidates to prey on those most desperate for representation.

Gino J Bruno

Apparently 57% of the applicants who took the July 2016 failed because they were unprepared to surpass the current cut score of 1440.

However, 43% passed.

We must maintain the HIGHEST standards, for the protection of the public against unprepared and unqualified attorneys

Let's not "dumb down" the integrity of our profession.

Anonymous

The bar as an organization has the duty to protect the public from unqualified attorneys. As a litigator, I have encountered several shockingly incompetent and unqualified attorneys. The standard does not need to be any lower than it already is. A minimum understanding of the law and a minimum of analytical skills is not too much to ask for from a profession whose job it is to safeguard our society's contractual, civil, and human rights. How would the public feel if we lowered the standard for doctors to be able to practice medicine?

In addition, there are and have always been several people who do pass the bar who are unable to find gainful employment in the legal profession. I do not find it credible that more people would do public interest work or serve underserved populations if the bar would just lower its cut score.

Moreover, the bar should not be beholden to the interests or complaints of law schools who churn out thousands of unqualified applicants while charging those applicants exorbitant tuition fees. To lower the cut score so that these schools can claim that their graduates have higher bar passage rates does not benefit anyone except those schools.

Whose interests are really served by lowering the cut score?

Anonymous

Law schools have lowered their standards when admitting new applicants because law school applications have cratered. This is the reason why bar exam pass rates have been lower in recent years in this state. Lowering the bar exam cut off rate is merely an attempt to hide the fact that a lower quality applicant/law student is being thrust onto the public. Law Schools, the CA State Bar, and the National Bar Association have colluded to lower bar admission standards. Rather than looking at the underlying problems (changes in legal technology, lack of transparency in law school outcomes, not enough jobs to go around) these groups have merely tried to protect their business model. The whole idea of lowering bar exam pass rates is a farce.

Anonymous

Lowering the cut score doesn't make the applicant qualified. You can have a completely unqualified Bar by admitting anyone who can read and write but what kind of public protection will you have?

Ana Ayala Zack - Worked at Bingham Dana

I write to strongly encourage the decision makers to keep the current cut score at 1440. While I am sympathetic to the concerns of : (1) increasing the diversity of attorneys, (2) increasing access to legal services to under served populations and (3) the fact that some law-school graduates who have acquired significant debt cannot find employment because they cannot pass the bar exam, I respectfully submit that none of these concerns, even in the aggregate, merit lowering the cut score.

As to the first concern, this is not fair to anyone, specially to the minority attorneys this intended to help. As a young attorney, I began my practice at a top San Francisco law firm. Despite best intentions, the fact is that if a minority attorney has obtained that position, or is perceived, to have obtained that position due to affirmative action policies, this will limit opportunities for that attorney. Opportunities to work certain cases, perform particular tasks or work meaningfully with key people can be denied even though the attorney is hired and the firm proudly touts its minority recruitment.

As to the second concern, the race of the attorneys who make up the California Bar (or any Bar for that matter) should not be the main factor that informs the effort the Bar makes to reach under served populations. The idea that lowering the cut score will create a class of attorneys to serve these populations is misguided at best. Lowering the cut score for this reason would send the message that to provide legal services to under served populations, attorneys who could not pass the bar with the current cut score are "good enough" to serve these populations. More importantly, what exactly does this look like? What types of law will these attorneys practice? What kind of litigation will this generate? Supporting Legal Aid and organizations like it and creating incentives for pro bono work is a much more effective way to reach under served populations.

As to the third concern, this merits a careful assessment of the growth of the profession. Our society does not benefit from having a disproportionate number of attorneys. Access to justice is a noble and important pursuit. Alas, what we have created is an overly litigious society. The quality of the practice of law for both clients and attorneys suffers when the Bar is larger than it ought to be. Even when I began my practice in San Francisco in 2000, I remember opposing counsel sharing a cab back from court and treating each other with courtesy and respect. These attorneys knew they would litigate against each other again and again, they had a reputation to create and protect. When the Bar is so large that attorneys don't know each other and have no incentives to be collegial and respectful, not only does collegiality suffer but also the quality of representation provided to clients. Ethics suffer too. The Bench suffers too. Cases linger in motion practice and resolving the merits of the case takes a back seat to dealing with the antics of attorneys "gone wild." This point is vital. We often talk about the concerns for the quality of life of the profession, the rates of attrition for women in the profession, substance abuse and mental illness plaguing the profession. All of these concerns have a root. One of these roots is a Bar that is so large that it lowers the standards of the practice. Therefore, we should not lower the standards of admissions to the Bar.

Law schools should raise their standards of admission to ensure that those who invest in a law degree, will be able to pass the Bar Exam. People should be discouraged from attending non-accredited law schools. Because of the importance of legal work, the public and the profession deserve the most qualified and carefully vetted attorneys. High standards in admissions pave the way to higher standards in the practice.

Allan Gonzalez

I do not agree with lowering the cut score to satisfy some unknown objective. I passed the Cal State Bar Exam in 1990 on my 4th or 5th try. Each time I failed I went back and studied harder. My problem with the exam, if I had to quantify it, was perhaps 10 to 30 percent not fully understanding legal concepts,and 70 to 90 percent not understanding the expected writing rubric, or the established criteria for grading and scoring the the exam. Once I mastered both skills, that's when I felt I could and did pass the exam. I wold highly recommend taking a bar review course with an emphasis on writing to anyone who plans on taking the Cal Bar Exam.

Anonymous We need to ensure that only qualified applicants to bar are licensed. Too frequently, I come across attorneys who cannot string a simple sentence together or who ignore the rules of professional conduct. Lowering the cut-off score will simply permit more unqualified attorneys to practice law.
Heide Lange Get over it. Do not lower standards. All lowering standards does is project that some people, based on their "race" are unqualified. That would be a stigma.
Kathleen Beggane I believe lowering the score degrades the quality of future attorneys as well as is a slap in the face to those who were able to pass with the current score. CA does not need more meadiocore attorneys, we need fewer higher quality people in those jobs. If CA continues to reduce requirements at all levels of education, as they seem to be doing, like eliminating math and English requirements in Cal State systems, this state is going to continue to fall farther and farther behind on students that actually have to study and learn anything to get a degree. Passing the CA Bar has always been looked upon as an achievent by the best of the best. Now you want to make it so anyone can pass.
Anonymous It's an absolute disgrace to consider lowering the cut score. The integrity of the profession and ensuring quality lawyers are paramount. If anything, the cut score should be raised.Students should consider more carefully their desired careers and the they need to rise to the standards of the profession, not the profession declining to meet the lower quality of current candidates.

Anne Hayes

It would be more edifying if the State Bar actually determined and explained why the pass rate is so low. Is it because takers are less prepared? Is the test more difficult? Are the graders more exacting? Does the bar exam and its passing standards accurately reflect competence in practice? How many exam takers are passing the bar, and do those numbers adequately supply the needs of the market?

In other words, it is foolish to debate the question of setting a new passing score without answering any of these and other relevant questions that go to the heart of what the purpose of the exam is and whether is it serving that purpose. Because none of this information has been provided, there is no other option for me but to object to changing the standards--you have not given any reason, let alone a compelling one, to advocate a change. Just because the numbers are low does not justify lowering standards. If anything, lower pass rates, it seems to me, would demand that we take a much closer look at why pass rates are low, and not simply slap a Band-Aid on the issue so that the numbers look good, even as an interim measure.

I know that one problem I saw as a law student (over 20 years ago) was that certain fellow students were simply not "getting it" and were earning low grades. As I attended a private and rather expensive law school, it was dismaying to me that the school took the money from these students, who often took on enormous debt, when their likelihood of actually passing the bar exam was rather low. Yes, some students did go on probation, but the standard seemed a bit low to me, and the school should have been, if you will, "brutally honest" with some of the students so that they could make a truly informed decision about whether it was worth the investment. For some of them, it may not have mattered (in other words, they wanted the law degree, but were not necessarily intent on practicing law exclusively), but for many, I felt they were, essentially, being "ripped off" by the law school--not out of malice or greed, but out of a reluctance to seem "mean." But allowing someone to incur a six-figure debt is more insensitive and mean than being candid.

In general, I felt that the entire bar exam and other requirements imposed by the bar in order to practice were pretty rigorous when I took it, and I think that rigor is good. It imposed a specific discipline on the takers ,and it required us to demonstrate temerity and determination, traits that I think are necessary and positive in the world of law practice. Even then, as you know, many attorneys who pass the bar end up being poor attorneys, either for ethical or other reasons, and I cannot imagine that lowering the pass score will somehow lead to improvement of the profession.

That there may be other factors, either besides or in addition to amending test scores (and, I would allow, that may even include lowering them), that can improve the measure of an individual's competence and suitability to the profession remains to be seen. But until actual reasons are articulated and substantiated for justifying a change, none should be made.

Michelle Lemley - Inactive

I believe the reduced pass rate is due to the growing prevalence of substandard law schools. Students who may be hunting for a bargain or who are less qualified for admission at top-tier schools are actually ill-served by such lower-tier schools. They incur considerable debt like other law students, but are far less employable. I am also concerned these students will be less likely to serve the public competently. The enrollment rates at various schools, and how the graduates of their schools perform on the exam, should be correlated and examined over a five-year period to spot relevant trends before exam pass rates are adjusted.

Anonymous

Social issues and the diversity of the Bar are important issues. However, they should not be managed using the pass rate of the Bar Exam. We have too many lawyers and too many law students, the Bar Exam should be recognized as an accomplishment and an extension of discipline, hard work, intelligence, thoughtfulness, etc. The Bar Exam should not be just another formality.

Janet Potts - Member, California & D.C Bars, Retireed

I am a member of the California Bar, and have been since 1978. While I do not completely object to a change In the scoreset for passing the bar exam, I believe it should be done only on the basis of whether the current or any change has anything to do with the actual qualifications needed to practice law. Retaining the current 1440 or changing it to 1414 is not an issue that can be properly decided on simply the number of exam takers who pass at each level. Whatever the Bar exam number, the entire process -- test and pass9ig scores -- should be based on whether the test itself is a valid measure of the ability to practice law and represent clients.

Janet Potts, Member of California and D.C. Bars
Phone Number: 703-241-1649

James Cavagnaro

There is no earthly reason for the CBE to lower the current cut score. One of the purported reasons suggested for doing so is to increase the diversity of those admitted to practice. Really? This is not the 1960s. There is no need to apply Affirmative Action to the cut score in the 21st century. People of every racial and ethnic background have access to the educational resources necessary to prepare them for the bar exam. Lowering the score will potentially result in the admission of unqualified attorneys and less respect for those so admitted from their peers and the public in general. If you cut the score now, you will surely cut it again, because more is always better, isn't it?

James Mahon - law offices of James F. Mahon

Until someone comes up with a better way to determine qualifications for admission to practice law in California the State Bar Exam should remain as vigorous as possible to insure that public is protected.

Anonymous

Why lower standards? What's next, participation awards??

Daniel Wallace - retired

I am in favor of maintaining the current standard for bar passage. The fact that the percentage of successful applicants has dropped should not be a factor as it does not justify allowing less qualified individuals to practice law. It is more likely a consequence of less qualified students attending law schools.

The public needs to be protected from less qualified persons being able to practice law. Adherence to high standards is appropriate and critical to achieve that goal. Quite frankly the fact that many incur debt and are unable to pass the bar exam is irrelevant and in fact underscores the fact that these individuals have an unrealistic view of the skills needed to practice law. It is not proper for the Supreme Court or State Bar to consider the fact that one incurs debt to pursue a legal education in making this decision.

Robert Granafei - sail bravura

when i passed the bar , on the first attempt, the rate was in the low 30 and on one suggested altering the method of scoring.

I believe there are two reasons for the passage rate, which I see has satisfactory. First, the standards for admission are to low. Schools are accepting students to obtain financial goals. Second, the law schools do not teach enough bar subjects. While they maybe offer they are not required. I went to a non-ABA school, UWLA, and every bar subject was required. When studying for the Exam with students from UCLA and USC I was surprised to learn that many of them had never taken basic bar courses like Remedies, Trusts and Wills, and Community Property. Space Law and the like are fun but do not prepare a student to be a lawyer, nor do they help him/her with the exam.

Leave it alone. Let the crybabies go to another profession.

Anonymous

Lowering the cut score is abject stupidity !!! The problem is obvious. Too many unqualified applicants are being admitted to law schools. "Grading" is a joke, so manifestly unqualified people "graduate". Lowering the cut score simply compounds the existing chicanery.

I am retired and living outside of California, so I'm not worried about competition. However, as a third generation of four generations of attorneys, I am concerned about maintaining the integrity of the profession.

See below the related comments by Glenn Reynolds, a professor of law.

HIGHER EDUCATION BUBBLE UPDATE, LEGAL EDUCATION EDITION: Applicants Plunged 52%, And Acceptance Rates Increased 20%, At Non-T14 Law Schools From 2008 To 2016. Here at Tennessee, we've managed to increase our class size while holding numbers steady, but that seems to be counter to the general trend.

Plus, from the comments: "Depending on where we look in the T14, the drop in applicants has had a more pronounced effect. At Georgetown, for instance, the 25th / median 75th percentile LSAT splits have gone from 168 / 170 / 172 for matriculants in 2010 to a 162 / 167 / 168 this past fall. In other words the 25th percentile LSAT score at Georgetown six years ago is equal to the 75th percentile LSAT score there last year."

12 Posted at 8:38 am by Glenn Reynolds

Anonymous

I have been practicing law in the State of California for more than 35 years. I believe that retaining the higher cut score preserves the integrity of the profession. Just because recent candidates are not able to reach the cut score easily does not mean the cut score should be reduced. It would be like deciding that the world record high jump of just over 8 feet is too high for most candidates because it is too hard to jump that high. Therefore, you decide to reduce the goal for the high jump to 7 feet in order to allow more people to meet it. Why? If you have had attorney candidates for years and years who reach the current cut score of 1440 and above, then how does reducing the cut score to 1414 to allow more people to enter the profession help the profession or the public?? It certainly helps those less qualified, lower-scoring candidates, but where is the public interest in that?

Roberta Scharlin Zinman - retired

Why is California attempting to RACE TO THE BOTTOM YET AGAIN? The score required now is reasonable. If you can't make it, go back and study harder. Try again. The Bar Exam passing rate should not be lowered for POLITICAL PURPOSES WHICH THIS WOULD BE. California has too many lawyers at it is. The attempt to increase this number is merely a POLITICAL, FEEL GOOD, DEMOCRAT/LIBERAL DRIVEN SOCIAL ENGINEEERING PLOY. Enough already.

Anonymous

Persons who fail to achieve a pass score of 1440 lack the requisite skill to be an attorney in this state. The public needs protection from unqualified practitioners.

Sandra Shapiro - l/o sandra j shapiro

I would respectfully suggest that we try better educating our law students than lowering the bar requirements. The public is entitled to the best representation available. we live in a world which is increasingly complex. Lawyers should be taught to think critically, find solutions to problems and understand ethical responsibility. It is insulting and demeaning to suggest that "diversity" requires lower standards - "diverse" law students are perfectly capable if given educational opportunities. Every person is entitled to competent representation.

there was a time when being a member of the California Bar was a matter of pride and worth the effort it took to accomplish that goal. It is shocking to discover that we now feel it is better to lower our standards. I cannot rationally fathom the arguments that support that idea. My preference would be to change the Bar exam so that it better reflects the needs of professional law practice.

Stephen Gamber

There is no shortage of attorneys in California. Talk with new attorneys about their difficulty in finding work. Take a look at the Attorney want ads on Indeed.com.

We are already making the exam easier by having it only for 2 days. Lowering standards by making the Bar Exam even easier will dilute the quality of attorneys in the Public eye.

I believe the lower pass rate is a result of lower admission standards by law schools, who were probably forced to lower standards because less qualified students are applying. I imagine the schools are embarrassed by their low pass rate, and would like an easier Bar Exam.

Thank you for requesting public comment.

Stephen Gamber
Bar #173863

Anonymous

Any law school graduate who can't pass the bar exam at the current cut score is incompetent; it isn't that hard. It just requires some study and at least SOME intelligence.

Anonymous

Recent years has seen a decline in competency of incoming attorneys. Economic conditions have decreased the amount of mentoring new attorneys receive. Lowering the standards of bar admissions will only further deteriorate the level of practice. Yes we need more diverse attorneys. But first and foremost they must be competent. I would rather the bar focus its efforts of providing underrepresented populations with tutoring and counseling on the knowledge necessary to pass the bar than to lower the standards for admission. The bottom line remains that lower tier schools have lower bar passing rates than the higher tier schools, largely because their admission standards are less. The under served members of the community will not be better served by allowing masses of unqualified candidates to practice. The under served will continue to be under served only with incompetent counsel. Please keep the standards high. Lowering them just lowers us all and demeans the profession as a whole.

Sean Cowdrey - Beach Cowdrey Owen

As a partner in a 20 member law firm in Ventura County, I have no interest in "dumbing down" the threshold of admission to the bar in California. We have a difficult time finding qualified attorneys to employ. Adding to the pool of "lesser qualified" attorneys is inappropriate and unacceptable. The fact that fewer law students are able to pass the bar exam reflects on (a) their deficient undergraduate preparation and/or (2) the law school's ability to train law students in the skills necessary to be "average" lawyers. It is unfortunate that law school tuition rates have skyrocketed over the last 20 years while bar passage rates have plummeted. That means that the law schools are not doing a good enough job and are profiting off of gullible students who probably should not even consider being lawyers if they can't compete. Writing skills of the majority of law graduates in the last 10 years are disgustinginly incompetent. I believe that the "participation trophy" culture is fostering this push to lower the bar on attorney admissions.

The bottom line is this: if California lowers the standard of admission to the bar, it will create a caste system of attorneys: those who could make it under the existing standards and those who got a "break." For the large number of law students who actually have the intellectual capacity to pass the bar exam at its current level, it would be a smack in the face to them if California decides to lower the standards simply so that more and, quite bluntly, less qualified, students can enter the profession.

I can assure you that if the standard is lowered, my firm will be LESS likely to hire a new attorney who passes the bar under the lowered standards. We will look to pre-2017 lawyers or out of state lawyers to fill our staffing needs.

As an aside, race, national origin, gender, etc. should have no bearing whatsoever on the objective criteria for admission to the bar.

Doug - retired in-house counsel

The public interest is not served by lowering the cut score to admit less qualified people as lawyers. If you accept that the bar exam is the way to determine whether an individual is going to be a competent lawyer, then lowering the standard means you are willing to risk less competent individuals practicing law to the potential detriment of their clients. The problem isn't the test or the standard for passing. The problem is law schools that are not teaching their students to think analytically. Looking at the pass rates for accredited law schools versus unaccredited law schools bears this out. Similarly, the "better" or more prestigious law schools with higher admission standards have higher pass rates than schools that have lower admission standards.
The suggestion that the passing score should be lowered to improve "diversity" will have two negative consequences-some less competent lawyers will be representing clients and a stigma will be attached to perfectly competent minority lawyers who passed without the need for a lower standard. I have no stake in this, as an inactive member of the bar, but for those who still practice, lowering the standards for admission is a disservice to those lawyers who have met the grade and will have to deal with incompetent lawyers and the headaches that entails. Ultimately, the lower standard will result in a disservice to the general public who will be the clients of less competent lawyers. Social engineering, which is at the heart of this movement, using the bar examination is a bad idea. Would anyone seriously suggest lowering the standards for licensing electricians, engineers, or even plumbers, just to achieve some social goal?

Toby Adams - Intersex & Genderqueer Recognition Project

As a member of the bar and a former bar grader, I do not believe that the way to address declining pass rates is to lower the bar. More students have entered law school, schools have done a worse job at preparing students, and student loan debt is through the roof. The way to address these issues is to improve the education received by law students, especially education on how to pass the bar. The way to address these issues is to support a Public Service Loan Forgiveness Program with no cap. California does not need more lawyers. It needs better lawyers who are prepared to serve their clients and who are not saddled with outrageous debt.

David Sacks - Law Office of David Sacks

If the cut score is lowered it will only serve to make the issue of sub-par legal services being offered to the public worse. The problem lies in the admissions standards, however, due to the number of private law schools in California, and their ability to set their own admission standards, the only way the state can preserve the integrity of the profession and protect the public from sub-par legal services is to keep the cut score the same. There is no dearth of lawyers nor is there a dearth of lawyers from all backgrounds, ages, races, genders and creeds. There is no need to protect the diversity of the profession nor is there a need to make sure that legal services are available to the poor. The poor deserve the best legal services just as much as the wealthy. To lower the cut score with the thought that less prepared individuals to practice law will be a boost to the poor in terms of providing legal services is to perpetuate a myth that such an outcome is possible. Those who will work for the poor, with the poor or do pro bono will do so whether they scored in the top of the bar exam results or just passed. Lowering the score will do nothing to assist the poor and in fact, inherent in the argument that lowering the cut score will help the poor perpetuates a stereotype that those who are having difficulty passing the bar exam are from less advantaged socio-economic backgrounds. In a word, the argument is inherently discriminatory.

Mary Kelley - retired

We need to be raising professional standards, not lowering them. Our reputation has never been that good as an professional group. If we were to lower the standards, we would be admitting to the public we are incompetent.

Anonymous

Law study enhances employment opportunities whether the law graduate passes a bar exam or not. The public interest is advanced as well by a large number of law trained individuals serving in non legal professions. The results of the "After the JD Study" support these findings. Therefore keeping high standards to practice law serves not only the student but also the public interest. Lowering the cut score in California will likely not change the percent of law graduates who actually practice law. According to the "After the JD Study" 24% of law graduates who pass the bar do not practice law.

24 percent of JDs who passed the bar in 2000 aren't practicing law, survey finds
POSTED FEBRUARY 9, 2014, 12:00 AM CST

BY DEBRA CASSENS WEISS

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A third-wave survey of lawyers who passed the bar in 2000 has found a decline in the percentage of lawyers practicing law and major differences in pay based on gender, law school ranking and grades.

Twenty-four percent of the surveyed lawyers were not practicing law in 2012, compared to about 9 percent who weren't practicing law in 2003, according to preliminary survey findings. The results are from the After the JD study, which tracked a national sample of lawyers who passed the bar in 2000 with surveys in three waves—in 2003, 2007 and 2012.

The 2012 results are considered preliminary because researchers are still determining whether weighting the results by region or other characteristics will change the findings. More than 3,000 people responded to the Wave 3 survey. The findings were presented at a research seminar sponsored by the Fellows of the American Bar Foundation at the ABA Midyear Meeting on Saturday. Four members of the AJD research team presented study findings.

"These are the golden age graduates," said American Bar Foundation faculty fellow Ronit Dinovitzer after the presentation, "and even among the golden age graduates, 24 percent are not practicing law."

The careers with the highest percentage of nonpracticing lawyers were the nonprofit and education sector, where about 75 percent weren't practicing; and the federal government, where nearly 26 percent were nonpracticing. Nonpracticing careers ranged from law professors to real-estate agents to investment bankers, Dinovitzer said.

Women fared more poorly than men in terms of pay and law-firm advancement, according to the preliminary results. Women working full-time earned 80 percent of the pay reported by their male counterparts. The difference was most pronounced among law grads who were working in business and not practicing law; women working full-time in that sector earned only 67 percent of the pay of their male counterparts.

Similarly, the percentage of women respondents working in law firms in 2012 who were partners was 52.3 percent, compared to 68.8 percent for men. Fifty-three percent of the women partners were equity partners, compared to 65.5 percent for men.

There were also pay differences based on schools and grades. Graduates of the top 10 law schools who worked full-time earned median pay that was $73,500 more per year than graduates of Tier 4 schools. And among graduates of Tier 3 schools, grades made a big difference. In that group, those with the highest grade point averages had median pay that was $121,500 more than those with the lowest grades.

Other preliminary findings from the survey:

• The 2012 respondents were largely happy with their decision to attend law school. Asked to rate their satisfaction with their decision to become a lawyer on a 1-to-5 scale, the average was 3.92. Asked whether law

school was a good investment on a 1-to-7 scale, the average was 5.5. Asked whether would go to law school if they had it to do over again using a 1-to-7 scale, the average was 4.91.

• The findings show a movement from private practice to business since the first wave of the study. The percentage of respondents working in the business sector was 27.7 percent in 2012, compared to only 8.4 percent in 2003. At the same time, the percentage of respondents in private practice was 44.1 percent in 2012, compared to 68.6 percent in 2003.

• The median remaining educational debt for the survey respondents in 2012 was $50,000, compared to $70,000 in 2003. Nearly 48 percent had no debt remaining in 2012, compared to only about 16 percent in 2003.

• Among graduates of the top 10 law schools, only 16.8 percent were working in large firms of more than 250 lawyers in 2012, compared to 55.3 percent in 2003 and 28.7 percent in 2007.

One audience member questioned whether the high percentage of nonpracticing lawyers suggests that the profession has reached a new normal. Panelist Daniel Rodriguez, the law dean of Northwestern University, said the study highlights the need for schools to break down the silos between law, business and other programs, to prepare students for careers outside of traditional law practice.

Entry-level jobs have declined since the survey, Rodriguez said, raising questions about the value of law schools for positions in which a law degree is merely preferred or not required at all. The value proposition may well depend on the level of educational debt, he said. He noted that the lawyers in the After the JD study likely had lower debt than grads that followed because of tuition hikes that accelerated from 1999 to 2006.

The survey is funded by the American Bar Foundation, the National Association for Law Placement Foundation and the National Science Foundation.

Corrected on Feb. 10 to state that the National Association for Law Placement Foundation was one of the sponsors and on Feb. 14 to fix typos.

Related links:

• After the JD: First Results of a National Study of Legal Careers (2004) (PDF)

• After the JD II: Second Results from a National Study of Legal Careers (2009) (PDF)

Previous:
ABA legal ed section gets an earful on tenure, other proposalsNext:
9th Circuit tosses part of lawsuit against CNN demanding closed-captioning on its Web videos

Bruce Reeves - Retired

How would dumbing down the test help the high standard needed to maintain the quality of California lawyers? Rather, it would appear to be more beneficial to provide a higher stand of educational opportunities to enable students to pass the current tests. In reality, it does no one, not students or potential clients, any good to pass prospective lawyers who are not qualified to meet the challenges of the legal profession currently practicing in California. Bruce C. Reeves 064854

Scott Emerick - Emerick Law Offices

My position is to leave the score as is. If the actual issue is why is CA's score so much higher than other states, address that. But if the pass rate is the issue then my opinion is two fold.

1.Tougher standards on Law Schools for allowing their students to take the bar. I went to a CBA school. The admission process was easy. I told the Dean I was going to take an LSAT prep class and he told me not to bother, so long as I was in the top 80% I would be admitted. The school had great teachers, it was hard, but there were some questionable decisions. Many of my fellow students failed a class or two, and were allowed to retake and continue. There was one class where the teacher was diagnosed with a medical condition, yet taught the full class. At the end of the year, minutes before the final, the Dean came in and told us to do our best, but the grading would be very fair. What really happened was, all students were given a passing grade. I actually got a passing grade. 8 of my fellow students actually failed the test, but due to the Dean, got a passing score. The class behind mine were given a copy of their final with weeks to go so that they could study, another class was allowed to write their own questions. To me law school shouldn't be easy. I appreciate that not having a BA and not having to work too hard at the LSAT I was allowed in, I was given a shot, I think schools that do this are beneficial to students of different economic backgrounds and promote giving everyone a chance. However, once in school, students should have to earn their degree. I think the California Bar needs better auditing and a better reporting system for situations like the ones above. By not allowing those who don't pass to move forward, thus only allowing those who do pass to graduate and then take the bar, that would help preserve the pass rate.

2.As for the test itself. I took it twice. The first time I failed by 120 points. I studied. I put in effort. But I didn't study like I did the second time. I knew the stats, I knew the second time pass rate from Non-ABA schools, I focused and worked my ass off. And I passed. I was a repeater from a Non-ABA school, 16% pass rate the year I passed. But I did it. I am not brilliant. I didn't do well in high school. I got my AA over years just doing a few classes here and there. But I focused, studied, and approached that test like the monster it is. And I passed. That accomplishment gives me the perspective to believe that this is a passable test. I wouldn't even say school matters that much, because while I did work at school, I didn't work too hard. But when it came time to take the bar, I put in the effort and that is why my position is to leave the test as is. Even if I hadn't passed I would be advocating for the same score. In fact, I am disappointed in the changes allowing for the two day bar, with the MBE portion weighed at 50%. Had I taken that format of the test, using my lowest scores on essays and PT's, and my MBE score, I would have passed by 40 points the first time. And I looked at my essays, they were horrid, they were not minimum competency, they were less than, and rightly so I failed.

Bar Prep programs also seem to focus on black letter law, which is necessary, however they fail to really prepare the students for what the test really is, a writing test, designed to show your lawyerly like skills. Once I made that mental switch in my mind everything became easier and I started writing for the graders and with the mindset of an attorney, and I passed.

Lowering the score takes away from the quality of person passing the test. While I agree that the bar and real life lawyering do not share much, the experience of getting past the bar does mirror law life. Not knowing the answer, creative thinking, playing devils advocate, advocating for all parties positions, and stress, the stress of studying for the test, the stress of the unknown, and then the stress of being in that room. Not everyone should pass this test. The practice of law is a privilege, not a right. While I was devastated not having passed the first time, looking back I can see why I didn't pass, and that I didn't deserve to pass. The second time I earned it. I put in the time and effort and made the cut. A cut that I am proud of and a feeling of accomplishment that I will carry with me the rest of my life. Everyone should have to work hard and earn their bar card. Leave the score as it. Preserve the quality of person allowed to call themselves an Attorney.

Anonymous

Please continue to protect the public and do not make it easier to become an attorney. Please make it harder. Many attorneys as it is do not seem to be very well qualified. Cutting the bar exam to two days is more than enough. Keep it tough to become an attorney. It is the difficulty that makes the profession great! Please kee the same stringent requirements but make it tougher.

Anonymous

There are too many attorneys coming out of school unprepared to take the exam and likely unprepared to provide representation to clients. To preserve the integretity of the profession the score should not be lowered. To do so would not only create a greater flood of attorneys to the market. It would create a flood of under-achieving attorneys to the market. The legal profession is supposed to maintain a high standard of professionalism and intelligence so clients can trust the attorney who represents them has the skills required to adaquately do so.
By lowering the score you are essentially lowering the standard of the profession.

Bryan Mercurio - Academic and Consultant

I am concerned that the reduction in score will lead to less qualified lawyers and poorer services for clients, and ultimately this is to the detriment of the community. I would not want a less qualified doctor operating on me, and I do not want a less qualified lawyer representing my interests.

Perhaps a better option is to ensure that the law schools do a better job of educating the students and preparing them to practice, to reduce the number of law schools, or stop allowing graduates to sit the bar exam. It is my understanding that a large number of failures in the bar exam come from people who have already sat and failed the exam (in some cases a number of times), therefore another option would be to limit the number of times a person can sit the bar in a certain time period.

California has the laxest standards in the US for who can sit the bar - tightening up these standards, in combination with tightening up on the law schools, will achieve the goal of a higher bar passage rate and not effect the quality of newly admitted lawyers.

Anonymous

For once, stop lowering the Ca Bar standards to cater to the lesser common denominator.

Anonymous

It is critically important to maintain the integrity of the legal profession and to protect the public from unqualified attorneys. The bar is called the bar for a reason. The general public recognizes the difficulty and merit that it takes to pass the bar and it gives the public the confidence that attorneys are qualified to do their job. Lowering the standard will take away from the prestige of the legal profession. The focus should be on making sure that law students are qualified to do the work of an attorney. Lowering the bar cut off score feeds into the current culture of everybody gets a trophy for participating, grade inflation, standardized tests optional, etc. Already there is the perception and reality that the bar exam has become easier by reducing it from three days to two days.

David Brower - Retired

A declining pass pass rate should not be a factor in changing the cut score. The purpose of the exam is the protection of the Public and the Courts from unqualified Attorneys. If the Bar feels the pass rate is to low the focus should be placed upon the law schools graduating unqualified applicants. Clearly the schools are NOT flunking out the unqualified. A study should be performed analyzing attorneys who has been disciplined and those attorneys bar exam scores and how many attempts they made to pass. That data would be the important factor is setting the cut score

James Driscoll - Law Offices of James Coy Driscoll

The problem with the bar exam pass-rate is not with the cut score; it has not changed for years. The problem is that law schools have priced themselves so high that some of the best and brightest who might have applied to law school did something else. (In-state fees at the University of California are 30 times as expensive as they were 30 years ago—that is a 3,000% increase.) That means that in the past few years, law schools had an overall poorer pool of applicants to choose from; hence, some lesser-qualified students were admitted to law school than if that path were less expensive and, therefore, were chosen by more better-qualified students.
Seeing the bar pass-rate drop, law schools are afraid that as more law school graduates fail the bar, less students will apply to law school. Therefore, law schools want to change the grading of the bar exam to accommodate the less-qualified students who are now graduating from law schools.

The real solution to the low bar pass-rate is to decrease the cost of law school. If a law school graduate has $150,000 in student loan debt, he or she can only survive it he or she takes a job in Big Law. But Big Law jobs are only available to the top students from the top schools. So, a law grad with the average student loan debt cannot survive on the jobs available to most law graduates. It is no wonder that the best and brightest see this and do something other than law school.

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Melanie Williams - CSU Northridge

I urge the bar to consider the purpose of the bar: to certify the qualifications of those who seek to practice law. This purpose is designed to protect the public from those who lack sufficient skill, knowledge or ability to practice law. No matter how well-meaning, admission to the bar is not designed to make a law school graduate's investment pay off. Nor is it designed to increase access to legal services to underserved populations by admitting less qualified applicants; this hardly does a service. Admission to the bar should not be seen as a tool to right societal wrongs, e.g. the relatively lower pass rates of women and racial minorities; such an approach diminishes the quality of services and public confidence in the profession and decreases respect for those minorities and women who pass the bar exam.

Walter Donovan - retired

Are you still using as Bar Exam graders only those who have passed the Cal Bar within one year and on their first taking ? It has been some 12 years since I attended a Bar graders conference in Chicago. Procedures among states may since have changed. But we attendees, from many states, described to attendees our grading practices. I was then and still am also a member of the Idaho Bar. We described our procedure and learned that Calif used graders as I noted above. Immediate reaction of many attendees was: "Hey, I'm aboard ship, pull up the plank".
So my suggestion is that if that newest group is still your grader pool, that you leaven (diversify?) your graders with attorneys of 3-5-10-15 years membership. It could sustain the same brutal % or it might produce some ease.
BTW: at Western State Univ, later and now Thomas Jefferson, our 1969-1973 night law school with both my fall and spring graduates combined, no one was summa cum laude, one was magna, two of us were cum laude grads. Had no time, on active duty, to take Bar Review course.which probably explained my eighteen points deficit.
thank you very much for letting me comment.

Walter Donovan, Brig.Gen. USMC (Ret.) Calif Bar # 59311 (inactive) and Idaho Bar # 5731 (active).

Catherine Johnson - Law Offices of Catherine P. Johnson

There has been a precipitous drop in applications to law schools throughout California. Therefore, with the drop in applications, students who would not have received offers from law schools in the past due to their low GPAs and low SAT scores are now gaining admission. However, the admission of weaker law school students inevitably means poorer performance on the bar exam as well. The problem is not that the bar exam is too difficult. The problem is that law schools are no longer attracting the caliber of students they have in the past. I would guess this is due to there being fewer jobs in the legal field in recent years. There is absolutely no reason to be admitting more attorneys to the bar by dropping the bar pass rate when the job market for attorneys is weak. Instead, law schools should not lower the bar for admission and in so doing they will insure the admittance of qualified law school students who are more likely to pass the bar than those students admitted to law schools in recent years. This will most likely mean a drop in the size of the law school student body and therefore a drop in revenue for law schools or perhaps even closure of lower ranked law schools. However, this outcome is in the best interest of the individuals we attorneys have a duty to serve. We need to provide the public with competent and qualified legal professionals who have the capacity to pass the California State Bar as it is presently drafted.

The State Bar should instead be researching why there are fewer legal jobs available. California's economy is thriving. The drop in legal employment is more likely a systemic issue and is not merely a cyclical response to the typical rise and fall of the state economy. Technology is part of the reason - discovery is being performed more and more by computer software and charged at a lower rate than it used to be when it was performed by paralegals and entry level associates. The law firm model is also anachronistic; distributing profits to partners at the end of the fiscal year is imprudent, given the weakness and unpredictability of the legal economy in the 21st century.

Will Estrada

I graduated from a non-accredited law school in California, and failed the bar exam twice. I passed the bar exam on my third attempt.

I oppose lowering the cut score to allow more people to pass the California bar exam for three reasons:

1) I believe it will lead to people who are potentially unqualified or unready to practice law to be admitted to the CA bar, thereby hurting the integrity of the bar.

2) I believe It will open the bar (and CA attorneys) to criticism from the public that the CA bar has been "dumbed down," thereby hurting the integrity of the bar and of all attorneys in CA.

3) I believe it will discourage CA bar applicants from studying their hardest in law school and in preparation for the bar.

We all wish to see more diversity in the practice of law, and it is always difficult to see someone fail the bar and be unable to ultimately practice law, especially if the person has a heavy load of student loan debt. But the answer is not to reduce the standards. The answer is to maintain high standards in the education and practice of law, and for institutions of higher education to warn those interested in becoming a lawyer that the practice of law is not for everyone.

When I failed the bar the first two times, I studied even harder the third time, and passed. It built character and determination which helps me every day, and which I would not have obtained had the bar been made "easier."

A judge will not make an attorney's duty to zealously represent a client "easier" if the attorney is not up to the task. The bar exam should also not be made easier.

Tracy Kaplan - Surgent Leadership

I am writing to express my strong disagreement with the inclusion, in the attorney survey, of the questions regarding increasing both the diversity of the profession and the focus on meeting the needs of underserved populations. Those two goals are of extreme importance and yet are wholly unrelated to the level of the cut score for the California Bar Exam. To include them in the discussion somehow suggests that we are considering lowering our standards to solve these challenging problems rather than addressing them directly by ensuring equal access to our state's best educational opportunities and adequate support throughout the process, and rooting out all elements of unconscious bias in the exam itself.

We must do all we can to meet the needs of underserved populations and to ensure that our profession's members are as diverse as the clients they serve. However, lowering the cut score to "improve our numbers" is a spurious and patently insulting method. To link these issues, even unconsciously, is a slap in the face to all women, persons of color, and LGBTQ+ persons -- both those who are already practitioners and those who have yet to enter our esteemed profession. Surely we can do better.

We must instead continue to root out the causes of the disparity between where we are and where we want to be as a profession. Making it easier to pass is not the way. Holding the law schools accountable for providing a high quality education, ensuring that our accreditation standards are rigorously enforced, encouraging or requiring all law schools to publish their first-, second-, and third-time pass rates, spending resources on identifying and mentoring diverse candidates at the college level and all through law school -- these are the actions of an organization dedicated to increasing diversity and ensuring equal access to legal services throughout our great state.

Thank you,
Tracy S. Kaplan

Anonymous

There are already too many incompetent attorneys practicing in California. It takes hard work to learn the necessary law to pass the Bar Exam. Multiple attempts may be necessary to pass the Bar, allowing the applicant to learn more law. The standard passing rate should be raised rather than lowered.

Joseph Carignan

I attended a non accredited night school, Lincoln University, in San Francisco in the 1970's. I was married and working full time while I attended Lincoln, also separated from my spouse in my last year. As for reducing the scores, I assume the scoring at present is equivalent to the scoring when I took the Bar exam in the early 1980's. My difficulty stemmed from my lack of knowledge when it came to writing a cohesive answer to written questions, and from lack of understanding a comprehensive approach to the Multi-State exam. If anything, it's my view that writing courses as well as review courses on the Multi State are necessary for increasing pass rates. I don't know if it remains true today, but I recall attorneys I met in practice who did not take a complete range of courses offered, one person in particular didn't take Domestic Relations as part of her curriculum. Seems to me that if those courses are elective, they shouldn't be on the exam. If they are mandatory, teach them to all.

Lowering standards over the past fifty years since I graduated from High School has lead us to this point. I agree student debt is an issue for those who pass and those who don't. Not all of us who entered practice made our living in large firms. I was a sole practitioner, managed to keep heart and mind together. If one wishes to practice law, one will.

Steven Millikin - Steven R. Millikin, Attorney at Law

On no account should standards be lowered for admission to practice law in California. If applicants cannot make the cut, it means they are not qualified to be attorneys and should either try harder for the next sitting of the bar, or apply their degree in some other profession.

It is alarming to see on the questionnaire suggested reasons for lowering the bar such as a concern on how an inadequate candidate is going to pay for his or her education unless he or she is admitted to practice law! The ratio of race and ethnicity among members of the bar is Irrelevant. The purpose of the bar exam is to ensure that Californians can know their attorneys had to pass rigorous standards to become an officer of the court. It's not there for the self esteem of any underperforming group. It doesn't matter that the pass rate has fallen to 43%. If higher percentages of applicants were successful on the bar exam in past years, it is because they worked harder to prepare and / or were better suited for it. Instead of lowering standards, current bar applicants ought to prepare themselves more. They are the weak link, not the standard all existing attorneys managed to surpass.

It is better go interpret this lower pass rate as a sign that there are too many law students being accepted and churned out of law schools that have less regard for the quality of legal representation available go the public than they have for their own institution's financial consideration.

Our standards should not be lowered. That should go without saying. I can scarcely believe this is seriously being considered.

Steven R. Millikin 174285

Craig Lazzareschi

In your analysis of the 2 Options, please consider whether unsatisfactory undergraduate: (1) English language composition, (2) history and (3) other general education subjects have an effect on declining pass rates.

Anonymous

Rather than erode the standards set for obtaining a law license in California, I would like to see more effort put into improving the writing skills of bar applicants and law school applicants. Writing skills have diminished for all students as well as students of color who need the extra skills training. We must fight both for inclusivity and diversity AND to maintain high standards.

Anonymous

It cannot be right to lower the score in order to pass more examinees.

If the issue is that there are people struggling to pay off debt after failing to pass the bar exam, the correct action is to make it clearer to prospective lawyers that it is NOT GUARANTEED in order to reduce the inflow of unqualified candidates, not to "open the floodgates".

Licensing is meant to protect the public - there are already "lawyers" who CAN pass the exam who are actively dangerous to their own clients due to ineffectiveness, unleashing even more unqualified individuals into the pool is tantamount to murder for the clients who draw the short straw.

Anonymous

In my opinion, the cut score should not be lowered. If the pass rate is declining from one year to the next, then there is a problem either with the exam itself or with how exam-takers are being prepared (i.e., law schools are not doing their job in adequately preparing students), or both. Those problems should be addressed. Lowering the exam score will ignore those problems and allow them to continue.

Anonymous

I believe that the most important issue here is to maintain the integrity of the profession. I also believe that other factors, such as law student debt, should not factor into this process. Prospective students must make own decisions--and carry the burden of such decisions--in terms of whether and where to attend law school. On the other hand, there is one important issue about which I lack information and this whether the current "supply" of law graduates is exceeding the "demand" side of the equation, If we believe that people are finding it difficult to find jobs post-graduation, then a higher cut off could be an appropriate means of controlling that "supply." But, we need to know whether law firms would find people with lower scores equally employable and competitive in the work force. FYI. I'm a law professor with an LLM and a current SJD candidate.

Howard Chickering - Retired/Inactive

1. Ask yourselves: is your job populating the state with attorneys, or is it protecting the public?
2. If you reduce the number, perhaps it is a question of disclosure: "Warning, this person is licensed due to a reduced standard on the bar examination." The public has a right to know!

Robert Perkins - Baltimore City State's Attorney's Office

I took the July 2015 California Bar Exam. Prior to taking the California Bar Exam, I practiced in Maryland as a prosecutor for approximately 5 years. I took it as an attorney, which did not include the MBE section; however, as I understand the pass-rate, it's even lower for attorneys who sit for the exam. I wanted to provide my comment because, frankly, If I could take and pass the California Bar in one sitting, anyone with enough time and preparation should be able to. At the time that I sat for the exam, I was working a full-time job as a trial prosecutor for the Baltimore City State's Attorney's Office. My docket included 30 to 40 felony sexual violence and interpersonal violence cases. I would work from 7:30am until 5:30pm every day for two months before the exam, come home, take an hour break around dinner time, and study for three hours each night before going to bed. I paid for an online commercial prep course through Kaplan and maintained the study schedule. I took the two weeks prior to the exam off and flew out to California the week before the exam. It wasn't a cakewalk, but I managed to earn a passing score, even with all of my obligations to my job.

My experience studying and taking the exam may be anecdotal, but here are my observations as someone who took the California Bar with some years of practice under my belt. The key to lawyering for me has always been my writing ability. I believe that the California Bar Examiners recognize the fundamental importance of writing; when I took the exam, I had two full days of essays and the three hour afternoon practice exams where the test-takers were to work through a simulated legal problem. This section, more than any other section, is much like the actual practice of law, and I suspect that the reason why most students fail the California Bar Exam is because they do not spend enough time fine-tuning their written responses to the essays and the practice exam. I noticed that the commercial exam companies spend much more time teaching students to focus on the MBE multiple-guess section rather than the essay portion. As a result, students are prepared for one section of the test, but have no idea how to respond to the essays. And in my experience, most legal issues are far more complex than a multiple guess test makes them appear to be.

Anonymous

Lowering the cut score for the purpose of increasing the pass rate will allow lesser qualified and lesser competent people to practice law. That will not serve the population of California well. To suppose that those people who would pass the bar, given a lower cut score, will go on to serve the poor or under-represented persons or segments of the population is simply a supposition - and an offensive one. This state does not need more lawyers who are incompetent or barely competent.

I have real sympathy for those who incur debt to attend law school and who then do not pass the bar, but that does not mean the pass cut should be dropped to accommodate them. Maybe the bar can sponsor some other form of debt relief.

Darryl Solberg - Hecht Solberg

There are multiple reasons for the passing rate to be declining including the quality of law students declining because law school trying to keep the same admission numbers when in fact the legal profession is retreating from the hay days of early 2000s, the declining rigor of law school curriculum by venturing into extraneous areas of law that having nothing to do with practicing law, and the fact even major law schools are making some critically basic subjects electives like real property (UCI), remedies in contracts, etc., and the shocking lack of writing ability. The students are not being prepared for what lawyers actually do.

Mark Smith

If 1440 was satisfactory before, why isn't it satisfactory now? There is no other conclusion to be drawn regarding the low pass rate other than there must be a larger number of inferior candidates sitting for the bar. Don't we already have enough inferior lawyers? Don't further cheapen our profession. Ignore the snowflakes and retain the current standard..

Harry Rogers

Do not dilute the integrity of the Bar by lowering the standards for admission. All the reduced pass rate means is that the quality of education is declining.

Anonymous

I think that since there is already a glut of attorneys in California that it is not in our states interest to lower the cut rate to admit more. However, I do agree that we need to find attorneys willing to service our underprivileged. Perhaps we could adopt a system where people who have a score between 1414 and 1440 are admitted provisionally. Those provisional attorneys would then be required to do an apprenticeship with a mentoring attorney for a proscribed number of years. We could also require one of those years be in service to underprivileged areas.

Lawrence Mclaughlin

THERE IS NO SHORTAGE OF LAWYERS; THERE IS AN OVERABUNDANCE OF LAW SCHOOLS PRODUCING UNQUALIFIED GRADUATES. MANY LAWYERS ARE UNDER EMPLOYED OR NOT EMPLOYED IN THE LEGAL PROFESSION. MANY LAWYERS ARE FORCED TO WORK AS PARALEGALS OR CLERICALS..

LOWERING THE BAR PASSAGE REQUIREMENTS WILL SIMPLY RESULT IN LESS QUALIFIED PROFESSIONALS.

Anonymous

I met a great many unqualified attorney during my practicing year. The Bar need to work on better preparing new attorneys for the job of an attorney but most of all weed out the ones who don't seem able of learning.

Farris Purviance

Rather than lowering standards in an already choked profession, attention should be on the individuals dual school pass rate. Special scrutiny should be given to those schools producing the should should be on the schools producing unqualified test takers.

Althea Kippes - A.T. Kippes

The fact that the Bar Exam is difficult and people taking the exam may not pass is irrelevant. People taking the exam do not pass because there are too many ways one can become an attorney in California, and many of these ways fail to adequately prepare people for this exam.

While it is great from a consumer perspective to be able to attend a non-ABA school, study with a judge, or go to correspondence school to become a lawyer, it is not adequate preparation to take the Bar Exam or to practice as an attorney. Even at top law schools, students are not adequately prepared for taking the Bar Exam.

While a simplistic solution is to "make the test easier" this is NOT a solution and further waters down the integrity and competence of our profession.

The problem is that law schools admit far too many students because the more students admitted, the more money the law schools make. Something should be done about that problem instead of making the Bar Exam easier.

We have too many attorneys in California already, and not enough legal work to support these attorneys so that they can support themselves and pay back their student loans. We don't need to make the Bar Exam easier so that we can have even more licensed attorneys in California.

Mary De La Pena - De La Pena Law Office

I am an actively practicing criminal defense attorney in the Inland Empire. Very recently I was recognized by the American Institute for Criminal Law Attorneys as one of the Top 10 Criminal Attorneys in California. It is an award I did not seek, nor actively request, however I am honored to receive it. I tell you this so you will understand my position in the legal community.

I taught in an unaccredited law school for four years and quit because I truly believed that my students would NEVER pass the bar and came to me wholly unprepared for the rigors of law school and the practice of law. The same holds true for even accredited law schools. Too many of the graduating students cannot write, cannot analyze, and cannot research legal principals or theories. it is frightening to see their lack of ethics in the courtroom which I witness on a daily basis from new district attorneys (graduating from top law schools) and other newly minted lawyers.

If our fine profession is going to survive we must instill in our law students ethics, civility, and the basic principles of law, as well as the ability to write, reason and argue.

To lower the standards to "allow more diversity" is crazy. Either students learn the law and learn how to apply it, or fail. When I was in law school I put in HOURS of reading, preparation, and study to survive. By my second year I was also working part time in a law office to sharpen my writing skills and legal analysis. If this institution wants to uplift the applicants, then make more internships available as well as part-time employment. Do not lower our standards.

As to making more lawyers available to the under-served, really? Really you think it is appropriate to foist unprepared lawyers on the under-served? I am astounded at this thought. We need better prepared and more creative attorneys serving the under-served, not less qualified.

If you look back, I passed the bar when the pass rate in the Spring Bar of 1986 was its absolute lowest, 43.6%. I passed because of hard work, diligence in studying throughout my three years, and preparation, not because someone lowered the standards.

If you wish to contact me, you may reach me, Mary J. de la Pena, 909 240-6358.

I am also the author of the easy to read book, A Layman's Guide to Criminal Defense, that my publisher gifts to all of my clients and their families to educate them about the system.

Thank you for this opportunity to give my opinion.

L Phillips

I do not feel that California needs more lawyers, and if more are needed or more kinds of backgrounds need to be represented, then there needs to be something done at the college or law school level, not by making the test scores needed lower. Law schools should not accept people that are not going to represent the profession well and should hire good teachers, not just people who publish books - we should not lower the score because law schools need to have a certain percentage pass rate. Maybe they accept too many people in order to make money. I hope you will maintain high standards and solve any issues in a different way.

Dianne Saw

From my experience as a professor of business in an undergraduate degree program, and my experience in projects involving contracts, corporate and tax (including litigation), I believe that the quality of less- than- 5 years lawyers lacking in critical thinking skills. They seem to 'download' code sections and court case words (just put a citation to 'get around' using another words.

This phenomena is so whether the lawyer passed the Bar first time or not. My conclusion therefore is:

1. If the Bar score is lowered, it will produce less and less qualified attorneys.

2. More important, I place the blame on law schools - professors seem to care less and less pushing law students to think critically, and to resolve problems by thinking instead of downloading code sections and relevant case from which to "quote" from. The BAR exam is the last bar - to filter those students who did not learn how to think.

Therefore, if the Bar Association is really interested in quality of attorneys instead of numbers, law schools is where the study and action must be: could it be that law professors are those who did not make it in work situations? retired? OR perhaps we should have an apprentice program where actual work experience is one aspect of passing the Bar - this way, 'new' lawyers are exposed to practicing lawyers and not just the academic study of law.

Anyway, if such a division is set up by the Bar Association, I would gladly give my time and energy.

James Luce - retired from the practice of law

COMMITTEE OF BAR EXAMINERS OPEN SESSION AGENDA ITEM
Public comment by James Luce

1.The Committee's report states initially that there is "no empirical evidence" that the higher cut line results in either: a) fewer disciplinary cases or b) more legal competence than in states with lower pass lines. Yet inconsistently the report later states that lowering the cut line might create a risk to the public. If there is no evidence that a lower cut line results in more disciplinary cases or less competence, then what is the evidentiary basis of this alleged risk? Further to this point, what criteria and evidence were used by the Committee in 1985 with regard to what the cut line "should be" back then? Was there evidence in 1985 that no longer exists or is no longer applicable...or did the Committee set the cut level in the absence of any evidence? Another possibility is that the cut rate then was set high simply to protect the legal guild's monopoly?
2.The Committee is concerned that the higher cut rate "negatively impacts diversity" (presumably meaning racial, ethnic, gender, and socio-economic diversity). This raises the question: "Is the purpose of the Bar Exam to be a social engineering tool or a means of determining legal competence?" There are literally thousands of causes of why various groups have a more difficult time passing any state's bar exam, regardless of the cut rate. These causes should be addressed by the proper tools, not by the bar exam cut line. Perhaps it is the content of the bar exam that needs examining? Should there be a "diversity" section just as there is now an "ethics" section? But if the ethics section doesn't weed out unethical people, why would we expect that a diversity section would properly test for diversity? In short, isn't there a better way to improve and foster diversity in the legal profession other than fiddling with the cut level? Here's one idea: How about more resources being spent by law schools on tutoring and mentoring minority law students rather than fiddling with the cut line? These funds should include substantial general tax dollars if the State of California is truly interested in greater diversity.
3.It is clear from the Committee's report that the major reason that the bar pass rate is declining is that law schools are accepting less qualified students than in the past due to a decrease in applications. Applications are declining because there are fewer legal job opportunities. From these facts we must conclude that there is an over-supply of attorneys. Why on earth would anybody conclude that it makes sense to increase the number of attorneys (diverse or not) in a shrinking market?
4.A major factor not addressed in the report is that the steady decline in the pass rate starting in 1985 is mainly due to a significant and persistent decline in the quality of primary, secondary, and college education. There should be no surprise that as ignorance rises pass rates fall. Again, let's match the cure to the symptom. Fortunately, the specific cure here is better schooling before law school...a subject that is not within the purview of the State Bar.

Anonymous

I support leaving the cut score as it is. California standards need to remain high to maintain high quality standards. There are already concerns regarding attorney malpractice in California, and lowering the score would exacerbate this problem. Law schools should be more selective regarding the quality of applicants. Accepting underqualufied applicants in order to expand diversity only results in frustrated students not being able to pay off their loans after they cannot pass the bar. The answer to this problem is not to lower the cut score, but to be more selective in the first place.

Furthermore, students have the opportunity to take the test multiple times.

The profession is already suffering from a poor image in California due to malpractice and ethics. Don't add to the problem.

Karen Beecher - retired

Gee Wiz- Why did you have a question asking race and county of practice in the survey?

Anonymous

There are already a lot of lawyers in California who should not be practicing law because of lack of ethics and inability to properly analyze, understand and follow existing law. These individuals make it harder for those who do follow the law and proper judicial procedures to carry out their duties and obligations as members of the CA Bar.

Making it easier to pass the bar and start practicing, sometimes irresponsibly, will not do anyone any good -- whether underrepresented, economically challenged or reasonably well-off. You need lawyers who actually do the right thing, understand what "the law" is and practice accordingly.

Lower the cut score just opens up the door to more likely unqualified lawyers. As it is, it is already easy for some unqualified to pass the bar with the minimum score needed.

This is coming from someone who graduated from law school with honors and had a nice paying job already lined up before graduation, but ended up taking the bar exam twice because she over exhausted herself and did not make it through the entire exam and, after being provided with the exam results afterwards, learned that she could have passed by getting six more multiple choice questions correct....likely easily accomplished by marking "B" on the three columns of answers left blank before time ran out.

It is already not that hard to pass the exam if you know how to take a"test" and how to go about achieving the proper "average" to pass. if those today cannot even figure that out, esp. with all the bar study courses readily available, they should not be given a "pass" so that there can be more lawyers out there who don't really have to try that hard but get rewarded anyway.

Being a lawyer in CA should be privilege. Having the second highest cut rate is a good thing. It makes being a lawyer a proud accomplishment instead of knowing that the guy in law school who ditched most classes, got by with C's and could care less about doing the right thing versus making money is "licensed" to do the same thing you do. It is already embarrassing and disappointing to work with existing lawyers who cannot write or analyze and somehow managed to pass the bar. Please do not make it easier for more potentially unqualified individuals to practice. Not over concerns about the declining pass rate. This speaks to the quality of examinees, not because the State Bar is necessarily doing something wrong of have too high standards to be met.

Jerry Rabow

The online questionnaire seemed significantly flawed. Of course increasing access to legal help in underserved communities should be an important goal of the Bar -- but only if that legal help comes from qualified attorneys. Unleashing unqualified attorneys to prey upon minority or poverty communities (perhaps for many of such attorneys, their only likely job prospect) is not in the public interest. And the suggested concerns for increasing diversity of the Bar, and student debt incurred by those who get a legal "education" but cannot bass the Bar Exam, seem misplaced. The remedies for these alleged situations (I have not seen the statistical analyses) would seem to be to increase the quality of accredited law schools in California (and decrease or eliminate non-accredited law schools) so that law schools produce appropriately educated attorneys -- rather than lower the passing requirements of the bar exam in order to manipulate the outcome statistics. If the California Board of Medicine noticed that California citizens (especially those living in poverty or minority communities) were suffering from an unusually high incidence of fevers, do you you really think that an acceptable public health response would be for that Board to change the definition of normal body temperature to 100 degrees F?

Robin (Macomber) Miller - A public comment

If my first attempt did not submit, please consider that this is like passing a medical student without their needing to complete their education. Try attracting high school students who have not formalized their career choices, not dummying down a profession my family has been proud of for more than 7 decades.

Glen Mowrer - retired Public Defender

The California cut score should be in the general area of other respected Bar Exam states. But the idea that lowering the score will produce services for lower income people is a chimera that has fooled us before. When the state allowed the expansion of law schools the promise was exactly that. Instead these schools proliferated mainly for the purpose of seducing students into paying tuition from student loans. Not surprisingly a large percentage of these tier two school students could not pass the bar and were stuck with large debt. Some did find employment in law offices as support but this was not what was promised them. Perhaps we need to support such schools and curricula and a second "bar" exam to certify people for paralegal and other such jobs? Allowing these graduates and successful test takers to do work that they are specialized to do may be beneficial to the poor especially. Examples might be immigration hearings, tax and business license process and state agencies such as the DMV, civil litigation assistance to unrepresented folks, help with arbitration procedures.

Katherine Kikes - Law Office of Nicholas Kikes

It is not clear what the benefits are to the integrity of the profession if we lower the cut score. Is this just to get a better pass rate? There's already not enough jobs out there. What's the rush to get more people out in the job force? And at a lower standard?

Already the exam's cut rate is the equivalent of getting a "C-" on a test which is a low standard as it is ("below average"). Shouldn't we expect our newest attorneys to be able to achieve that? By taking the exam multiple times, it better prepares them for the hard work needed in the profession as well as a better foundation for the law.

Lisa Lemire

Raise the bar.

Earl Disselhorst - Office of Earl J. Disselhorst, INACTIVE CalBar

Ladies and Gentleman, I will be brief; I graduated from the Night (part-time) program at the University of San Francisco School of Law in June of 1984 (2.8 GPA). Because I worked full time during my entire law school tenure and because I was still doing so upon graduation, I elected to do additional independent study and thus I waited for and took the February 1985 Bar Exam (which had an official pass rate of 26 PER CENT (26%)) and successfully passed that exam on my first attempt. I was a little surprised since I always felt as though I was somewhat disadvantaged because I had only completed one year of college and had been out of school for twelve (12) years when I started law school. After my admission to the Bar in June 1985 I opened a law office in San Francisco in January 1986 and practiced there for almost 25 years (CaBar 118208, Inactive). During all those years I was an active BASF Volunteer and I have never had a disciplinary action in all my years in practice.

No, No, No, I don't think the Bar should make it any "academically" easier to enter the profession that I worked so hard for and which I hold very dear to my heart. Make the Bar tougher, not easier, in my years in practice I have observed far to many lawyers that I had to ask, "how the devil did that one ever pass the bar." As I look at the Bar Pass Rates over the years, I am beginning to get the picture. Please don't increase that number. I think the Public deserves highest quality lawyers to pick from, not the highest number to pick from. In my opinion there are far to many substandard lawyers in the pool already.

Just saying; Earl J. Disselhorst, Proudly, USF Sol 1984

Anonymous

Eliminate non-accredited schools and the pass rate would go up more than by lowering the cut score. I am a judge and the quality of the papers I see is bad enough.

Lois Wigdahl

The cut rate should remain as it is, at 1440.

Lowering the rate to admit more attorneys to the California Bar will not protect the integrity of the profession. Factors such as student loan debt of failed applicants should not be taken into account in admitting more applicants. Going to law school has always been a "risk." You go to law school. You complete the course work. You get a law degree. You may or may not pass the bar exam. If you pass the bar exam, you may or may not get a job. You may become self employed if you cannot get a job at an established firm. This is real life. The State Bar should not consider issues such as the one above.

The other issues identified in the questionnaire about diversity, etc., are ones that I would have answered "yes" to if they were not intended as justifications to lower the cut rate.

The practice of law is hard. Law school is hard. The bar exam is hard. Applicants should be fully aware of those facts before they apply for law school.

Finally, the practice of law is a truly great profession. People depend on us. We must be honest, have integrity, a strong work ethic and a commitment to do our best every day. Those standards cannot be lowered.

Walter Cress

Public perception of all attorneys would be affected negatively by lowering the cut score. Since individual test scores are not published, the result of lowering the cut score would be that all those who passed the exam would be presumed to be in the marginally-qualified group. What is so terrible about the handful of applicants involved re-taking the exam after further study?

Anonymous

Since the 1990s I have noted that the quality of the California attorney has declined. If anything we should raise the cut score not lower it. Perhaps that will commensurately raise the quality of the Bar members.

To lower the cut score, and thus derogate the existing standard, will be disastrous.

Deborah Cleaves

It is critical to maintain the integrity of the profession and the competence of attorneys in their practice of law. If standards are lowered, this is either an admission that the previous standards prevented competent attorneys from practicing and required the payment of unnecessary funds toward additional training to pass the bar (i.e., an approval of scam expenditures of funds) or an admission that the public is properly served by less competent attorneys because their need for legal services is great. Neither of these is proper. Under the current standards, there are still plenty of incompetent attorneys in practice leaving needy persons in jeopardy. The change proposed places even more clients in jeopardy and is not an appropriate goal. The pass rate is irrelevant and reflects the overabundance of poor law schools turning out persons who are not qualified for the bar. A better goal would be toward eliminating marginal law schools rather than easing the barrier so that less competent persons can practice law.

Dante Cabans - Rialto Unified School District

Do not lower the Bar.

Our dilemma at the State Bar is a reflection of our society here in California as a whole. As a long time employee of the public school system, it fails to surprise me that the passage rate of the California Bar Exam has been dropping. Over time, I have watched the quality of our students and our educational system decline in graduating citizens who are able to read and write at levels required to produce capable and qualified attorneys. One thing that has dismayed me has been the educational system's reluctance to keep the level of academic rigor high in our schools. Our biggest problem is a thing called "social promotion." Students who are failing at the middle school/junior high school level are promoted to the high school where they seldom acquire the skills they need to pursue post-graduate education. So much of the work done at the high school is spent on remediating students who are reading at elementary and middle school levels that little time and energy is spent on those who need the advanced skills to graduate and to excel at the college level. I suspect the same is being done in the colleges and in graduate schools.

The stakes are high, too high for the State Bar to lower the cut score from 1440. As I have seen in the public schools, when you lower the bar, you lower the quality of the student. I am proud to have passed the Bar (even if it took me three times to do it). It is a rigorous test of knowledge and fortitude, and only those with the skills and persistence endure. As I saw from the questionnaire, the state of California has other concerns and criteria that have made it necessary to consider lowering the cut score (affirmative action and diversity being one). If those factors outweigh the state's concern about the quality of its attorneys, then so be it. I am convinced, however, that if the State Bar were to lower the cut score, it would lower the quality of the Bar here in California.

Anonymous

I disagree with the trend of lowering standards simply because some people cannot meet the standards. As you know, the California state college system is doing away with math and English testing. The State Bar should not follow suit. Though more college graduates who are not proficient in English will eventually go on to law school and have difficulty passing the bar exam, the standard shouldn't be lowered. The public deserve to be represented by competent lawyers. Lowering standards will not help.

Glenn Spitzer - San Diego city attorney's office

A reduction in the score will affect the integrity of the profession. My experience from speaking to other attorneys is that there is a glut of attorneys in California, which is driving down the salaries attorneys can command. Also, I know several attorneys who cannot find work because of this glut. I work at the San Diego city attorney's office, and we routinely have numerous interns (who have passed the bar) working for free in the hopes of securing employment.

I am also concerned that there will be more attorneys who are incompetent. I am often surprised by the level of competency as many of the attorneys with whom I practice. Lowering the bar will only make this problem worse. It is likely the less competent attorneys will have a difficult time finding employment, and will likely become solo practitioners. These less competent attorneys are the ones that likely will be more accessible to people of lower means. And this would not be a fair result for people of lower means because they would have an expectation that likely would not be met because of probable incompetency.

As I understand, the main reason for wanting to lower the score and thereby allow more attorneys into the Bar is to provide greater access to the public. As discussed above, the public will probably not get competent representation by lowering the score and giving them access to less competent attorneys. As a result, over time, the general public will come to have a lower expectation for attorneys in general. This would be a bad result for the public and all attorneys.

If greater access is the goal, a better way to do that would be to allow paralegals to handle more of the legal work. Much of the lower end work is routine; it doesn't require sophistication or deep analytical thought. Instead, it simply requires somebody who has experience in that field. Allowing paralegals to perform more of the work will give the public greater access to help, and it will not lower the public's expectations of attorneys or degrade the profession.

Kristine Ludwinski - Full-Time Mother/Homeschooler

While I empathize with those who do not pass the bar in California, either on their first attempt or on subsequent attempts, I do not believe the answer to increasing the bar pass rate is to lower the score needed to pass. The legal profession in California (and elsewhere) relies on competent individuals who can carry out their responsibilities well and with intelligence. The bar exam should be a difficult impediment for those who might otherwise enter the profession but who are not well-qualified. Granted, some who do not pass the first time around are simply not good test takers. However, when I was in law school, those who did not pass on their first time around were indeed those who struggled in law school itself. Those who excelled in law school appeared to have a much higher pass rate on their first attempts at the exam. The answer to increasing the passage rate is not to lower the standards. The answer to increasing the passage rate is to work at the admissions and educational level to work to turn out better-qualified graduates who will pass the current bar in higher numbers. What benefit would it be to the California legal profession to lower the passage standards, simply to allow less-qualified test-takers actually to pass and to come into the legal profession? That outcome would not help the California population seeking legal assistance, but would simply help those wanting to point to a higher passage rate to say that the system is working better. Lowering the standards in pass rates does not help to make the system better. Therefore, I would encourage the bar to keep the required score for passage at the current level. Thank you.

Sincerely yours,
Kristine B. Ludwinski
Bar #180454

Anthony Dougherty - Retired

Neither of my parents went to college. I grew up in what would be described as a middle-class Irish family with six children. Of the six, I was the only one to graduate from college. I was accepted at Temple University School of Law but ended the first year with a C- average. The University allowed those with a C- average to take off one year and then return as a first year student. I chose to go to night Law School at Temple on my return. I had worked as a High School Teacher during the off year and saw it as a way to free up funds for my parents to send
My younger sister to college. I finished the required courses and graduated on schedule. I moved to San Francisco in 1967 and worked while taking the Bar Review course for the March 1968 exam which I passed on the first attempt. I review my 1950-60's "Log Cabin" story to point out I knew there were many young people who went to more prestigious Law Schools and never worked as I did serving newspapers in grade school, supermarkets in high school and college and teaching during law school. I have tried to Convey this to a few young people over the years who I have considered would be an asset to our profession that there is a path open for an average People to improve their station in life. Such a proposal seems unreastically difficult to many young people today. I would rather see an increase in para-legals under the supervision of a bar member to advise under-served communities. Also programs like the Government has for young Doctors to serve low income urban and rural communities for five years in exchange for the forgiveness of most of their education loans. I am assuming that the test is not more difficult than the past but we find less dedication than in the past. Reducing standards will alway be popular and once begun will be followed by many more in the future. I had to repeat my first year of law school because I did not attain the Necessary standard. That option is open to all who do not pass the the State Bar Exam. I believe we should maintain our standards.

Anonymous

If law school gradates can't meet the current standard, the solution is to examine the law school curriculum and make sure that students are getting the education they need to succeed in the legal profession. Lowering the exam cut score doesn't help anyone--especially not the future clients of those who would not have passed the exam otherwise. The suggestion that a lowered score is necessary to admit more minorities, or provide more representation for poor or underserved persons, is insulting to both minorities and their potential clients.

James Mcclain - Retired

I got my law degree from UC Berkeley (Boalt). I am a member of the California and Colorado bars. In both states I took bar exams and passed both on my first try. I have recently retired from active practice of law. I believe that the current cut score should be maintained. My considerations are several: 1) Failure of candidates to pass the bar is, I believe, not a function of the exam but rather a function of the failure of law schools to adequately prepare their students for not only the bar, but also for the rigors of law practice itself. "Dumbing down" the exam will not address this issue. 2) In the companion on-line survey currently being conducted by the State Bar, one question mentioned both attorney diversity and law services for under-served populations. The implication is that reducing the cut line will result in improving these concerns. While I agree that both concerns are important, I believe focus on such societal issues is inversely relevant to the bar exam. Why should attention to diversity and expanded law services be couched in terms of accepting students with poorer skills to law practice? I cannot see that the profession, the underserved communities or the gender/race/ethnicity profile of the bar, are improved by lowering the admission standards exemplified by the bar cut line. 3) The bar exam should serve to confirm adequate training of the candidates, not to serve as the minimum level screen to keep out only the absolutely unqualified. To my knowledge, California is one of the few states (maybe the only one) to allow essentially anyone, regardless of legal training, to sit for the bar, and also to allow a candidate to repeat the bar time and again, and fail time and again, or until - probably by chance - a poorly trained candidate finally passes, and thereby becomes a "California attorney" - albeit one who is no better qualified than he/she was before that last exam. 4) We are told by the State Bar that California has 200,000+ registered attorneys, yet many law school graduates/bar passers cannot find professional law positions in California. Lowering the cut line of the exam would simply exacerbate that problem, since there is little sign that the opportunities for legal practice in California are going to expand broadly in the foreseeable future. 5) Finally, while I cannot make this statement as a broad fact, since obviously my "survey base" is small, my observations of both recent law school students and current college-level students, even in rigorous academic fields, lead me to believe that a significant number of them do not appear to place much emphasis on either personal learning or achievement, especially as it pertains to the legal profession. Often when I have such asked students about their future plans, the answers have been either quite vague or completely unrealistic. As a typical example, I have frequently been told by undergraduate (and usually underachieving) college students about what they intend to do after graduation, and their reply has been "oh, I'll just go to law school." As noted in my #3 above, such poorly motivated students probably do in fact often get into some California law school and eventually end up sitting for the bar - which they usually fail. Since they do not care to work to raise themselves to the current pass level of the bar exam, why should the State Bar even be considering lowering the cut line of the exam in a effort to scoop in more of these people? How does that improve the quality of legal practice in California, or improve the stature of the profession, or aid the potential clients? - - - So, let's just keep the exam cut line where it is - since even at that high level California apparently cannot provide good law practices for many of its successful exam takers. - - - Thank you for your attention to my comments.

Anonymous

Raise the cut score above 1440. There are too many attorneys who can't find work. We shouldn't award unaccredited law schools who take their students money but don't adequately prepare them for the Bar Exam.

Andrew Davis

I passed the California bar the third time. I scored 1428 the first time and 1432 the second time. If the cut score had been 1414, I would have passed the first time, which would have made my life a whole lot easier. Therefore, I can definitely emphasize with law school graduates who are taking the CA bar exam. However, I vehemently disagree with the proposal to lower the cut score to 1414 for two reasons. Firstly, this proposal is completely unfair to every attorney who had to score 1440 to pass, and all those who just gave up after many attempts. Secondly and more importantly, the proposal to lower the cut score will only saturate the California legal market even further. As a graduate of UC Davis School of Law, I have sent numerous applications in the past three months ago, I have only gotten one interview, and I am still unemployed. Therefore, lowering the cut score simply for the sake of having a higher pass rate does not resolve any of the fundamental issues of the legal profession in California. The focus should be on preparing law students better for the bar exam and the legal profession.

Nazario Gonzales - Retired

Forgive me, but there has been a "dumbing" down in education and lowering the cut score is dumbing down the quality of legal education, the bar, and the profession. Legal education should elevate the profession and those entering the practice of law. Law graduates should understand that the cut score represents the minimal standard to practice law in California. Law students should strive to excel and achieve for their personal good, for the good of the profession and for the good of society. Reducing the cut score may satisfy many who are concerned that the bar is too difficult, but I believe clients deserve to be represented by attorneys who meet at least the minimum standard of the bar. This standard should not be lowered.

Anonymous

The focus of the State Bar should be on the appropriate and adequate eduction and preparation of our future attorneys. Lowering the standards to allow ill prepared or unqualified attorneys into the bar is antithetical to the purpose of requiring the exam, which is to maintain a high quality to our profession. If the pass rate is declining, then focus our efforts on making sure a larger percentage of the students are receiving the right education. Maintaining standards in the profession is one of the main ways to safeguard the interests of clients and to assure that lawyers as a group continue to strive to preserve and protect the rule of law and the needs of our society.

Adley Shulman - (formerly) Shulman and Shulman

If pass rates are lower, with substantial efforts made to keep the test criteria relatively unchanged over time, then it is not to the modification of either the tests or the standards for passage that effort should be extended. It bespeaks of a lowering of educational standards and results generally. The public is not served by allowing less qualified persons to practice law. Societal patterns which may be causing a "dumbing down" of graduates is no justification for the level of ability of new bar admissions to be lowered. The public which is to be protected by the examination process would be ill-served by such a development.

Liz Chien

It may be worthwhile to diagnose why students are not passing and not simply lower the score. California's test and standards have existed and served our community well all these years.

Lee A. Rubi9N - Former transaction/securities counsel for a public. I took the company private becoming one of the primary stakeholders. Prior to that in private practice. Now an investor.

I'm sure there are cogent arguments for and against the options. And, I could write a lengthy opinion letter as well. But present issue, "option" proposed is not only not the issue that should be under consideration all. In fact, its irrelevant. The ONLY issue that should ever be considered as a barometer for admission to the Bar, is whether or not one is "likely," with the passage of time, to become competent to adequately represent the best interests of his/her clients or the public at large. Ergo, in my view the questions asked in the survey are without merit with regard to any analytical capacity. One of the roles of the State Bar is to determine the question at issue, which in my should not be determined based on passage rates vis a vis, in state or out of state passage rates, ethnicity , financial burden or any of the other included in the survey. I ask you the following question, lower the bar for admission to the Bar, who benefits and/or who is harmed, the person attempting to gain admission or the clients he or she will represent? About 40+ years ago, I took the Bar exam and to this day I still remember how arduous and stressful it was to prepare for, take and pass the exam. Nothing has changed, save the ever lower standards which the public demands, which now seems to be the "cause célèbre."

Robert Harris

And everyone who takes the Bar Exam should also get a trophy just for participating...right???

Anonymous

It is essential that the public be protected. In my view, there are too many unqualified lawyers now.

Henry Harris - private practice

To lower the cut score is a further extension of affirmative action which would lower the standards of the practice of law.

Antonio Cota

I am an attorney with 14 years of experience in practice throughout California. My primary area of practice is criminal defense and I am presently a deputy public defender. I am also of mixed ancestry; my father is an immigrant from Mexico.

In considering proposed changes to the bar examination cut score, I am deeply worried that the State Bar has forgotten its primary purpose, which is the protection of the public. In fact, the protection of the public is the paramount consideration at the heart of the State Bar's organization. (Bus. & Prof. § 6001.1.) It is well and good that the State Bar touts its secondary missions to advance the competent and ethical practice of law and, make an effort to increase access to, and inclusion in, our legal system. But it cannot forget the primary purpose for which it is organized.

An increase in diversity and access to justice are important goals. I am proud of the fact that I am privileged to protect the weak from oppression and succor those in need on a daily basis.

However, these lofty secondary goals will not be attained by weakening the standards for admission to our profession. Who cares to be a member of a diverse profession if its standards were watered down to achieve it? What does it matter if one has "access" to the legal system if one's advocates are not competent? The correct answer is "not much."

In my fourteen years of practice in our courts, I have never once heard a client complain that our profession was not diverse enough, or that we should weaken our standards so there could be more lawyers. Those don't really compare with pedestrian concerns like "am I going to go to prison forever," and "can you make my employer pay the wages they owe me so my kids won't starve?"

Clients have their paramount priorities straight, even if the State Bar does not.

Be that as it may, changes to the bar examination will not do much to foster an increase in diversity or improve access to justice.

When my father came to the United States from Mexico, he did so with the unfailing belief that his children would play on an even field and be allowed to go as far as our abilities and aspirations would permit. I am proud to have been the first in my family to graduate from college; I am proud that I earned my law degree on a full scholarship and could enter our profession based solely on my ability to meet the same standard that generations of lawyers before me have met. I neither wanted, nor needed, any lowering of standards to enter the profession. I'm glad to have proven to my father that his faith in our republic was not misplaced.

Should you lower your standards to achieve diversity, attorneys like me will only interpret it as an admission that the Committee of Examiners is incapable of applying objective standards fairly and without regard to illicit factors that bear no logical relation to competence. Alternatively, I would think that you hold minorities in such low regard that you think we need this leg up. We don't.

In either case, I would be deeply insulted should you make such a change. I beg you not to do it.

As for "access to justice," is it really possible that you do not grasp the simple economic issue in back of the matter? The truth is that those without money lack access to lawyers because those lawyers have bills that aren't paid with warn feelings. Lowering your standards will only create new problems for the public as a whole without doing anything to solve the actual problem. No surplus of progressive thought and feeling is going to surmount this issue. If you want the poor to have better access to the legal system, raise funds to pay lawyers a living salary.

It seems pretty clear to me that, in reality, these proposed changes are driven by economic factors. Simply put, fewer qualified aspiring lawyers are interested in law because: (a) it is increasingly more difficult for most lawyers make a living in the practice of law; and (b) the cost of education does not really pencil out for the vast majority of young lawyers entering the market. The only people who benefit from the lowering of standards are schools who are forced by prevailing economics to prey upon those they know will never be lawyers. They do so not because they care about the profession or access to justice but in order to keep their doors open and their employees churning out academic literature no practitioner will ever want or need to read.

Leave the score as it is; hold our profession to the highest standards of excellence as you can and leave the law schools to their fate.

Anonymous

The purpose of the State Bar and the Committee should be to protect the California population from incompetent or dishonest attorneys. In no way is the lowering or dumbing down of the Bar Exam Cut Score going to achieve protection from incompetent attorneys. Since there is no known testing for dishonesty, those attorneys will have to be eliminated after entry into our profession. What the State Bar can do is to demand that at least the California educational system raise their standards. Unanswerable is what our State Bar can demand of the educational systems in other states.

It does not take a genius to see what our public educational system has achieved in the dumbing down of what was once a model for the Nation's other states. Don't do the same for the State Bar. And do not allow California's other professional licensing authorities such as Medical and Dental follow a very bad lead.

To accept Option 2 is to say to California's public that their safety can be dammed and diversity is more important. Pray that the Cardiology profession does not put diversity before competence.

Anonymous

Tighten and enforce rules on advertising and solicitation. Perhaps the late 70s Supreme Court opinions should be revisited. With over 35 years of experience showing the deleterious effects of attorney advertising, we have the data to re-litigate. Change is afoot and for the better. Stop nibbling around the edges. The cut point is not the issue issue. The pass rate is not the issue. It's not the supply; it's the demand. Bring back honor to the profession. Ban advertising and drive the less competent back into used car sales where they belong.

Anonymous

The problem is not the Bar Exam. The problem is at the other end of the process. A greater emphasis should be placed on the core law studies. We are seeking to now be placed in the situation where everyone receives a trophy for competing (completing law school) Passing the Bar should not be viewed as an easy process but the reward for hard work not just school attendance.

Jerry Langer - Retired - Inactive

Lowering the current cut score is premature as "other studies are being conducted" by the State Bar.

Douglas Nulle - None - Retired

I see no logical reason, whatsoever, for lowering the cut score below 1440. Protection of the public should be the highest consideration, here.

Thomas Gorrill

Unless there are some objective indicators that clearly demonstrate the difficulty of the California bar exam has increased [and a declining passage rate is the result, not the indicator] there is no reason to reduce the cut score unless the goal is to "dumb down" the standards for admission to the bar.

Douglas Drake - Law Offices of Douglas H Drake

Let's see what doesn't come as a prize in Wheatie boxes these days. Hmmm membership in the Daughters of the American Revolution, Boy Scout Eagle Badges, and California attorney licenses. You're asking me if we should change that?

Jake

Myself, along with my colleagues worked very hard to pass the bar exam. I happened to pass the bar exam the first try and came from a third tier law school on the verge of bankruptcy and shut-down. Despite being "white", I came from a financially disadvantaged background and was in fact, one of the few white kids in my neighborhood. My single mother had to, at times, depend on food stamps and social assistance to get us by. I gave it everything I could, leveraging all my credit and incurring tremendous debt, and became an attorney by the skin of my teeth. I believe that with will power, determination, and discipline, one can achieve anything if they want it bad enough and are willing to sacrifice. We need more lawyers with that attitude, those who have the tenacity, fortitude, and perseverance to rise in the face of adversity and overcome obstacles in their path. We don't need more lawyers, who slide by due to standards becoming more lenient. That being said, the state of the economy and job market for lawyers is saturated. Flooding the market with additional, less-qualified or less hard-working attorneys will only make things harder for those of us did rise to overcome the challenge that is the California State Bar Exam.

If diversity is the problem, making the bar exam easier is not the answer. In fact, making the bar exam easier will incentivize the financially privileged to work even less hard. On the other hand, to address diversity, more scholarships should be offered; including financial assistance for those who need to take off time to study for the bar exam. The state of affairs is horrible currently as federal aid is not available for bar exam studying. As federal aid programs currently stand, one can only obtain aid if currently enrolled in an educational institution. While studying for the bar, one has had already graduated from law school. For those people who are economically disadvantaged, like myself, this makes it extraordinarily difficult to pass the bar exam.

Dean Beaupre - none

I have been practicing law as an attorney for 24 years and as a judge for 20 years. When I took the exam in 1969 the pass rate was a little under %50. In California you are allowed to take the bar exam as many time as you want. Thus you can, by study, raise your knowledge level to the point where you can pass the bar. So even an attorney who failed the bar multiple times could self educate to the point of competence. I have seen people who passed the bar, sometimes on the first attempt, who should not have been allowed to represent other people. Lowering the "cut score" simply means lowering the competence of the profession. Why would we want to do this? If we were talking about the examination for medical credentials in California no one would seriously suggest "we need more Drs. even if they are not as good as they should be".

Craig Wilson - Retired

The standards for being admitted to the Bar should remain high:
There are plenty of lawyers in the State.
The quality of the lawyers would be worse.
The pass rate is not bad except for the unaccredited schools. They should be abolished.
The new option is a thinly veiled attempt to increase minority pass rates at the expense of the quality of new lawyers.

Anonymous

Lowering grading standards does not make for a better lawyer--study harder and longer as those of us who took the three day exam did.

Elle Byram

I don't think the cut rate should be changed. There are adequate opportunities to study and pass the exam and people have been doing it for years. I see no reason to change it now especially when there are too many attorneys as it is. If anything, the cut rate should be increased until such time that there is more of an equalization between attorney work available and attorneys. I don't have sympathy for people who are unable to pass the bar exam. There are many other careers and opportunities even with a law degree.

Leo Park

The Bar Exam is, to the extent possible, supposed to evaluate a candidate's preparedness for the practice of law. It is not designed to establish some quota that ensures that a certain number of candidates are admitted, or rejected, from the Bar. Preserving some particular pass rate percentage, or some particular diversity-based mix of bar admittance is a goal orthogonal to that of the exam itself. Thus, falling passage rates by themselves are not an indicator that the cut score should be manipulated to meet either of these goals.

Duke Rouse - Superior Ct. Judge (ret.)

I am a retired Superior Court Judge. I was admitted to the Calif. Bar in 1969. I went to an of of state state ABA accredited law school. I passed the Bar exam the first time. I practiced as; a sole practitioner,in a small firm, in a large firm,and for twenty five years on the bench.I think the integrity and quality of the lawyers in Calif. is paramount. Recruiting in law school admissions is the key to diversity , NOT lowering standards. My experience on the bench convinced me that the greatest protection for the public is to have fully qualified lawyers. Unfortunately, I saw too many who were not. Adding more less qualified lawyers by lowering admission standards will not benefit anyone.

Frazer Hilder - Retired

Without knowing about the factors on which the current cut store of 1440 was previously adopted, or the factors for changing to a lower score of 1414, I am unable to understand what is behind this proposal. Is it simply to admit more lawyers -- sort of like grading on a scale (i.e. "gradecreep" in school? Until I see why the current system is broken, I would not "fix it."

Paul Davis - Law Offices of Paul M. DAvis

California allows applicants to take the bar more than once. In light of that, there is no valid need or reason to reduce the cut score below 1,440 because if an applicant fails the exam he or she can hone his or her skills and take it again.

I took the exam more than once. Had the cut score been 1,414 as currently proposed, I would have passed the exam on the first administration.

By reducing the cut score from 1,440 to anything less the Bar is diminishing the value of the exam and the efforts of those who indeed passed the exam by reaching or exceeding 1,440.

Lowering the cut score will reduce the quality of legal services because it will reduce the quality of lawyers.

Thomas Laporte - LaPorte Law Group, PLLC

NH has a clinical portion. Work that into the exam. Otherwise, it can be done with diligence.

Thomas C. LaPorte, Esq.
CA, MA, ME, NH

Gerald Neiter - Retired

The purpose of the exam is a singilar one, namely, to insure that only academically qualified persons are admitted to practice in California. Thus, there is no reason to lower the pass rate. Sociological factors can be considered in other areas, such as admission to law schools.

Scott Hess - Retired Criminal Defense

So fewer applicants can pass the Bar..and the reaction is to lower the score? I would NOT feel comfortable being represented by an attorney or in surgery with a doctor knowing that the reason they are practice\ing law or medicine is because the scores were lowered. Everyone who passed the bar..eventually had to so so at the current level, including my father who took the bar four times..I took it once. Are law schools not teaching the appropriate classes, emphasizing the right skills necessary to pass the bar? Are students who are generally do not have the requisite skills to succeed in law school or the bar being admitted in greater numbers? I dont think the solution is just making the bar score lower..there will always be those who can not pass it..and thus there will always be a suggestion that the bar is just "unfair" to some. How is the fact that California's bar passage rate and difficulty a negative as compared to other states? Maybe California is turning out better attorneys more qualified and competent...maybe some states have a bar passage rate that is too low. The knee jerk reaction is to lower the score..in an never ending attempt to make things easier to some who cry foul because they either did not work hard enough in law school, did not take the proper courses..or simply should not be practicing law..
I have and had Tourrettes Syndrome since I was five years old..graduated number 2 in high school..earned TWO Bachelor degrees at U. of Notre Dame..and passed the passed the bar the first time after graduating form McGeorge law school in the top 20 percent of my class. I had to work VERY hard despite the difficulties I was presented with due to my condition, and became a respected and competent felony trial attorney. No one lowered the bar passage rate..the SAT...or provided me special accomadation due to my situation. I know personally of many law students today being given extra time to take exams in law school..who will be give extra time to take the bar exam..now I hear only two days..because they suffer from anxiety issues. Law schools are bending over backwards to help students..some deserving..others not...and now the State Bar wants to lower the "bar" even further? You will be doing a disservice to potential attorneys who will struggle practicing and the public. The answer is not dumbing down the admission requirements but in stressing not everyone is capable of practicing law even having graduated from law school, and that people must accept individual responsibility and work hard...not blame the state bar or society because they cant make the grade.`

John Donegan - Retired

The current or higher standards are necessary to protect the public. The career aspirations of the applicants are of secondary concern. In my 9 years of employment with the court, I encountered thousands of attorneys, and found that many who had been admitted under even the current standards were in fact unqualified. Lowering the standards would result in even more unqualified attorneys.

The monthly discipline section of the State Bar publication reveals the terrible damage that unqualified and unethical attorneys can cause their clients. And, I think that these publicized cases represent only a small fraction of the loses which actually occur. Although denying an individual the opportunity to pursue their dream of becoming an attorney may be crushing to them emotionally, the public good must control.

Additional attorneys will not increase access to legal services or lower costs. The expenses of maintaining a legal practice are so high that the fees charged must necessarily be high just to cover the overhead, and provide ANY income to the attorney. Even if the market was flooded with legions of hungry, desperate lawyers, it would still not drive fees low enough to make the employment of an attorney economically justified for many of the sorts of cases where the need is currently unmet. Enlarging the jurisdictional limits of small claims court, and simplifying laws and court procedures so that parties could handle their own cases in pro per, would do more to increase access.

The suggestion that lowering standards will increase access to legal services for minority and underserved communities is insulting, in that it suggests that these communities are less deserving of competent attorneys than other groups. And, it assumes, incorrectly I believe, that the additional attorneys admitted will gravitate towards serving these communities.

Anonymous

This is outrageous -- the market is already saturated with lawyers, and we want to make it easier? There are plenty of hard working people who passed the bar on first attempt, including 7 out of 9 of my law school friends. This proposal is an affront to their hard work and dedication. The California Legal market is finally recovering after the disasters of the Great Recession -- why would the State Bar suddenly decide it wants to flood the market with more lawyers? The Bar could do better by offering more Bar Exam assistance programs or working with schools to improve teaching, etc. But lowering the bar pass rate to admit more under qualified attorneys will have a detrimental affect on the job market and lower the prestige/reputation of a profession that is already riddled with a poor reputation by the public.

Irvin W Fegley - Inactive presently.

Keep the standards high, very high. If a person can't pass, they should look elsewhere than law.

Michael Gabriel - Attorney Et Al, LLC

The purpose of the state bar exam is to provide and objective means to assure that only properly trained and qualified people become attorneys. The bar exam is intended to be a fair and equal means by which the ability of people taking the exam are determined. The grading is by people who do not have the name or ethic background of the bar exam taker so there is no bias for or against any taker. Only the bar exam takers' knowledge, legal writing and reasoning abilities are tested as they would be in the real world if he or she was a practicing attorney.

The multi state exam is portion of the exam are 200 multiple choice questions given in each state and tests the basic legal knowledge of the people. It is such an excellent means of evaluating a [person's ability to be a successful attorney that some states such as Colorado would pass a person if he or she scored a 96 or higher on the multi state without reading the written exams. I know this as I was one of those people meaning I missed no more than 2 questions out of the 200

I do not favor passage of the bar on passing the multi state alone. In a legal practice, an attorney must be able to apply his or her legal knowledge to the fact pattern presented by the client. An attorney must be able to fashion a well reasoned written response
It is the testing of this reasoning and legal writing abilities that the written questions of the bar exam are provided.

The bar exam should not be concerned with diversity of the passers but only the quality of the passers. The state bar exam should not have quota systems or reward applicants with bonus point just so they can pass a bar exam which they would otherwise fail. Nor should it reduce the passing grade that people who do no\t have the ability to become attorneys do so.

Only in California of all the states can virtually anyone nowadays can take the bar exam. California has ABA law schools, state accredited law school and even online law schools plus applicants can clerk under a judge or attorney and become qualified in time to take the exam. The legal education from all of these sources is not equal. Therefore one should not expect graduates of online law schools to succeed on the bar exam at the same level of the top ABA law schools, yet the proposal to lower the pass rate is doing just that.

In comparison to the pass rate with other states, no one has considered that the other states do no have such universal access to the state bar exam. Virtually every other state requires all bar exam takers to be graduates from an ABA law school. These states do not allow graduates from other types of law schools to take their bars exams so their pass rates are naturally higher. In comparing the state passages rates with other states, it should therefore be only ABA graduates to ABA graduates that are compared, and then the evaluation is one of equality - apples to apples. When that is done the California ABA pass rate is near the top.

California alone among all of the states is fostering diversity on the legal profession by allowing the graduates of

alternative forms of legal education to take the bar without going through the expensive ABA process. No other state does this. It has been an unqualified success in adding diversity to the state without dropping substantially the high standards required of ABA graduates. The system works as developed over the last 40 years when the state bar first started addressing minority participation in the bar. It should not be scrapped now when it has succeeded in allowing minority applicants to take the bar and be judged on par to ABA applicants on fair, unbiased and objective standards

Lynn Aylward-Bingman - Retired

Lowering the cut score will only allow less qualified persons to become licensed attys. This is NOT in the public's best interests. Also it will undoubtedly increase the ethics and malpractice complaints. Lowering the standards...in any profession...is never the answer!

William Powers - retired inactive bar member

The proposal to lower the standard for the profession is only consistent with the currently popular educational philosophy of "dumbing down" the grading process to fit the lesser abilities of some who have suffered from a poor education or just have not sufficiently studied to achieve a passing grade. The profession thus acquires less able practitioners and the public less able advocacy. If this is passed, the very intellectual foundation of the profession and the legal process will have been jeapordized. What will be next? Allowing doctors to pass their equivalency exams with lower standards that will risk the health of patients?

We are professionals. To me, that first means meeting the highest of intellectual standards to qualify for the profession, so that that foundation will better enable a new admittee to grow in knowledge and wisdom once introduced into the sophistications of the practice. Take any part of that away and a fundamental essential of our underlying culture will be lost. I say make the test tougher. The multiple choice now is already too easy. Bring back the essay as a larger component of the test. Multiple passage failure should disqualify a candidate (over 3?). Perhaps candidates from unaccredited "institutions" should get higher scrutiny. Heavier qualifications for such institutions would also be an excellent idea, to make up for the much higher scrutiny and vetting that students at accredited institutions must meet.

We should produce the best for the law, not just play a numbers game focused on income from student fees. Instead, perhaps we should take a closer look at the colleges' and law schools' performance and disallow those institutions who have adopted "dumbing down" grades to keep the bottom line better, rather than making the product of their education process superior. My class at Loyola had over an 80% first-time passage rate because we had great education for a bunch of high achievers. That is excellence and it has been proven over the past 46 years to be true in the accomplishments of my classmates, starting with passing what those who should know characterize as the toughest bar in the nation. Going in the other direction is nothing more than giving the profession and the clientele it serves a reputation as being less capable generally because of throwing into the equation some who should have never been there in the first place. Their education may still serve them well in business, but not in the law.

William F. Powers, Jr.
Loyola of LA 1970
Jan. 1971 bar passage #48500
AV rated attorney, now inactive (retired)

Anonymous

The declining pass rate is likely related to a glut of attorneys from questionable legal programs that flourished (and sadly, unfairly profited off of the students who attended) until recently. Possibly as well, it is related to decline in the quality or rigor of instruction, in this era of teaching to the test and parents doing their students' work for them well into college. There is no reason that we should reduce our standards to accommodate these trends. Rather, we should maintain our standards to force institutions who want their students to succeed to change their ways. Much like California insists on maintaining stricter environmental regulations that will force companies to bend to our standards in order to do business with us. In addition, with regard to the laudable goal of trying to increase access to underserved populations, I do not agree with bringing in potentially less qualified people as a solution, as that could harm them in the long run. There are other ways we can induce our qualified workforce to serve the underserved.

Peter Davis - Retired

In my view, the lower "pass rate" is the result of two ongoing changes in California's legal education environment.

1. In an effort to increase diversity in the profession, underqualified students are being admitted to law schools.

2. Law schools are increasingly expanding their menu of courses, outside of the core courses that were originally taught (and tested on the Bar).

While the availability of "non-core" courses may be attractive to some students, taking time and attention away from the courses that will be tested on the Bar increases the likelihood that a larger number of graduates won't be successful.

Leona Salazar

I'm not sure of the Bar's reasoning behind cutting the score to 1414. It's seems a bit like the minimum wage debate. Why limit it to $15 per hour? Why not make it $25. Why not insure everyone makes $60,000 a year? What makes 1414 the magic number? Why not 1400? I'm absolutely opposed to quotas and affirmative action. If it is the intent of the Bar to establish quotas by allowing certain categories of people who cannot achieve 1440 on the Bar Exam to pass the Exam with 1414, then I believe it is very bad policy. Why is the State Bar of California interested in having more attorneys? It's not as if there is a shortage of lawyers in California. Is it for dues? More likely, it's for "diversity" which, in other words, brings us back to my initial concern - quotas and/or affirmative action. If too many people cannot achieve a score of 1440, then perhaps the ability to enter law school should be made more difficult.

Anonymous

The bar exam sets a standard for lawyers. Rather than lowing the cut score, law students must be better prepared for the examination. Lowering standards does not serve the general public in a field which requires high public confidence of competence.

Anonymous

The current cut score of 1440 must remain in tact. The primary reasons are two-fold: 1) Maintaining the integrity of the profession; and 2) Protecting the interest of the public from potentially unqualified attorneys. Let's not compromise clients who come to attorneys for guidance, counselling, and resolution of serious problems by compromising the competency of the legal profession. In addition, lawyers need instruction/testing in ethics and caring/concern for their clients' predicaments. I have seen and worked with young lawyers who are only interested in "themselves."

Don't lower the standard.

Anonymous

Declining bar exam pass rates more likely indicate a problem with the legal education system than an issue with the exam itself. Pass rates were acceptable before, with an exam that is materially similar in nature.

Thus, lowering the cut score will only treat the symptom, instead of the root cause. It will also increase the number of unqualified attorneys practicing in the state, an issue that largely affects underserved and lower-income communities who do not have the money to buy "brand-name" attorneys, and often lack the experience with the U.S. legal system to discern between a competent and incompetent attorney. And incompetent counsel can in fact be worse than none at all in some circumstances.

Those with the money and power to retain quality counsel will continue to do so. Those who will suffer are those who already disadvantaged.

Please keep the cut score as-is, at least until more information is available that indicates that other states with lower cut scores do not have any lower-quality representation.
Although there is no data indicating that CA attorneys are more competent than those in other states, there is also no evidence that the opposite is true. Rates of attorney disciplinary proceedings are not particularly relevant, as conduct unrelated to competence is often at issue, and because we have no idea if the rates of reporting bad behavior vary from state to state. Without knowing that key variable, it is hard to draw any conclusions from the rate of attorney complaints.

The integrity of the profession and the least fortunate in society depend on having competent attorneys able to help them, and maintaining the current cut score is important.
Instead of making the bar exam easier, we should focus on resolving the issues underlying the declining pass rate, which is occurring nationwide.

Anonymous

The State's cut score ensures that only deserving students pass the bar. It also maintains the high quality of lawyers in this State. The California bar exam should be difficult to pass. The size of the bar is not a problem. We don't need to lower the cut score in order to get even a higher influx of lawyers.

Anonymous

I am against lowering the score. However, I would accept the lower score if California opens up reciprocity with other states. If the scores are going to come in line with other state standards, CA might as well allow its attorneys to motion in to practice in other states. This is a fair compromise.

Jeffrey Fayngor - The JLF Firm

California does not need more lawyers.

Anonymous

The integrity and the quality of the profession must not diminished by lowering the standards.

Stephen Burton

I passed the exam at it lowest pass rate administration. Lowering the standards of professional knowledge is exactly the wrong aproach. California already has more attorneys than can be well employed. Do not dilute the profession with more less qualified attorneys. If you need evidence of how problematic lowering standards might be simply look at the increasing numbers of disbarred and/or disciplined attorneys esch month. If you lower standards plan on hiring more disciplinary staff. Lowering the standards for admission to the California Bar is just a bad idea!

Sheila Martin - Retired

There are so many attorneys who are under-employed. Why in the world would you want to make it easier to flood the state with more attorneys? Furthermore, why would you want to make it easier to pass the bar? i think the public deserves smart people who can pass the bar at the normal cut rate. The fact that the pass rate has declined simply indicates the persons seeking admission were not smart enough to pass the bar or perhaps attended schools that made them unprepared for the bar.

If anything, the bar should make it even harder to pass the bar, not easier. Has anyone studied the saturation rate for attorneys in California? I think we've reached it. Does the bar really want to create an environment where attorneys do not have enough work and need to do other things to generate sufficient income to support their families.

This whole idea of making it easier to pass the bar is ludicrous. The rest of us had to pass it at the higher standard, why should that not continue?

Donald Finsthwait

The new questions to not seem appropriate. They have nothing to do with whether a person is qualified to serve in California as an attorney.

Keep the scoring as it is.

Anonymous

I don't think we should lower the standards for the exams. We should encourage the schools, the teachers and the students to reach higher expectations of themselves which will only raise the higer
Rations of themselves which will produce a higher quality of attorneys.

Mindy Mcqueen - Law Offices of Mindy H. McQueen

I am been a licensed attorney in California since 1999, and before that I practiced law in Alaska. I had to take the Bar exam in both states and I passed both Bars on my first attempt. I understood what the passage rate was and I studied hard enough to ensure that I would pass them.

Option 1--yes, keep the current cut score at 1440:
I strongly disagree with cutting the passing rate AFTER the exams have been scored. I cannot understand the wisdom of lowering the passing rate after the exams have been scored. It makes the initial passage rate a joke--why don't we lower the SAT and the LSAT scores after the fact? How about just randomly lowering the initial passage rates on all high school and college exams after the fact? Why even require a passage rate at all? Why not just let all takers come? It is the height of idiocy to tell test takers that they have to achieve a certain score and then lower it after the fact because the overall intelligence level of the test takers wasn't up to snuff. This proposal essentially means that the Bar is being graded on the curve. How does that make the people feel who studied hard enough to pass the noticed score when they now belatedly realize they could have put in much less work and still have passed the Bar? Setting the passing score at 1440 and then reducing it after the exams have been scored makes the entire exercise a mockery. The fact that thousands of people chose to disregard the studies showing that the legal field in California is completely saturated and still enrolled in law school incurring substantial debt is their problem, not the public's. The public is entitled to have confidence that when they hire an attorney to help them with life-altering problems and issues that they are getting the best legal help possible. The public should not be forced to hire attorneys who were not sufficiently intelligent to pass the Bar, who were instead given a pass because the score was adjusted retroactively to grant more people access to the Bar.

Option 2--no do not lower the cut score to 1414:
The Bar Examiners have determined that a score of 1440 ensures that those passing the Bar will be of sufficient intelligence to be able to actually help the public. That seems to have worked well for all of these years. So what has changed that the passing score now gets reduced by 26 points? California is inundated with attorneys and many experienced attorney are out of work and scrambling to make a living. Why are you even considering lowering the Bar passage rate which will license even more attorneys (who are clearly less intelligent) who will then be out looking for work? If the Bar passage rate in California is too high, then let them move to another state with a lower passage rate and try their luck there. My guess is the quality of lawyers in the states with the lower passage rate is much lower than the quality and intelligence of California attorneys.

Anonymous

There are already enough of newly graduates lawyers that can't write or analyze a simple case correctly. Lowering the cut score will not help the people that need competent legal representation. If we lower the cut score because the pass rates are falling, we might as well do away with the bar exam and let everyone who graduates from law school practice. I fear that is where we're headed. Lower ton1414 now and in a few years, when pass rates are low again, the cut will be lowered again to ensure law students get their money's worth. It's unfair to all the clients who need, expect and pay for competent representation.

Thanks.

Russe

I prefer to keep the cut score the same in order to preserve public confidence in the legal profession. Perhaps answers to some questions would change my mind. I offer them for your consideration.

1. Is the pass rate declining because the exam has gotten more difficult, or because the quality of candidate has gone down?

2. Does Ca;ifornia suffer from a lack of attorneys? According to one blog, California trails only New York in total number of attorneys, and is eighth per capita. I have read that there are underserved segments of society, but is there any evidence that those additional persons admitted would actually serve those segments?

3. One of the questions in the survey suggested that "diversity" in the legal profession was a potential factor in deciding whether to lower the cut rate. That seemed to suggest that lowering the cut rate would increase diversity. Am I to infer that those who cannot pass the current cut rate are more "diverse?" Isn't that prejudice?

4. How many law schools are there in California, and what are the comparative pass rates forgraduates from in-state ABA accredited schools v. out ofstaet ABA accredited schools v. state accredited schools, etc.? Perhaps the problem isn't that too few applicants pass, it's that there are too many applicants. I understand giving people a chance to pursue their dreams, and that great lawyers didn't always go to the best schools. On the other hand, if a person cannot pass the test (perhaps it takes more than one try), then maybe that person should pursue another vocation. I also understand that as demand (and respect) for lawyers has declined, so has the quality of the law school applicant. My alma mater (UT Austin) reduced it's class size rather than dilute the quality of its student body.

Richard Andresen - Retired

The proposed modification of the current "cut score" would not benefit either the legal profession in general or candidates for the Bar. We owe a duty to the public to ensure that all those admitted to the Bar are competent and professional. In the long run, individual candidates would not profit from being placed in an enormously competitive marketplace before they are able to adequately participate. One does not improve the quality of legal services - or the public's belief in our system of laws and procedures - by lowering standards.

Ralph Stern - Retired

The answer to lower pass rates is not to lower standards; it is to improve the caliber of preparation for for law studennts at the college level and before and to improve the quality of instuctiuon at law schools.

Anonymous

We need more information before deciding.

Are attorneys who barely passed the Bar Exam more likely to be disciplined by the State Bar? If so, for what types of infractions?

How relevant are questions on the Bar Exam to actual practice? Is a high score on the Bar Exam indicative of future success as an attorney/to serving clients competently?

Are attorneys who barely passed more likely to serve underserved populations?

Would lowering the cut score increase diversity? Would it sacrifice quality? Would it increase access? We don't really know. Without an analysis of scores and discipline records and success in winning cases and serving clients well, we are voting our knee-jerk reactions here.

Anonymous

The problem is not with the cut score. The problem stems from the fact that California has too many sub-par law schools that admit a host of aspiring attorneys knowing that they will not make the cut. Ranked schools tend to generate higher passing rates than those sub-par schools. In the end, students coming out of those sub-par schools are left drowning in student debt and are unable to pass the bar; not because the required pass score is too high, but rather because their so called "law schools" are nothing more than a mediocre money-making institution that doesn't care. Those sub-par schools need to be closely monitored by the state and required to raise their admission standards.

Anonymous

Standards are set for a reason. They aim to exclude those who are unqualified to enter the profession. Lowering the standard would allow individuals who haven't prepared properly for the exam to be admitted to the bar. Those people will not make good lawyers. Lowering the standard would also allow individuals who may have prepared for the exam, but who lack sufficient intellectual capacity to perform well on it to also be admitted to the bar. Likewise, those people will not make good lawyers. The net result would be to allow unqualified candidates to become lawyers in California. There are already enough of those practicing today.

Heather Nicholson - N/A-1st Time Taker

Thousands of lawyers have passed the bar exam at the 1440 cut score. I think that the CA bar is already in the process of changing. The two day bar is a radical change on its own. I think that the bar should look at the effectiveness of this bar before they go and change anything else. Further, I don't think that lowering the score will solve problems. The issue is with schools and they way they do or do not teach. If teachers can't be bothered to teach and students can't be bothered to learn, that does not mean that we should make it easier to become a lawyer. Again, thousands of people have been able to pass the test when it was three days, at the heightened score, changing it to cater to people who can't seem to understand the material or how to study isn't fair to those who have put in the time and effort to succeed.

If people are upset about the debt (which again is the fault of law schools and not the CA bar) then perhaps offer a discount for second time takers. That way money is less of an issue.

Joseph O'Heron - Ret. Cal. Deputy Atty. General

The practice of law is a difficult and intellectually demanding profession. Lowering the bar serves neither the profession nor the aspirations of those who are not up to the mental capacity requirements needed to serve clients and the courts.

Ma Anderson

The current pass line of 1440 should be maintained. Members of the study panel suggested the pass line could be -increased- to at least 1451, if not higher (e.g., up to 1500), not decreased.
calbar.ca.gov/cbe/docs/agendaItem/Public/agendaitem1000001929.pdf

There is inadequate evidence to support a lowering of standards - in fact, there is evidence that doing so would result in increased discipline (regardless of what particular causes might be involved).
excessofdemocracy.com/blog/2017/7/more-evidence-suggests-californias-passing-bar-score-should-stay-in-place & excessofdemocracy.com/blog/2017/6/draft-work-in-progress-the-high-cost-of-lowering-the-bar At the very least, much more study is needed to determine whether standards should be lowered - or raised.

The Bar's own study, done under tight time constraints, suggests 2 options, one of which is to retain the current standard. That is the recommendation of the committee. No good reason has been offered to take any other option.

The fact that many students do not pass the exam on the first go-round is, to my mind, simply evidence that too many unqualified are taking the exam - in addition to the fact that California is unique in allowing many non-nationally accredited to take the exam, accredited law schools are taking, or are not preparing, enough students who can become professionals that avoid discipline.

This failure is not limited to California - schools are in heavy competition to get qualified students, and many schools have simply lowered the bar in order to get high enough enrollment. There are too many schools chasing after fewer qualified students. Apparently there are any number of schools here in California that don't met the competition, as there has been for a long time, given the number that are not nationally accredited. The Bar already has far too many attorneys that need discipline - and the public certainly doesn't need more.

Dana Phillips - retired

The State Bar should work with law schools to improve the preparation for legal service. An increasing emphasis by schools on political and social issues has matched the decline in bar passage. It is not enough for students to be sensitive, they must also be competent.

Steve Bloom - retired

My experience over a 35 year career taught me that we have plenty of incompetent fools practicing law already. Given what I perceive to be that fact, it follows that almost anyone can pass the bar. While I don't believe the bar exam accurately measures whether exam takers actually are or will be competent lawyers, it does weed out some whose ability to reason, to at least know a little black letter law, to at minimum possess some lawyer-like skills, fail to reach even minimal standards.

Now, if only we could somehow require ethics. (No, just because "it" is technically legal or just because you can possibly get away with "it," doesn't make it ethical.)

Walter Olson - self

If it is true that the secondary schools have failed to prepare their graduates for life itself and for college in particular, the "dumbing down" of America is everywhere evident. And, if colleges and even graduate schools are allowing their degrees to be obtained by poorly educated and under performing students, the foundations of excellence in higher education are crumbling and our nation is at risk. The problems and technical complexity of the world today require better education, not what we get now and certainly not what we will have if we tolerate lower standards in any profession, legal, medical, scientific, etc.

Do you suppose for a minute that law schools and bar review specialists will increase their efforts, or that the quality of their graduates will improve if you make it easier for them to pass the bar exam? No, it's just another way to help the less qualified get by and help the State Bar seem more user friendly. And, it further lowers what we expect of our young and serves as another example of that "dumbing down" that has become the hallmark of 21st century America.

Anonymous

Is it the primary goal of the State Bar to identify qualified attorneys? Or is it the primary goal of the State Bar to increase the pass rate of the bar exam? Certainly it must be the former. As such, I'm disturbed to know the State Bar is even considering lowering the cut score simply because the pass rate is not some arbitrarily chosen percentage that might appeal to some at the SB. And it's entirely ridiculous to hear the SB has hatched proposals to (i) lower the cut score temporarily while they study the issue of declining pass rates and (ii) retroactively assign passing scores to applicants who recently failed the exam. If the State of California already has substantial numbers of licensed and qualified attorneys unable to find enough legal work to support their student debt loads, how could there possibly be a need to add substantial numbers of less-qualified individuals to the attorney pool? But then again, dumbing things down throughout all aspects of society seems to be the unstoppable trend in this country so to heck with high standards and high qualifications among California attorneys, right? Wrong!

Jason Liso - San Bernardino County

There's too many of us. A low pass rate is a good thing. Only the highest performing should be practicing.

Anonymous

Dear Committee,

I agree with keeping the current cut score of 1440.

This standard will help to ensure that the public in California is protected from unqualified attorneys and help to preserve the integrity of the profession.

I greatly appreciate your attention to this issue, and I would recommend looking into raising the quality of a legal education rather than lowering the cut score.

Anonymous

If bar exam pass rates are declining, the problem is not with the cut score, but with the quality of the test takers and the educations they have received. When I worked as a federal law clerk, I was astounded at how many low-quality lawyers there were practicing in federal court in California. I see no reason why we should admit more of them to the bar. The bar exam should be difficult to pass because competently practicing law is difficult.

If the Supreme Court and State Bar want to address declining pass rates, they should take aim at non-ABA accredited law schools that prey on unsophisticated prospective law students, saddle them with hundreds of thousands of dollars in educational debt, and fail to adequately prepare them for the rigors of the bar exam and law practice. Failing to address these problems does a disservice to the profession, young people who want to enter it, and ultimately, the people we serve as counselors at law.

Anonymous

I don't think we need to lower the standards and make it easier to pass the exam. Perhaps the students need to study more and work harder.

Anonymous

We already have enough unqualified attorneys. Lowering the cut score makes it more likely that there will be MORE unqualified attorneys.

Ronald Janes - Fmr Vta District Attorney (Retired Chief DDA)

After 45 years in practice, substantial courtroom practice, and many years as a Chief Deputy District Attorney responsible for recruitment, hiring, and training; my experience clearly informs me that lowering the standards for any reason would be a disaster. Allowing less qualified people to practice law because the law schools made a mistake in lowering their standards is not a good reason to lower the bar exam standards. Considering the "burden of student loan debt for law-school graduates unable to find gainful employment after failing the bar exam;" ignores the Bar's stated mission of protection of the public. It is unconscionable to put the interests of unqualified people above the protection of the public.

The argument that lowering standards to "increase access to legal services for underserved populations" presumes these less qualified people will gravitate to underserved populations. There is no proof that will be the case, and as a profession do we want the underserved represented by the unqualified? Certainly not, they deserve better, and often get the best pro bono.

Likewise, I find offensive the argument that lowering the score will "increase diversity of attorneys from different backgrounds." In my experience, the range of backgrounds of highly qualified attorneys grows every year. Introducing unqualified people of any background inures to no one's benefit, except perhaps those who are unqualified to pass an exam which has successfully measured potential for ability to practice law for decades.

Those who decry the fact that the cut score in California is the second highest in the nation ignore the fact that California may well be the most difficult state in the country to practice law. We have a complex body of law and regulation, unmatched elsewhere. If one is not up to passing the bar exam, do we really want them navigating the complex waters of practice in this state?

Anonymous

Below, a law professor identifies the REAL problems. Lowering the cut score has to be the stupidest idea on the planet and is clearly not in the public interest. Worse yet, lowering the cut score compounds the REAL problems!!

FOR NEW LAW STUDENTS, ADVICE ON SUCCEEDING IN LAW SCHOOL.

My take: Showing up. You'd be amazed how many people who do poorly miss a lot of classes. And, for that matter, how many people who fail the bar didn't attend all (or even nearly all) the sessions in the bar review course. A friend of mine who's a dean at another school described a first-year student who quit showing up for classes. When he called her she said she quit showing up because she was having trouble following the discussion. That's not a good strategy if you're not understanding things. . . .

Posted at 7:30 am by Glenn Reynolds

Glenn Reynolds
Beauchamp Brogan Distinguished Professor of Law

Professor Reynolds is one of the most prolific scholars on the UT faculty.

http://law.utk.edu/people/glenn-reynolds/

Randy Easley

I firmly believe persons with a law degree can obtain or surpass the current cut score for the California Bar Examination if they diligently devote themselves to proper preparation. This normally entails taking one or more bar preparation courses and spending sufficient time taking practice exams to identify and improve areas of weakness.

I was 55 years old when I enrolled in Concord Law School. To say the least, it was very difficult. The instructors at Concord advised me to enroll in a bar preparation course. I accepted their advice. After taking the California Bar four times, I earned a passing score when I was 64 years old.

I was able to finally earn a passing score simply because I adhered to the following principle: "Study, Practice, Learn the Lessons Wrong Answers Teach, and Never Give Up."

As a individual who has lived a long life filled with discrimination and lots of disadvantages, passing the California Bar Examination is the second greatest achievement in my life!!!!

I am very proud to be among a group of Lawyers who were willing to do the work for passing a bar examination with the second highest cut score in the nation.

Please note that if a senior citizen with entering law school nearly 34 years after completing an undergraduate degree can eventually pass the California Bar Examination with a 1440 cut score, many others can do so if they properly prepare for it.

It is recommended that the cut score remain at its current level as shown in Option 1.

Thank you,

Randy

Anonymous

I agree with option 1, keeping the current cut score at 1440. The State Bar of California needs to protect the profession. California is one of the few states that allow a pathway to licensure by a variety of educational methods. (Law office study, distance learning, unaccredited law school, CA approved, etc). While the broad range of educational paths to licensure has is benefits, there needs to be a significant hurdle to protect the public by administering a bar exam that sets a higher level of competency. Many law students at non-traditional schools do not possess the skills necessary to become competent attorneys. When non-traditional schools utilize the current relaxed admission policies, the passage rates are to be expected. The "better" answer than lowering the passage score, is limiting who can sit for the bar exam. Perhaps it should be limited to CA approved and ABA schools. If the State Bar is to continue allowing the current broad range of educational paths to licensure, the current cut score is necessary to protect the public. The exam cut score should be examined by reference to the ABA passage rates. Looking at the data this way, the passage rates are more in line with many other states.

Many individuals raise the argument that the bar exam is to test a minimum level of competency. While this is true to some extent, there is nothing wrong with having standards that are above the other states. There is no shortage of lawyers in the state of California. Law and medicine should be difficult fields to gain entry. The medical field makes it quite difficult to get into a school and limits the amount of doctors that graduate. This ensures that most of the medical graduates gain an appropriate residency and are able to use the degree that they spent a large sum of money acquiring. The medical jobs are available when students graduate. The path to gaining admission to the practice of law should be no different.

Due to the variety of educational paths permitted in California, what we have are a larger than average group of repeater applicants. I would argue that a test of competency is how you do on an exam the first or second try. Permitting a law student to take a difficult exam over and over, while they increase the relevant skills to master the exam does not tell you whether the person is competent out of the gate. It demonstrates that a potentially unqualified person can study for years and get around a hurdle. As noted the "better" answer is examining who can sit for the exam in the first place. Testing law students on the front end rather than the back end is the appropriate course. The test of whether a potential or current law student possesses the aptitude to succeed in the legal profession is in many cases not occurring during the admissions process or even during law school itself. In some non-traditional schools what we have is come one come all admission policy, followed by a multi-year bar preparation center with significant price tags. It not fair to the students and to the profession. Going back and changing the rules at this point for educational paths could have major consequences to the current educational institutions, so maintaining the current cut score is likely the appropriate course of action.

Anonymous

The State Bar needs to regulate these law schools that keep admitting unqualified students just to take their money . There is no shortage of lawyers in California and flooding the market with unqualified attorneys who can not meet the standard just to enable these money grubbing law schools makes you an accomplice in their scheme. STOP!!!!

Philip Sloan - retired from private practice in Washington State

This is just another example of the dumbing down of our culture and coddling of the younger generation by accommodating their mediocrity. Lawyers should continue to be the academic elite as they have always been.

Every year those who fail the bar exam sue for relief from their inferior performances. Lowering the standards to allow more to pass is just another example of political correctness which is leading to declining respect for the law and the legal profession.

Franklin Gumpert

As an attorney, I am strongly opposed to lowering standards for entry to the State Bar just so that a statistical number changes. The people of the State of California deserve better and more ethical lawyers to serve the ever-increasing complexities of the personal and business worlds that force the unsophisticated to hire professional attorneys and counselors.

The reality is that, with the ever increasing cost of legal education while the pay for attorneys is not keeping up with those costs, many potential law students are unable to pay for their legal education, and lesser qualified (and perhaps more financially able) students are applying for, being accepted into and attending some law schools. Perhaps creating a subsidy for qualified students willing to provide public service in return might allow smarter and harder working students to get into schools and then gain experience which will help them pass the Bar Exam.

Paul Lax - Lax & Stevens

I was admitted to the California Bar in 1980. I have been concerned about the decline I have seen in the competence of many attorneys and judges in the last 10 to 15 years. I have tried cases against attorneys who failed to demonstrate a working knowledge of the Code of Civil Procedure or the Evidence Code. More distressing, I have tried cases in front of judges who demonstrated a similar lack of knowledge. Rules that I would expect any attorney to be familiar with were apparently new information to these attorneys and, sadly, to Superior Court judges. For example, I have tried two cases recently before judges who did not know the statutes governing the use of party depositions at trial or the effect of Requests for Admission. The quality and competence of attorneys and judges is very important. One of the functions of the State Bar Association is to protect the public from incompetent attorneys and judges. Lowering the score required to pass the bar exam would be a big step in the wrong direction. I feel very strongly about this subject. There are already some very poor practitioners in California. The Bar Examination is not a foolproof method of screening out those who are not competent, but it is an important tool.

Anonymous

To lower cut scores demeans the efforts of those in the past who worked so hard to pass the Bar...Bar Review courses and Law Schools should be addressing the lower pass rates...and the State Bar itself should not be lowering its standards just to gain higher pass rates. Better law school preparation and bar exam preparation is what is needed...NOT LOWERING QUALIFYING STANDARDS...that is simply ludicrous...

Jim Clapp

With a glut of lawyers in California, the pass rate standard should not be lowered. The State Bar should inform prospective law students of their situation and to make sure they understand their job prospects before they commit to the time and expense of law school.

Anonymous

The State Bar needs to regulate these law schools that keep admitting unqualified students just to tale their money . There is no shortage of lawyers in California and flooding the market with unqualified attorneys who can not meet the standard just to enable these money grubbing law schools makes you an accomplice in their scheme. STOP!!!!

Anonymous

I believe that the State Bar needs to clearly identify why the score has gone down. I have been working with Bar applicants for over 20 years and the required/scaled written score keeps getting lower and lower. That is due to the quality of the applicants' writing abilities. Now with the MBE/standardized portion playing an even larger role in the overall cumulative score, the written portion of the exam should not be further diminished by lowering the score. Students are being admitted to law schools that have no place being in law school. That is due to declining enrollment. Unfortunately, I think it all begins with K-12 education. Students are not being taught to write and critically think as they once used to be and that carries over to undergraduate and graduate school. If lowering the rate just a bit admits more students and the statisttics demonstrate that the lower score does not interfere with a lawyer's representation of clients, then lower the score. But if weaker writing skills do impact the quality of representation, the score should remain the same. The screening of potential applicants who have a chance to pass the Bar exam needs to begin with the law school admission process.

Anonymous

Maintaining the integrity of the profession should be the upmost priority of the bar exam. Lowering the standard does not protect the public from unqualified attorneys. If law school graduates want to
Have the privilege of practicing in California they will study hard and meet the standards set in California. Hard work and due diligence is essential in the practice of law. Why not keep this standard
On our bar exam? If those who fall below the cut cannot pass, then the public needs to be protected from those individuals who would be unlikely to be successful for their clients.

Karen Dutton

I do not believe that reducing the standard required to become a licensed attorney is the best option. If students are not passing the Bar Exam, then rather than simply changing the cut score, I believe the Bar should spend more effort on reviewing the quality of the questions asked, and evaluating whether the Bar exam questions are appropriately drafted so that they allow test takers to demonstrate that they have the knowledge to be successful attorneys. If the Bar is satisfied that the questions are appropriate and necessary, I do not think allowing test takers who get lower scores to pass just so there can be more lawyers makes sense.

I also think that low pass rates likely reflects the quality of education some law students receive. Perhaps the Bar needs to put more effort into helping law schools ensure that they are providing the right curriculum for their students to succeed.

Anonymous

We do not need to bring on more poorly trained incompetent lawyers. The profession demands excellence and a candidate's ability to demonstrate basic competence by passing our bar examination.

Anonymous

The pass rate in February 1976 when I took the exam was 38% generally and about 85% of accredited schools. Nothing has changed that would require lowering the cut score.

Anonymous

There are already too many lawyers in California. The legal job market cannot support the current level of bar passers, causing hardship and/or forcing unqualified/inexperienced attorneys into solo practice. The Bar should do a better job of educating law students as to what the profession entails and give them realistic impressions of their job options.

Daren Wein - Panorama Legal Consulting, LLC

There is no current evidence that the California Bar Exam (CBE) is any more fair or unfair in its assessment of today's test takers today than it was 5,10, 15, or 20 years ago. Arguments made by law school faculty that the test is too difficult to pass are ironic as they are the group charged with preparing students to become attorneys by passing the CBE! If this was not an issue in the past, why is it an issue now? Empirical evidence and common sense both point to ebbs and flows with passage rates for the CBE. We are currently in a down cycle where passage rates are low. This can be attributable to any number of factors, but if the test is, within a range, equally difficult as it was in the past, there there seems to be no reason to lower the cut score unless the goal is to increase the number of attorneys who practice in the state. While law schools would benefit from higher Bar passage rates on their marketing materials, I believe most attorneys and citizens in California would agree that we have more than enough attorneys in the State already.

Anonymous

As California is one of a few states that provides many non ABA approved law schools, including online studies, providing access to the study of law to many non-traditional law students, I strongly believe that the standards for passing the bar must be maintained at a very high level to keep the standards of the law profession in California high. This effort to lower standards seems to mirror the trend of academic studies to the lowest common denominator for inclusion purposes rather than for academic excellence. I understand that the Bar passage rate for my ABA law school is in the high 80 percentage, if not higher. I am sure that all other ABA law schools in California have a very high passage rate as well. Perhaps the rigors of the academic programs at non ABA law schools needs to be increased so that the students who have a lower likelihood of passing the bar are weeded out at that level rather than after completing the course and then not being able to pass. Those schools should be encouraged to admit only those students, whatever their backgrounds, that are clearly capable of passing the Bar, rather than accepting marginal students and then contending that the Bar exam is too difficult to pass. California should admit only the best and the brightest candidates who are able to pass the Bar, especially as they are given as many opportunities to pass it as necessary. There are many Bar Exam preparation courses that candidates can take to prepare for the Bar Exam. Please, do not lower standards just for inclusion or social justice reasons. Those who are to become the clients will not be best served by attorneys who needed the lower standards to be admitted.

Barbara Mckenzie - Product Support Solutions

Additional information regards statistics of those representing the increase in the failure rate would be interesting. For example; undergraduate and law schools attended and performance in school. Did the failing student take bar review course, which one. How much time/effort did the student expend for Bar examination study etc. Basically a comparison between those students that passed the exam and those that did not. Lowering the cut score, does not address the underlying issue of why the failure rate is increasing, That is the issues that needs to be addressed. In regards to access to legal services, there are many ways to provide such access, Lower the cut score to admit more people is not the answer. There is no guarantee that this would increase access. Founding out why the failure rate has increased and addressing that is what should be done. However as an alternative, a directed program for under served tied to loan forgiveness and coupled with pass score might be of interest. For example, 15 year of service with license to provide such services and work in specific areas available to those with a lower bar score.

Bob Loew - retird

After 40 years of practice it is my belief that the problem arises from law schools failing to teach fundamental principals of law . Over the years I saw that lawyers I was hiring had not taken even basic classes and spent their law school careers on nonsensical "electives." When I attended (admittedly in the last century), electives were only several classes in the last year of school. It was a disservice to them, the client and the Bar. A change in the pass rate will only accelerate the decline.

Saketh Kasibatla

The State Bar of California is meant to protect the public from errant attorneys. Lowering the bar exam cut score would harm that goal, and would hurt those with fewer means. Attorneys must meet a certain standard to practice in California, and that standard must not be lowered.

A. B.

It appears to me that the loudest voices calling for lowering the cut score are administrators and professors at lower tier schools concerned about their bar pass rates, which apparently is one of the metrics they publish in order to attract new students. Do we really need more lower-tier diploma mills bilking poorly-prepared law students out of their tuition? Let these schools fail.

As for the issue of lower pass rates: it's generally concluded that declining pass rates signify poorer quality law students on the whole. That's not a surprise, given (1) retraction of the legal industry as a result of the great recession; and (2) the spiraling costs of higher education in this country. Only top students from top schools are sure to secure high-paying jobs after graduation. Why borrow huge sums at usurious interest rates to pay for four years of college plus three years of expensive graduate school, all for an uncertain shot at a job remunerative enough to pay off all those loans, when even more lucrative careers in tech and finance can be had with only a bachelor's degree? Is it any surprise that law is no longer automatically attracting as large a share of the best analytic minds in the country?

Finally, the supposed social benefits of a lower cut score are a red herring. For all but the upper echelons of attorneys, the job market is in the toilet. There are plenty of attorneys out of work or slaving away in document review dungeons waiting for a break. Why are these people not serving under-served communities? Why not ask legal recruiters and employers how many licensed attorneys, especially junior attorneys and recent grads, apply for each open position? Furthermore, how can young attorneys be expected to seek "more rewarding" careers working with under-served clients (for less money) when the costs of living in this state are insanely high and they are saddled with student debt?

Perhaps the hand-wringing and worry about cut scores would better be directed towards student loan or housing reform.

Diana Bailey - retired

I practiced law for 31 years before retiring in 2015. My latest position was as a research attorney with the Second District Court of Appeal. During my 31 years in practice, I observed attorneys employing a wide range of skill, ability, and ethical standards. I truly believe that lowering the cut score for passing the California bar will be an absolute disservice for the people most in need of legal services. The typical layman has no idea how the level of practice will affect his or her case.

If the goal is to increase legal services to underserved populations, one tactic would be for the law school to forgive student debt to those who decide to practice legal aid or other community based programs.

I truly believe that lowering the cut score will be a disservice to the community at large and to the legal community.

Greg Gross - Ciummo & Associates

Rather than lower the score, make the third day of the exam the least challenging. Give the more difficult questions on the first day of the exam and the least difficult on the third day.

Paul Cleary - Commercial real estate finance

Keep the stardards high. The current stadard has worked for a long time, so the passing rate decline must be due to something else. My unstudied opinion is that the academic standards and expectations in high school and college have lowered. That said, further study should determine the real cause and changes should address that. Remedial education / automatic inclusion in bar exam prep courses? Working with undergrad insitutions to increase skills before entering law school? I have no idea, but lowerin the standard is the wrong course in my opinion. I am not practising law any more, but even in my profession, attention spans are miniscule and writing habits are abysmal. I would not enable the "dumbing down" of a great profession to hit some arbitrary goal.

I wasn't a great student, but I managed to accomplish passing the bar on the first try. Further, I paid for all my education myself (and went on to get an MBA). Hard work pays off.

Anonymous

The declining pass rates are not due to the difficulty of the bar exam, although it is a very hard and grueling exam. The declining pass rates are due to the lowering standards of law schools and the lack of dedication by those who fail the exam. To pass one must study significant time and give 150%. Its a hard exam because law is not easy, nor should the bar exam be.

If we lower the standards we lower the profession. I know bad lawyers make it through but they did so by hard work and if we lower it you can expect the profession to decline in quality. The exam is now only 2 days, if we make it any easier the pass rates will increase but the competency of the new attorneys will lower 2 fold. Keep the profession as prestigious and a hard accomplishment to gain, otherwise why even have a bar exam...

Peter Laughlin

Why lower the 'bar' to admit attorneys unable to pass the California Bar Exam using the current cut score of 1440? Perhaps it is that the current cut score of 1440 is a good measure of commitment to the profession and lowering it may lead to unqualified students entering the profession.

Karen Taillon - Law Offices of Karen L. Taillon

California has always been a leader in legal education, and has correspondingly held students to a high performance level both in the Bar pass requirement and in providing legal services to all facets of the communities we serve. "Dumbing down" the Bar does not serve either goal.

A better approach, I suggest, is two fold.

One: enter into reciprocity agreements with other States that maintain the same or very similar high standards in order to broaden the availability of legal services, and require these new admittees to provide a minimum number of part time legal services hours to under-served populations during their first year of practice after admission.

Two: require all law students to fulfill a one-year. post graduate internship program serving under-served populations through legal service networks, local community programs etc. The first six-months would be part-time and dovetail with preparation to sit for the California Bar. Upon successful completion of the Bar, the student would enter into a second six-month internship focusing on one of three areas - civil litigation, criminal law, business/corporate/transactional services. Funds should be made available to provide legal services organizations the financial ability to both pay for these internship hours and pay for Bar review courses for students who show financial need so as not to increase borrowing.

William Balin - (solo)

A) I completed the short survey also sent out with this comment form link. The problem I have is that I don't believe that the majority of the Bar Exam is a good indicator of a person's fitness to practice law. Thus, while I think it is very important to protect the public, to provide access to the courts and to increase diversity among lawyers, I don't think that keeping the current cut score or reducing it will have much effect on any of these problems.

B) The problem I have with the way I was taught in law school and the Bar Exam's current format is that, other than the practical part of the exam, nothing in it really measures a person's ability to practice law. Also, the Multi-state Professional Responsibility Exam (MPRE) is a poorly constructed exam--at least it was a few years ago--and I don't think it accurately measures a person's knowledge of a lawyer's ethical duties.
I think I have some ability to make these assessments, as I was a Bar Exam grader three times, and have taught legal ethics in law schools a number of times.

C) One thing the Bar Exam does do is measure a person's ability to read and analyze a problem and to write clearly. I think these are generally important things to measure in many professions, including the law, and having seen the quality of writing of test takers, I would not want more test takers becoming lawyers than already do.

D) What is needed, I think, is a complete revamping of the test. It should have a half day of reading comprehension and writing ability, and three sessions of practical exam: 1) a session on a transactional matter; 2) a session on planning and carrying out a discovery plan or on working up a case, including investigation; and 3) a session on planning and presenting a position in a trial or contested hearing. There should also be some testing for professional responsibility competency, which should include a mandatory section on client trust accounts. In lieu of a better alternative, the MPRE is better than nothing.

Erik Schnautz

The public is not served by reducing the cut score.

The only interests served by a reduction are those of for profit law schools (these days all of them, even our hallowed state institutions) who have to "sell" the value of a legal education to prospective students who might never pass the California exam. Instead of encouraging them to increase their admission standards and make their programs more rigorous, reducing the cut score will have the opposite effect.

All the other considerations enumerated in the questionnaire sent to members of the bar are secondary to the Bar's primary function: ensuring that the legal profession is peopled by competent attorneys. The rest of the considerations, if they are "real" to those who put them forward can be addressed in other ways.

Brian Pomerantz

I think it was wrong for the bar to change the exam from three days to two. I took the longer exam, I passed the higher score. There are already too many bad attorneys in California, we do not need more.

Trevor Luxon

California already has a significant surplus of licensed attorneys and the number of new attorneys being admitted to the CA Bar each year significantly exceeds the number of new job openings. It would be against the interest of both the public and the qualified attorneys within California to lower the cut score to allow for the admission of attorneys that are not qualified to practice. In an already flooded job market, attorneys who scored high enough to pass the current cut score should not be exposed to the competition of even more new attorneys when those attorneys cannot meet the basic competency requirements, and the public should not be put at risk by allowing unqualified attorneys to practice. If anything, the cut score should be raised.

Lionel Allan - Active memer but retired

In the name of "political correctness," please do not "dumb down" the quality of lawyers in California.

Peter Kemmerly

You have the "politically correct" desire to lower scores on an outlandish joke that it will help the profession by creating inferior lawyers. This is race discrimination, not creating true diversity through work and effort. If you do not pass, work harder, try again and then work harder. It took my wife 6 times before she passed. I passed the first time. I was smarter and worked harder when I was young. She then worked harder and harder. Her passage is true equality to all attorneys.

For 50 years (two whole generations) the term "equal opportunity employer" has really been a lie that has been twisted to become a "Jim Crow" law that discriminates against non-rich and non-politically correct individuals.

Your desire to force "diversity" is just discrimination. Call it for what it is.

Kristine Schmidt - Molloy Schmidt LLC

My understanding is that the MBE is half the score, and that is supposedly objective, so the subjective part comes from the grading of the essay questions and practice part.

In my day (1980s) there seemed to be a disconnect between the study workshops and bar scores. I kept passing the essay part but just missing the MBE passing score. Finally, I took a special MBE class (not just the BARBRI class) and passed the California Bar Exam the third time. I wish I had known about that special MBE class the first time I took the exam. Maybe that is one way to raise scores, if a lot of people are not passing the MBE -- more information about classes geared to the MBE.

If people aren't passing the essay and practice part, then their writing skills need help. Law school wasn't that great at teaching good writing skills when I went there in the 1980s (University of Santa Clara). One month or one semester of legal research and writing doesn't cut it. You need to be researching and writing all the time to get to be a decent writer, and improve.

I did a lot better on the Washington Bar Exam when I took it in 1995 (just the essay part) because the BARBRI study workshop in Washington was simply better and more focused on taking and passing the test.

Frankly, having more people pass the bar exam is not going to help people who need legal services but can't afford it. That is a whole 'nother topic. Change the legal system first.

Kristine A. Schmidt

Anonymous

Would you want the brain surgery exam cut-off lowered, or the exam dumbed down? Implementing either of these options for the bar exam is not getting to the root of the problem. It appears that most the considerations listed on the survey regarding the cut-off score (except for two), have nothing to do with competency, and all to do with extraneous, irrelevant factors.

Anonymous

The integrity of the legal profession would be adversely affected by lowering the standards. The qualifications and admission to the bar should actually be more difficult and stringent. The fact that the pass rate has been lower should be a signal that either the law schools are not preparing the students or that the candidates are less than qualified. Further, there is a trend of law schools accepting more unqualified students who incur massive amounts of student loan debt due to the ease of access to student loans, which can be directly correlated with the increase in tuition and low bar pass rate. This is the problem. Schools are profiting by increasing enrollment and tuition rates at the expense of students who will be, and are currently, riddled with debt, and who are not prepared for the legal profession. Additionally, public opinion for lawyers continues to diminish which could be correlated to the increase in under-qualified attorneys entering the profession. Lowering the bar to allow more unqualified/under-qualified and unfit attorneys will only harm this well respected profession.

Anonymous

Thank you for allowing comments and response to a survey regarding this topic.

There is no doubt that the California Bar Exam is a daunting and difficult experience. I came to CA from WI to go to a CA-accredited law school knowing full-well that I would have to take one of the hardest bar exams in the country. Had I gone to law school in WI, I could have been automatically licensed through the diploma privilege...it was tempting, but I wanted to compete amongst the best.

Law school was much more challenging for me than I had expected, and I soon found myself struggling and slipping in class rank. I kept fighting, but by the end of my 3rd year, I was admittedly scared that I would not be able to pass the CA Bar Exam given the low passage rates I had always heard about. It really seemed hopeless...how could someone who struggled to get through law school possibly pass the un-passable?

Despite my challenges in law school, I still wanted to become an attorney as much as I ever had before, and failure was simply not going to be an option. The enormous challenge that was in front of me changed how I studied, improved my discipline and made me realize that if you want something badly enough, you will do whatever it takes to achieve your goal.

I cannot begin to explain the amount of pride I had when I got the notice that I had passed. That pride, and the confidence that resulted, lasts to this day. It comes from having done something that only a small number of people can do. And I am proof that you do not have to be in the top or middle of your class to do it.

A couple years after law school, I moved back to WI (and had to pass another bar exam) and interviewed for an in-house counsel position at a Fortune 50 company. The General Counsel asked me where I went to law school and how many times it took me to pass the CA Bar Exam. When I told her that I passed on my first attempt, she was very impressed and told me that the company had never hired such a junior attorney before, but she was willing to give me a shot because I had to have what it takes if I was able to pass that exam on the first try. I still work at that company 14 years later and am now a General Counsel.

There is absolutely no guarantee that lowering the score will yield more diversity in the group that passes or more attorneys who will support those who are disadvantaged or unable to afford representation. California has something special in the difficulty of its bar exam. It gives those who pass an edge over other attorneys in the country. It IS passable by ANYONE who gives it the respect and diligence that it deserves. Continue to be that source of pride for those who fought so hard to make the difficult cut.

Thank you for your consideration.

Anonymous

The standard for passing the exam, which hundreds of thousands of lawyers, should not be changed to accommodate a lesser committed aspiring student.

Richard Hamlish

I do not believe the state bar should lower the standards for practicing law. The present standard is adequate to test the competence of the applicant. The arguments that minorities are disadvantaged because of the high standard is outrageous. Any minority applicant who has graduated from law school has already their competence. The bar exam is just another step in showing that competence.

Stuart Friedland - retired / inactice

I WAS A SCHOOL TEACHER BEFORE BECOMING AN ATTORNEY. Dumbing down only leads to one thing; dumper. I thought our Bar's purpose was to protect the public. How is it in the public's interest to have less qualified attorneys?

Anonymous

The argument that the CA Bar Exam is 'too difficult' should not be a weighing factor in lowering the cut score. There is already an overflow of attorneys in the industry, all of whom were able to pass the Exam at the 1440 cut score. To dilute the qualifications to become a CA Attorney is not only a dishonor to the profession, but also to all the current attorneys who were held to a higher standard and rose to the occasion.

Victoria Webster - Yamaha Motor Corporation, U.S.A.

Education has been consistently "dumbing down" to accommodate higher passage rates and now there is a proposal to do the same with California's legal profession. We should not allow that to happen. If you can't pass the California Bar, then maybe you shouldn't be practicing law in California. Perhaps the entire debate on whether to lower the cut score is a direct reflection on the lack of proper education in law schools and thus the current educational methods should be reviewed instead of changing the cut score. Consider if you will, the SCALE program at Southwestern University (Southwestern's Conceptual Approach to Legal Education). It is a two year, year-round program that emphasizes concepts in the law (i.e., the concept of "intent"--the intent to make a will, the intent to enter a contract, the intent to commit a crime, etc.). Rather than the brief synopses of cases included in the regular textbooks, such as Torts or Contracts, SCALE students study the entire case--all issues addressed but with obvious emphasis on the subject being studied at that particular time--which is more akin to practicing law. Potential clients do not come to a lawyer with a "Tort" problem; they come with their issues and expect the attorney to figure out what the issues and remedies are.

A couple of the reasons cited for lowering the cut score (increasing diversity and increasing access to legal services for underserved populations) seem to suggest that those who would fulfill those categories will not be able to do so unless the cut score is lowered which, to me, discounts the abilities of those individuals. Instead of increasing the level of education to equip them to be able to pass the Bar it is rather decreasing the score so that more can pass. Where did the 1414 score come from? How about making it 1400? Or 1380? Where does it end?

Admittance to the California Bar is a prestigious invitation and, in order to maintain the high standards of our profession, the cut score should not be lowered.

Calvin Moorad - Law Offices of Calvin Moorad

I have been a practicing attorney in CA for over 53 years and am soon to be retired. Without sounding like an oldtimer yearning for "the good old days" I am concerned about basic skills and civility of some of the lawyers coming into the profession, particularly from some of the more "marginal" law schools in the state. I fear that by lowering the present pass rate we will be in danger of an increased rate of such types of under qualified lawyers coming into the profession. I make this comment not out of fear or concern of more competition, since I plan to hang it up soon anyway, but out of concern for the profession to which I have devoted my life.

Edwin Estes - Mt. San Antonio College

Lowering the "cut score" can only facilitate less qualified people into the practice of law. For some to argue that a lower "cut rate" score will make more attorneys available to serve the less fortunate really only sets up the less fortunate to be represented by unqualified attorneys.

I am very disturbed by self serving comments from under performing law schools, who try to justify a lower "cut rate". Poorly performing law schools need to increase their academic rigor and show the discipline to not admit students who do not have the academic qualifications to succeed in law school and pass the bar exam. Dropping admissions requirements and then faking astonishment over poor bar passage rates rings hollow to me.

If the public is to be served by qualified attorneys, then law schools need to be honest about what it takes to become eligible to practice law to their students and the public.

James Morris

How does it serve the public to reduce the standards by which persons are admitted to practice? The falling pass rate may simply reflect that the brightest and best young minds no longer find legal education or a legal career appealing. People might just be pursuing business or tech careers. If law schools find the pass rates for their students are declining, perhaps they should look to their own curricula.

Charles Schofield - Schofield & Grossman

We want qualified members of the Bar. A potential member of the Bar should know enough to pass the qualification exam.

Christopher Campbell - Carothers DiSante & Freudenberger

Sacrificing quality of counsel and/or public confidence in the competence of counsel that are in part derived from the rigor of the California Bar Examination is not the appropriate response to a quantity issue, even assuming such an issue exists.

David Bell - Childrens Law Center of California

I do not think that the score of the exam should be changed because individuals need to be able to think on their feet and get the job done. There is nothing inherently wrong with the exam itself, the students taking the exam have gotten lazier. If others are able to pass the exam at the current rate, then there is no reason that others should not be able to do the same. The exam has not gotten harder and it is better that studies look at the students and individuals that are taking the exam to find out what is happening to their study habits. In addition, a large number of people are seeking to be admitted in California and it should remain the way it is to maintain employment rates for those that have passed the bar. Further lowering the passage rate and admitting higher numbers of people into the profession will not help us to fix the employment problem.

Robert Woods - (SBN 56243, inactive)

While currently (semi) retired, I continue to interact with attorneys on a variety of subjects. I also taught law for nearly 20 years. My teaching experience indicated a general decline in the quality and abilities of students, a situation that appears to plague other pursuits as well. Compounding this, perhaps in part a result of it, is a rather evident (to me) decline in the ability and breadth of knowledge of younger practitioners, noted in my rule as a partner/managing attorney. While acknowledging California has the second highest cut-off score in the nation, part of the problem is, very simply, use of the multi-state bar in general. It is inherently a test of general principles and does little to assess specific legal knowledge. Assessment of organizational and analytic skills through the medium of essay questions is also diminished. In short, I believe a return to a California-based exam - with a multi-state component to give examinees other options - would better protect the public and, due to higher skills being required, should lessen court congestion. I will leave you with what is perhaps a novel observation. I attended seminary while still in practice and was ordained, a calling I still follow. The ordination process in my church requires psychological assessments at the beginning and end of the preparation process prior to ordination, and the examination is five days long. The process is rigorous precisely to protect the faithful from incompetence and instability. The practice of law touches on extremely important aspects of peoples' lives also. Only the highly competent and emotionally stable should be allowed the PRIVILEGE of practicing law.

Loretta Calvert - self employed

As an attorney who practiced since 1999 and has three other state bars under my belt including NY and AZ, I was appalled at the amount of hoops I needed to jump through in order to gain admittance to the CA bar. If you are truly concerned about access to justice issues consider some sort of reciprocity arrangement. Maybe one where an attorney practicing for 10 years with a tough bar like NY could get access without needing to fill out quite so much paperwork. I'm surprised you didn't ask for my first-born child or a hair sample.

I'm fine with the exam portion for attorney's as I understand your concern that attorneys practicing in your state fully appreciate the nuances of CA law. I had no problem with the exam because I devoted myself to rigorous studies under the time constraints and conditions required when taking the exam.

Thank you for your consideration of my comments and please do not dumb down your exam.

Casey Clements - Sole Practitioner

There are already way too many lawyers in California. One of the problems is that the state has too many law schools . . and especially those that are not ABA approved and numerous ones that will admit almost anyone into their student ranks. The standard should not be lowered because of the concern for those that can not repay their debts because of their failure to pass the bar. If they are not able to pass the bar . . why would anyone assume they would be competent attorneys? Don't drop the score requirements just to have even more lawyers swimming around the state in search of work/cases etc. It will only water down the quality of attorney in the state and make is that much harder for the truly competent to find work.

Anonymous

I applaud the Bar for addressing this issue, which has significant importance to the future direction of the profession.

After considering both options, I would prefer that the cut score remain at it its current level. Passing one of the most difficult, if not the most difficult, exam in the country is a point of pride for many attorneys, myself included, and something that gives many clients confidence in their representation. Making the exam marginally easier would not, in my opinion, substantially address the underlying issues. It could very easily, however, have the unintended side effect of creating the public perception that the exam has been "devalued."

There could be many viable solutions to the declining exam passage rates (although I'm not entirely convinced that that is a problem, either); making the exam easier is not one of them. I would suggest that the Bar consider options that would help exam takers prepare more effectively, instead, whether that be via publishing study guides, partnering with schools to provide exam preparation seminars, or similar.

Courtney Lyons

While I was only an attorney for a brief period in California, I strongly believe that my experience with the CBX is telling. I currently hold multiple state licenses (for personal reasons involving moving across the country) and most telling, all of my licenses have been obtained in the time period of this a la mode bar-exam-score-panic that has gripped the country. I obtained NJ and NY (another exam to be considered by popular opinion as "difficult") in 2014, CA in 2015, and MA in 2016. I was forced to sit for bar exam experiences in all states.

I understand fully that it is frustrating to pin-point the true source of these falling scores. I also understand that state entities feel a crushing compulsion to somehow respond to this phenomenon because of public outcry. However, I think it is a terrible idea for the State Bar of CA to be the organization who responds by lowering the standards. For all intents and purposes, I don't believe that anyone truly thinks "the bar exam is getting harder". There does not seem to be sufficient evidence to suggest this. If the true reason for falling pass rates falls with the schools that are churning out graduates ill-prepared to pass the bar exam, then let them shoulder their own responsibility. It looks petty and irresponsible to respond instead by lowering the pass score and according, lowering the standards of admission to the bar.

While legal bar exams in general (and in all states, not just CA) have come under fire as being merely a 'hazing ritual' or an 'antiquated method of admission' to some - I personally have taken 4 (NJ NY CA & MA) and haven't found reason to complain about my experiences. I find it an important element of keeping high standards in state practice and I believe that it does to a certain extent, separate the wheat from the chaff.

You're already making the process easier by cutting the experience down to two days instead of three; do not cower by lowering the cut score.

Anonymous

Don't lower standards, improve the law school curriculum & the pre-test preparation, e.g., bar exam study programs.

Roderick Reames - Retired attorney

I am disgusted with some law schools that permit students to skip class or exams because of some "public" issue that makes them feel bad. I suspect the same attitude applies to lowering standards of passing the bar. If "they can't cut it" they shouldn't be given the license to represent clients in real trouble.
Roderick Reames 39341

Peter Stone - peter stone attorney

I was admitted before the Bar in 1992 and have studied the matter during discussions with many law students over the years. To lower the qualifications of attorney in California make no sense to me. The schools should have fewer student and only admit students who have shown that they have the qualifications that they can pass the bar. There is no evidence the test has changed, so the evidence must be that the quality or the preparation of the test takers has changed. It would extremely harmful to the public to allow lawyers admission to the bar at a lower level than the current attorneys in practice in California. The public must be protected and the deans must tighten up their ship. When they got the top candidates and their scores were through the roof they did not complain. Now that there is a period of change and better students are entering other fields, we cannot just make it easier to pass the bar.

Bryan Coryell - O'Brien & Associates

I suggest that you read the recent article authored by Judge Fahey in the Daily Journal. I agree wholeheartedly with the sentiments he expressed and the points he made. Everyday I deal with lawyers who do not have the skills to practice law. I see lawyers who cannot write clearly or persuasively, who either do not understand or are too lazy to research black letter law and procedure, who cannot draft basic pleadings, and who cannot speak clearly and persuasively in court, and who are constantly unprepared. For example, I recently appeared at a hearing on my co-defendant's demurrer. At the hearing, plaintiff's attorney was unable to answer the court's simple question about a causation allegation. The court asked repeatedly where causation was alleged in the challenged cause of action. The court went so far as to state, "Where in your complaint does it allege that the accident caused the injury." The court asked this simple question eight to ten times, in every possible way. Yet plaintiff's counsel was unable to answer it and continually answered by talking about issues irrelevant to the question. Plaintiff's counsel repeatedly talked about what he believed the evidence would show through discovery until the court finally had to explain to him the difference between an allegation and evidence. It was truly embarrassing to listen to this exchange. This is but one example of the ineptitude I see every single day.

I do not believe any possible good can come from lowering the bar pass score. The public places its trust in attorneys, and people generally need attorneys when they have a problem. Our work has drastic ramifications on people's lives, and the public deserves the very best from our profession. Allowing lawyers who do not have the ability to pass the bar exam as is to practice law, will only lower the already mediocre standard of legal practice that exists. The fact that California has one of the most difficult bar exams in the country is not a reason to lower the score. It is a positive reflection of the high standard we impose on our profession.

I would like to make one final point. When I submitted my attorney comment form, which did not allow me to provide written comments, I was offended by the statement that including more minorities, or people from different ethnic backgrounds, in legal practice was a reason to lower the bar pass score. Are these people less intelligent than the rest of us? No, of course not, and it is incredibly insulting to insinuate that people of a certain race or ethnic background need the score to be lowered in order to pass. That is no different than saying that women need the score to be lowered to pass, a statement I am quite certain the bar would never make and which would be completely untrue.

I also do not believe that increasing legal access to those who cannot afford it justifies lowering the score. There is absolutely no logical basis to believe that the additional attorneys admitted if the score is lowered will choose to represent lower income clientele. We would be better served by imposing a pro bono requirement on already admitted lawyers, which would ensure that these clients receive the quality legal services they also deserve.

Thank you for your for reviewing and considering my comments.

Anonymous

The bar exam is similar to the final step in apprenticeship to a union. It should be blind, it should be rigorous, it should assure employers, colleagues and potential clients that the person meets the high standards of the California Bar exam. The fail rate needs to be addressed by law schools, not the Bar.

Daniel Shriro

There are way too many lawyers already. The score should be higher not lower.

Harlene Miller - Harlene Miller Law, A Professional Law Corporation

Would want information as to how many people would have passed in the last bar exam had the score been 1414. Also, the California Bar Exam has always been one of the most difficult to pass. Perhaps some consideration and analysis should be given as to the students themselves and the effort they put into studying for the bar. Perhaps there is a correlation to the recent lower results. Also, how was the 1414 number determined?

Conness Thompson - Law Office of Conness A. Thompson

So, let me make sure I understand all the relevant data points:

- In recent years, California bar passage rates have been declining; fundamentally, nothing in the test has changed, thus the decline is likely attributable to less qualified candidates choosing to pursue a law degree, which has been attributed to the economic realities of going to law school - both in terms of chances of finding a job and the debt incurred as a result of attending, and there are already more than enough lawyers in California.

So the solution is to lower the standards of admittance? How in the world does this logically follow?

The nut of the issue would appear to be less qualified folks deciding to go to law school. So the problem isn't the bar passage rate. The problem to be solved is attracting qualified candidates. And to solve this, the focus is properly on law schools. First, law school is too expensive. It is ridiculous that twenty-somethings graduate with a debt in the $100,000+ range just for law school, which is often on top of substantial debt for undergraduate college. This debt is compounded by the reality that most law students are not going to end up at Big Law (i.e., the only viable option to pay off the massive law school debt). And those that really want to be in-the-trenches doing "law" - versus the mind-numbing document review type of work and the politics of working in Big Law - are not going to find this an attractive option. Second, law schools need to better address the need for training students to be practice-ready upon graduation.

Thus, if the goal is to increase the number of employed, qualified attorneys working in areas desperate for attorneys, focus on fixing what is broken - law schools - not lowering the standards of who gets in.

Anonymous

Lowering the pass score will only accomplish one thing: There will be less qualified attorneys practicing within this state. As an Administrative Law Judge I see far too many barely competent attorneys already. Our profession doesn't need even worse members. I cannot think of any good reason to lower the passing score.

Anonymous

There are already too many lawyers. The rationale that the burden of student loan debt on those who cannot pass the bar is unconvincing. Many bar passers are unemployed/underemployed and still struggle with loans.

Additionally, the legal market is changing and so is the need for licensed attorneys. CalBar would do better by focusing on the underemployment of of existing attorneys and researching the legal adjacent market.

Frederick Stevens

Are you kidding??? Lowering standards to raise bar passing rates is not the way to excellence. This proposal is will result in "dumbing down" the legal profession. We already have enough dunderheads in our midst and don't need more. Absent is an Option 3 which would require raising the standards to get into law school and improve the quality of education law schools provide.

Max Hoseit - Hoseit and Kowelyn

I took and passed the Bar in September 1951 after Graduating from Hastings in June 1951. They called it the Big Flunk as only 33% passed. One of my classmate who was in the top 10% (Thurston Society) failed as did many others. Stanford and Boalt Hall had higher percentages and Hasting was in the 20'3. My classmate along with most other continued to study and passed the Bar in the following Spring.
Perhaps in the pursuit of revenue they are admitting unqualified Applicants. Do not lower the Standard. Max H Hoseit- class of 1951- Hastings.

Anonymous

It would be irresponsible to lower the cut score before we even know the results of decreasing the days of testing from three to two. We should first observe the effects of changing the test.

Kristen Caverly - Henderson, Caverly & Pum LLP

I believe that the problem creating the current pass rate decline is who is being admitted to law schools, not the exam or CA standards for attorneys. Law schools are selling admissions and graduation since the recession with tuition increases outpacing inflation every year. The Bar should be active in educating the potential law school candidate about the hazards of taking on massive debt and not having a job paying sufficiently to cover that debt whether or not he/she passes the bar. Many people who pass the bar do not end up making a living as an attorney or do not make enough to have made the law school investment reasonable. This is a consumer protection issue more than a bas passage issue.

Having underqualified people pass the bar does not increase diversity or serve underrepresented communities. Diversity and service to underserved communities can be increased by funding for pro bono legal services and loan forgiveness programs or other options to make paying for law school more reasonable for those who do pass the bar. If you are straddled with tens of thousands of dollars in debt, taking a public service job is not an option.

John Houts - Law Offices John W. Houts

Keep the current cut score. Recently I received a letter from the Dean of Hastings College of the Law lamenting the fact that their pass rate was well below 50%. I was shocked.
The Dean blamed it on the exam. I made inquiry. I determined that: Hastings has been accepting candidates with lower LSAT scores; that the essential Contracts first year course had been cut from one year to half a year; that the school was giving open book tests; that the school was giving take home exams; that the school was indulging in grade inflation to make the students feel better about themselves. I emailed back and forth to the Dean expressing my concern and indeed outrage. I also met with him personally in San Diego when he was at a new student reception.

While he heard me out, it was apparent that he felt the exam was too tough. He is wrong. Hastings is not doing the job in preparing its students for the exam. Grade inflation and open book exams is not the answer. Schools like USD have similar LSAT entry scores but manage to pass most of their students on the first try. USD has a program called one and done they acknowledge that their students are not perfectly qualified from their undergraduate experience; they take those students in hand and they prep them for success starting in the first year.

If you lower the cut score you are foisting off on the people of the State of California ill prepared graduates who have not been properly educated. Hastings takes their money, leaves them with massive debt and an inability to pass the exam. It should also be noted that statistically the ability to pass goes down with each attempt.

The Dean actually told me that the faculty is resistant to change and they are partly to blame.

Look, it's simple. If the law school does its job, then the pass rate will take care of itself.

Anonymous

Competent, knowledgeable, and skillful legal professionals are of utmost and primordial grave importance to the public regardless of all other factors.

Everett Kavanagh - Everett Kavanagh, Esq.

The way to improve attorneys in California is to institute an apprenticeship system or some requirement for work experience. Do this alone, or giving students a bar score credit after doing such work, would be a much better option than just reducing the overall pass score.

Edward C. Moore

Although inactive since 2010, I was earlier engaged in a small general practice as a sole practitioner in Alameda County (mainly civil litigation in state courts, but also state court appellate work both civil and criminal). A small but significantly troubling percentage of attorneys I encountered were idiots and doing little more than preying on their poorly informed and troubled clients, turning $1,000 problems into problems costing tens of thousands to justly resolve. They should never have been licensed. Don't lower the standards for admission if doing so will result in even more self-seeking numbskulls obtaining licenses to rip off the public.

Steven Malcoun - Mayall Hurley

The Bar Exam in California has worked for countless years to establish a base line of knowledge for individuals who wish to have a law career. The test is not any easier now then it was in 1978 when I took it. Are we saying the candidates today have less intelligence so we have to make it easier? The candidates today have just as much intelligence as in past years. This seems like another "PC" move to appease. California does not have too few attorneys. In fact, we have too many attorneys.

Steven A. Malcoun SBN 84946

Anonymous

I graduated from an ABA accredited school in California in 1991, and passed the CA bar on my first attempt. I believe that the current passage rate is a fair assessment of the qualifications of candidates who take the bar. There are far too many non-ABA law school graduates who are simply not taught the necessary academic skills needed to practice effectively in California. Admitting unqualified applicants to the bar by lowering standards of bar passage diminishes the integrity of the bar itself. The arguably valid goal of achieving diversity by lowering the bar for admission only perpetuates the stereotype that applicants of color and or certain nationalities are not as qualified as other applicants and therefore need lower standards in order to be admitted.

Jennifer Brobst

The California bar exam must maintain its longstanding rigorous standards and should not reduce the cut score. It certainly should not reduce the score to appease those who feel entitled to pass because they have attended a particular school that is supposed to represent excellence and prestige. California should take pride in the fact that it has the highest required score in the nation for the MPRE and should have taken more pride in having had the most extensive MPT in the nation. The recent reduction to a shorter MPT and two day test is concerning and has not been given sufficient time to determine if it is representative of a reduction in quality of admittee. Tacking on a drop in cut score before understanding the impact of the 2 day test is unwise. It was reported that the July 2017 bar exam had a record number of applicants, possibly due to the shift to an easier 2 day test. California is a large, diverse, and powerful state, proud of its ingenuity in law reform, which requires the finest that the legal profession has to offer. Do not let the fact that other states are willing to reduce their standards impact the decision on the California bar exam cut score. Leave the fight over the ABA accreditation bar passage standards to the law schools. They have other issues to address and I believe California holding fast on the bar exam can positively impact legal education.

Having taught at several law schools across the country, I have seen a clear decline in the quality of entering students' analytical, reading, and writing skills over time. We all know this is a refrain sung by many in academia. It is obvious at every level, even occasionally in the caliber of supreme court opinions in recent years, likely drafted by law student clerks who no longer offer the same level of writing skills. I believe the skill level of the top students in the classroom is still strong, regardless of the "tier" of the institution, but the caliber of the weakest students in the class has fallen significantly. To my distress, this weaker set of students has grown in number in the last decade.

If one looks at the research on K-12 standardized test results, including SAT results, the U.S. is experiencing an educational crisis at the high school level. While elementary schools appear to be improving or at least maintaining higher standards, high schools are allowing students to graduate with a diploma without the requisite skills we used to demand of students who wished to attend college. In 2015, SAT scores were widely reported to be at their lowest level in decades. Research on undergraduate institutions has shown a degree of desperation to admit and retain students at all costs to maintain tuition revenues. When these students reach us in the average law school institution, with mediocre or even poor LSAT results and inflated GPAs, it is too late for us to teach

them basic analytical, reading, and writing skills, skills which take years to acquire.

When these students have received the false message for years in high school and college that they are strong students and good writers, it is emotionally deflating and financially precarious for them to learn the truth in law school that they have educational deficits. It is occasionally rewarding, but more often exhausting, as a law professor to enlighten these students and try to get them to catch up and get to the finish line. I know from many years of teaching that law students can be autodidacts and emerge from the most stressed and underfunded school district and still excel in law school, even with mediocre LSATs due to lack of funds for LSAT prep courses or pre-law programs. The AP English course in the affluent school district one of my children attended did not compare favorably to the rural underfunded school district my other child attended after we moved. The rural school's traditional English teacher actually taught creative and critical thinking skills and was more rigorous in every way compared to my other child's AP English teacher who simply taught to the AP test. I went to a public high school in southern California known, at the time, for drugs and theater, but loved school anyway and got through the California bar on the first go.

I make these assertions to explain why I I fully endorse a generous admissions policy to law school. But it requires us to acknowledge that we cannot trust GPAs and LSAT scores as indicators of success to the same extent we have in the past. Across the country we are seeing a mix of public and private law schools with outstanding bar passage rates and appalling bar passage rates. The combination of a lowering of standards in high school and undergraduate institutions in America, along with the interference of prep programs for the upper middle class that only teach to the test, is making law school admissions decisions more of a gamble than ever. US News and the legal profession's obsession with the appearance of rank and prestige based on wealth and indicators like LSAT scores are a cancer on the profession. If bar exam results are falling at nearly every type of law school, then something is afoot with admissions.

To find the best we have to take a chance on students, but it is not an unlimited pass. To protect the reputation and integrity of law schools and get the right students to the bar exam, we must not continue the mistakes of our present high school and college systems and pass students by looking the other way when they cannot compete. Law school administrators must have the courage to admit more students and fail more students. Law schools should be places of honor for students who excel and have the skills and integrity to protect the public. It is not greedy to take the money of a broader array of students for one year, providing sufficient support to try to equalize the field. It is both greedy and dishonorable if those students are allowed to continue to the second or third year when they have not been able to prove themselves. Law schools should not be bastions of elitism and entitlement, nor should they be catchments for the tuition dollars of debt-ridden students unlikely to succeed on the bar exam. Law schools should never be remedial schools for basic reading and writing skills. If we maintain the integrity of the bar exam in California and other states, it will force law schools to be more honest with their own students.

Susan Alexander

Lowering the bar for acceptance into the profession doesn’t sit well with me. The State set the original standard for a purpose and if applicants are not passing it is a matter for law schools to address. Further, there is no shortage of attorneys in California so there is not an essential-need argument to be made for lower the passing score.

If the proposed lower score had been in effect when I took the bar, I would have passed my first time out. Instead, I lost 2 months of my life and incurred a lot more expense sitting for the exam a second time. Applicant’s should all be held to the same standard. The exam has already been shortened from three days to two – a significant advantage to current applicants.

If the pass rate is lowered then anyone admitted 2017 and beyond will always have an asterisk by their bar number in my mind.

Wayne Kreger - Law Offices of Wayne Kreger

The desire to lower the cut score is an absolute disgrace. California is the only state which allows students from unaccredited law schools to sit for the bar exam, so the cut score cannot really be compared to cut scores in other states. Letting these mostly unqualified and unprepared students sit for the exam is charity enough, but if you took all of their scores out of the equation, what would the true pass rate for California be? A LOT higher! The only reason we are even having this debate is the unaccredited graduates are artificially dragging the overall pass rate down, what is their overall pass rate, 10%? What possible justification could there be to compound this mistake by actually lowering the cut score even further??? This is nothing other than social engineering.

Anonymous

As a practicing attorney for nearly a decade now at a large law firm, I have had the opportunity to interact with several lawyers across this state. If anything, I believe we need to raise the score actually. The standards and integrity of our profession are of the utmost importance. I have never heard about a shortage of lawyers in this state and the lowering of standards only increases a race to the bottom. The fact that we allow students from non-accredited institutions to sit for the exam is frankly a disgrace and allows for several of these for-profit institutions to continue to prey on students and their lending institutions (usually the final bill being subsidized by the tax payer). Why not make this simple--only students from ABA accredited law schools may sit for the exam. Why are we trying to lower the standards? Is the reason based upon some ambiguous argument of "increasing diversity?" A neutral objective test should not be denigrated into a tool of political correctness--if anything we are hurting diverse candidates by allowing the non-accredited institutions to feed false promises to their populations. Stop facilitating the fleecing of these students by these predatory schools.

Kevin Holman - Law Office of Kevin L. Holman

I went to school with several students who probably should not practice law, yet they eventually passed the bar exam. There were more of those people then people who were seemed qualified to practice, but could not pass. Isn't the problem with the education that test takers are receiving rather than the test itself?
Why don't you look at improving the LSAT in such a way that the correlation between LSAT and bar pass is higher. Then, people with low LSAT scores could be encouraged not to spend $100k+ on law school.
Also, law schools should lower their reliance on undergrad grades and increase reliance on LSAT scores. There is at least some correlation between LSAT scores and bar pass, little or no correlation between undergrad grades and bar pass.

I do not believe CA needs dumber attorneys just so you can say the bar pass rate is higher- fix the other problems and bar pass rates will go up, you will have better attorneys, and less wasted money on student loans.

Anonymous

Dear Ms. Elizabeth Rindskopf Parker and The Committee of Bar Examiners:

Please do not diminish the inherent respect and world-wide valuation now enjoyed by admission to The State Bar of California by lowering the standards of admission. Indeed, I believe that the standards of admission to our revered bar should be raised rather than lowered.

My perspective on the practice of law in California comes from serving as Judge Pro Tempore, former Examiner of The State Bar of California and serving as a Legal Research and Writing teacher of 1Ls when I was a 3L student. I have been a proud member of The State Bar of California since 1981 and will be shocked and disappointed if you lower the admission qualifications in any way. I was honored to be recruited by The Committee of Bar Examiners as a newly admitted attorney to serve as a Bar Examiner. Working as a Bar Examiner, grading bankers boxes full of blue book essay answers on Constitutional Law and Contracts Law after calibration meetings, has taught me a deep respect for the admissions process from both sides of the equation, as examinee and examiner.

Admission to our bar is globally coveted. I personally know Queen's Counsel from the United Kingdom who sat for our bar examination and announced that it was harder than any exam he ever sat for… including the rigors of receiving a first class degree from an Oxford college. He was very proud when he gained admission to our bar. Students and qualified counsel from other jurisdictions come to California to achieve the highest academic recognition and most respected professional license to practice law now offered globally. Your proposed reduction of the admission requirements dilutes the value, importance and reputation of our bar. This must not be condoned.

During my service as a practicing attorney, Judge Pro Tempore, Judicial Clerk, Bar Examiner and Legal Research and Writing Instructor I have been surprised and disappointed by the bad grammar, lack of preparation, distortion of fact and law, circular meaningless argument, wrongful citation, misspellings, wrong word choice and lack of a or concern for the rules of court and evidentiary procedures paraded by licensed practitioners. I fear the further lack of professionalism and effective advocacy that lowering the admission requirements would engender. We must safeguard the California public.

The argument that lowering the bar to enter the bar [my apologies] will provide additional public interest practitioners is specious. My law school did not offer a certification in Public Interest Law and so I attended a "cross town rival" law school to earn my Public Interest Law formal certification. I have always provided pro bono counsel and have been honored to have been asked to sit on the Boards of Directors of a number of not-for-profit entities. If anything, not-for-profit and public interest entities deserve higher quality legal representation, not inferior counsel. To argue otherwise is to denigrate public interest practitioners and their clients.

Your proposal to reduce the cut score by 26 points would be an enormous error. This is not a trivial change. This 26 point differential is no small lowering of standards. The Bar Examiners sit in calibration meetings and agonize about the value assigned to each issue spotted by our examinees. This calibration process by the examiners provides fair and consistent grading. The 26 point lowering of standards you are considering would allow pass examinees who miss many issues the examiners have deemed necessary to earn the assigned point value. If an examinee misses that many issues, valued at 26 points by the examiners, then these examinees should not pass. To lower the requisite points for passage is to devalue and usurp the important work of our Examiners who follow your own guidelines and requirements. Any decline in passage rates is clearly due to the lowering of law school standards of admission and poor education and preparation of their graduates. Please do not allow California law schools to shift their responsibility for low passage rates onto our superlative Bar Examiners and the entire Committee of Bar Examiners. Sadly it appears that our State Bar has succumbed to the lobbying pressures of American law schools. Law schools need to fill their lecture halls with students. Higher bar passage rates increase the number of applicants. Any lowering of the cut score would serve to wrongfully inflate law schools' marketing tool of coveted increased bar passage rates to entice more applicants into their classrooms.

I also take issue with the substance of The Standard-Setting Survey and methodology of your investigation. A cursory reading of your transmittal email might be taken to infer that your study "recommends" adoption of the

lowering of the lowered cut score. In addition, the phrasing of the questions posed in your form45 survey appear to offer the option of an “OTHER” response, where a member of our bar could be in favor of increasing the cut score. I fear that you will discount these “OTHER” responses. Your Public Comment questionnaire does allow for writing in comments which would include raising the cut score, but the onus of stating that preference is on the attorney taking the time to make public comment where your obviously preferred option of lowering the cut rate is enumerated as one of the choices offered without the necessity of a “write in” explanation. The wording of your public comment gradation questions also evidences a clear bias toward the lowering of the present cut score. I have used survey evidence in litigation. Yours is unreliable at best.

The burden of law school debt should be borne by law schools who accept unqualified applicants and withhold financial aid and scholarship support which would be easily funded by their enormous endowments. Any lack of employment endured by their graduates can be explained by a combination of unprepared graduates, the surplus of admitted attorneys and our economy. The vital issue of diversity should also be first addressed by law school admissions policies, not the licensing body of The State Bar of California who has access only to law school graduates. We should be proud of the rigorous requirements of our pass rates and increase or maintain the present cut rate to safeguard California clients, the integrity of the legal profession the reputation of The State Bar of California and the high caliber of the counsel provided by California attorneys.

Rest assured that I do not assert my perspective without serious consideration. Indeed, I have young friends who sat for the most recent exam and are now awaiting announcement of their results. I believe that these examinees would deem their bar passage credibility diminished by the lowering the standards of passage now, or in the future. Please protect the public from substandard attorneys. Member attorneys have all worked hard to obtain admission to The State Bar of California. Please do not take this true honor from us, or from the generations of law students who will follow.

Thank you for your time and consideration.

Respectfully yours,
A Proud 36 year Member of The State Bar of California

Barbra Reinecke - Law Offices of Barbra Reinecke & New Generation Mediation

I am an attorney in practice for 35 years. Recently, I have seen more and more incompetent attorneys some can't spell (have no writing skills) or articulate a position for their clients. I often wonder how these people passed the Bar exam. I am not alone in this opinion that lowering the exam standards would only result in more incompetent attorneys and the unsuspecting clients will be harmed.

Andrea Golan

If you are not going to change the test itself, you need to teach students how to study for the test. The schools that have the highest pass rates clearly know how to do that.

Richard Freeland - retired

This is a very slippery slope. If we lower the requirements for the practice of law, do we then have to lower the requirements for the practice of medicine? Do you want to be represented by a lawyer who got admitted because the requirements for admission were lowered? If it's a question of quality verse quantity, I'll always take quality. Not to long ago California was near the top of the states in quality of education. Now it's near the bottom. The lowering scores for the bar exam is probably, at least partially, a product of the lowering quality of education in California. That's no reason to reduce the quality of California's professionals and therefor the quality of protection for California's citizens. Stop the dumbing down. Leave the passing rate as it is.

Jennifer Andreevski - Brenske & Andreevski

There is a reason the public expects attorneys to pass a rigorous and difficult bar exam. Attorneys are tasked with protecting people's rights, property, lives, and more. Admitting more lawyers to the bar who are just on the cusp of demonstrating proficiency is not wise. While California may have a high cut score in comparison to other states, it is home to over 160,000 lawyers. It is ranked within the top 10 of lawyers per capita. Law students know the California bar exam is difficult. California's neighbor, Nevada, also has a difficult bar exam. In fact, Nevada just lowered its cut score and got rid of one of its essay topics. Nevada lowered the score in response to lower pass rates and the prospect of baby boomers retiring and leaving a void. That said, Nevada requires all of its bar takers to go to ABA schools. California doesn't. While not all good lawyers are good test takers, all good lawyers should have been exposed to the same wealth of legal knowledge and learning that is offered at ABA schools. Since California does not require its lawyers to go to ABA schools, if it were to lower the cut score it would risk admitting people who are not good test takers AND who have not passed a rigorous course of study accredited by the ABA. That is dangerous.

Anonymous

How is it possible for sane people to reduce qualifications for practicing law. What objective measurement says "we need more representation for the disadvantaged" so we should lower standards such that people can pass the bar, not be hired by a law firm because they lack basic intelligence or skill sets, and it is somehow ok for such candidates to represent the "disadvantaged" against people more highly qualified.. Thus we screw the disadvantaged, provide them with substandard counsel, and know we did a good thing by making "lawyers" available.... Only in California

Cherry Grant - Good-Earnest Law, P.A.

Being given a license to practice law should not be the equivalent of a participation trophy. Passing the bar exam is difficult and it should be; not for the sake of difficulty but for the protection of people who need a well trained advocate and rely on the bar to certify, by granting a license to practice, that the lawyer has meet a high standard of proficiency.

Reed Glyer - Stradling

In short, the State Bar of California should not be responsible for addressing the issue of low passage rates on the Bar Exam caused primarily by overabundance of unqualified law school graduates. By maintaining the same cut score of 1440, the State Bar will only be holding persons taking the Bar Exam to the same standard as those who took the Bar Exam previously. The problem is that law schools (and especially unaccredited and low-performing law schools) churn out graduates who are unqualified to pass the Bar Exam - this is unfair to both those graduates and to the profession as a whole. There are too many attorneys in the State of California as it is; the State Bar should not be lowering its qualification standards simply because unqualified persons are graduating from law schools with a mountain of debt with no means to repay but for passing the Bar Exam. A resolution should be reached at the law school level without any involvement from the State Bar (other than to apply pressure on law schools to stop running as for-profit machines). The quality of the profession should not be hampered by the reckless admission policies of law schools.

Perhaps something can be done to address the issue of otherwise qualified candidates not passing the Bar Exam because they come from underprivileged circumstances, but an across the board cut to the required passage score should not be implemented.

Anthony Richmond

Based on the public reporting regarding the question of bar passage rates, I read the public comment materials with the expectation that there was significant data suggesting the California Bar Exam had become ineffective as an assessment of the legal skills necessary to practice leading to an unfair obstacle to admission. Of course, any such conclusion as to ineffectiveness and related unfairness would deserve prompt corrective action. I was extremely surprised, however, to read the materials that were sent to members. Those materials seem clearly to support the existing cut-line assuming the median is the correct metric. If you instead use the mean, the suggestion is that the cut line be even higher. To get to 1414, you are in fact moving 1 standard deviation below the lower of these calculations.

My personal view is that for the cut-line to be moved temporarily, there should be clear and convincing evidence of defect in the test or the cut-line. I found evidence of neither in the report. In the absence of clear data, the Bar should not change the cut line based solely on the conclusion that the passage rate was "too low", and that certainly should not be done temporarily. It may very well be the right time to do a much broader, deeper, reassessment of the California cut line -- one well beyond twenty people for a weekend. But only upon such data should the test cut-line be adjusted. The cut-line should not be an ad hoc, test-by-test, attempt to back into a passage rate.

Harold Collins

I attended Southwestern University School of Law from 1972 - 1975. I took the summer 1975 Bar Exam and passed the first time. I worked my way through law school. While my parents provided some financial aid, I needed a part time job to pay for law school. As a result, I was a mediocre student. However, I gave 100% effort to preparing and studying for the Bar Exam and when I took the exam, I felt I was prepared. While it was mentally and physically challenging, I did not feel it was intellectually unfair or unreasonable. I did not see anything in the exam that was not covered in law school and covered again in a Bar Exam preparation course.

When I took the exam, I believe California's pass rate was less than 50%. At that time, I thought the exam was unfairly difficult. However, after I had practiced law for several years, my attitude toward the difficulty of the exam had changed, as I noticed the manner in which many new attorneys were practicing law. Two of the most important principles I practiced from day one was to act honestly and ethically and to know and follow the law applicable to my cases, but many young attorneys I encountered seemed to disregard ethics and a working knowledge of the law as guiding principles in their practices. They were loose, careless or even deliberately misleading when it came to presenting facts to the court. Their briefs or memoranda on motions and appeals were poorly researched and written. I wondered how they ever passed the Bar Exam.

Over the past few years, of the many attorneys with whom I have interacted, a large percentage have little or no sense of ethics and a pitiful knowledge of law. Many of those have a history of discipline. I can think of at least five I have encountered in the past four years, who have been publicly disciplined by the State Bar and a sixth who received a private reproval.

I believe there is a large percentage of prospective law school students, who are not pursuing a career in law with a genuine interest in serving the public and advancing the legal profession or our judicial system. I think many law schools, motivated by revenue, enable these students, who lack the integrity and aptitude to become assets to the profession, to pursue a career in law by granting them admission to law school. And of course, California has many unaccredited law schools, whose students have some of the poorest scholastic skills of any law school students and who have the least probability of passing the Bar Exam. I know such a law school graduate and after six attempts, this person was unable to pass the Bar Exam and finally gave up. It wasn't the exam that defeated this person. It was the person's inability to recognize legal issues, to understand the relevant law, to apply the law in a rational way to the legal issues, and to reason to a correct, or at least credible, conclusion. This person's Bar Exam failures cannot be blamed on a cut score. Would a lower cut score have made a difference? I don't know, but if it would have, then the State Bar would have been doing the public, the legal profession and our judicial system a tremendous disservice.

I believe California's low pass rate is due to the large number of law school graduates who lack what it takes to be ethical and competent attorneys and who should never have been granted admission to law school. The issue is not the difficultly of the Bar Exam. It's the high percentage of unqualified law school graduates who are taking the exam. The high failure rate is evidence that the Bar Exam is doing what it is supposed to do. Weed out the unfit. I only wish it was more effective in doing so.

Chris Kane - Law office of Chris Kane

Too many professional fields are "dumbing down" the testing to qualify to practice. This leads to inferior and unqualified practitioners -- whether it be in the legal field or where it seems to be most prevalent, the medical field.

If a person can't cut it by passing the bar exam, then that person should not be allowed to practice in the field.

I went to law school 14 years after obtaining my B.A. I worked and went to school. I made a point of learning not just the subject matter, but also learning how to write, analyze, make the proper judgment calls, etc. 25 years later, on the edge of retirement, I can look back and know that I did a very good job, with no complaints against me, and be proud of what I accomplished. I'm not seeing that type of attitude in some of the newer and younger attorney's. If the standard is lowered, the level of care and common sense in the practice of law will follow suit.

Just my two cents....

Terry Nelson

The problem is not too high a a cut score nor too low a pass rate, but too high a pass rate.

As pointed out in Judge Fahey's article on the proposed changes to 'cut scores', there currently seems to be no shortage of attorneys available to serve the public, despite apparently slightly declining pass rates on the bar exam.

However, as Judge Fahey also points out, there are too many attorneys that demonstrate sub-standard skills and knowledge even though having passed the bar exam at the current cut score. The solution is certainly NOT to lower the exam cut score, and thus the admissions standards, but rather to raise the exam standards for the benefit of the public AND the profession, whether fewer can meet those admissions standards or not.

To do so would require that the bar exam be graded more rigorously as to proof of professional skills AND English language competence. In the 'old days', 100% of the exam was hand written in blue books, later typing was allowed, which allowed exam graders a clear view of language skills, and the analytical and knowledge competence of the student. [I was one of those graders in the past, and was dismayed at the abysmal 'abilities' displayed by some test takers]. The problem was then, and probably is now, that the exam graders were sternly instructed to NOT downgrade blue book scores for poor English, grammar, sentence construction and related communications skills as much as many of us thought appropriate. We were told to verify only that the testee 'identified' the specific issues and somehow sketchily mentioned them, no matter how poorly formed his communication skills were. I thought far more of the test takers wrote unacceptable, incomprehensible answers than was reflected in the pass rates.

Once multi-state "guess an answer" was instituted, a smaller and smaller portion of the exam was written, thus increasingly hiding the skills deficit. Test prep courses that provide multiple Q&A from past tests taught recognition' of correct answers through repetitive viewing. A return to a large portion of written exam would be more difficult to grade, of course, but could accomplish the desired goal of real competence testing, as long as the grading were not artificially compromised as described.

In addition, the whole concept of 'scaling' scores UP so as to achieve desired high pass rates only made those poor skills more common in the profession. I doubt that has changed for the better over time, as we are now talking about the problem such past and present exam policies created.

If we want higher standards of competence in the profession, and public respect, we must demand higher competence standards on the bar exam, not higher pass rates.

This isn’t supposed to be a ‘numbers’ game for all the various law schools' marketing efforts. Unmentioned, but relevant, is the growing level of unemployment and underemployment of law school graduates, which will logically

decrease law school enrollment levels, and likely the exam attendance levels. Unfortunately, it is an open question whether that will lead to a higher or lower proportion of competent students in the schools and those taking the exam.

William Bailey

The sole purpose of having The State Bar of California and the Bar Examination is to protect the public from persons who are incompetent in dealing with legal matters and likely to harm the public. There are no other tolerable purposes or objectives that do not run afoul of the Constitution. Having a tough impartial examination of legal theory serves the exact purpose for which it was created.

Declining passage rates are neither relevant in individual years nor short term views as they more likely represent the actual capabilities of those individual examinees for the given exam and the educational groups, of which they are members, passing through the law schools near that time. Another way to think about, is the class of 2017, is very much like the class of 2016, which is very much like the class of 2015, which is very much like the class of 2014, and so on. However, the class of 2014 is NOT like the class of 2017 because they never met each other, were never on the same campus with each other, never took classes together, never studied in the library together, never worked as tutors for each other, etc.. They never participated with each other in anyway. As a result of the foregoing, the class of 2014 had NO influence on the class of 2017.

A "trend" of only three years (2014, 2015, 2016 which was cited in the Standard Setting Study) is NOT a "trend" because it only reflects the capabilities of those groups of law students that actually went to law school together, studied together, and directly influenced each other. The current downward "trend" is not reliable and no action should be taken thereupon.

This issue should only be reexamined at a later time if an actual tend arises. A single group of people who all went to law school together does not make it a "trend".

Holly Thomas - RE/MAX Estate Properties

As a 16+ year attorney, barred in both Texas and California, in my humble opinion, there are other issues at play here that are not related to the actual test. A little background on my situation may be helpful to understand why I do not believe that the CA bar exam score should be cut at all.

I graduated from an ABA school (UH) in December 2000 then took the 2001 Texas February exam and passed the first time after studying diligently for the exam. I practiced in Texas for 3 years and then moved to California in January 2004 knowing that I would again have to take a bar exam. Because I was not yet 5 years practicing, I had to take the full CA bar exam just 3 years after having taken the Texas bar exam. One is 2.5 days and one is 3 days long. Other than the fact that there are subjects on both that are not on the other, the exams felt similar in difficulty. When asked by others how they compared, my response is always that they were both difficult but if one studies appropriately and has been given the appropriate foundation through school, then passing should be a matter of fact. That is an easier statement written than followed through with as we all know that some people are better test takers than others. However, to be a lawyer requires skills that are similar to those needed to take the exam. Reducing the score simply because CA does not want to have such low passage scores is not a sufficient reason.

Perhaps CA should be looking at the population applying for the exam and the population that passes the exam for a more objective means to determine how to "fix" the problem better. Why does CA have the most unaccredited schools in the nation? Why does CA have its own California-accredited option for schools? I believe a better fix to the low bar passage rate is to eliminate the unaccredited schools and perhaps also the California-accredited schools that are not preparing students for the life that is to come after law school. If those students were eliminated from the bar exam scores, would the passage rate go up? In my calculations, it would. Then there could be a better focus on actual issues that are a problem for the bar exam as the people completing it would at least be an apples-to-apples comparison.

Thank you.

Mitchell Riechmann - Retired attorney

The stated mission of the State Bar of California is "Protecting the public & enhancing the administration of justice." It is difficult to imagine how reducing standards will further this socially essential mission.

If we assume that the bar examination is an objective measure of a person's ability to practice law at our above the minimum standards established by the Bar (versus an arbitrary hurdle to gain access to this profession), how does reducing the passing score serve the Bar's mission? It cannot. Also, while less than half of all exam-takers pass the exam, more than half of the first-time exam takers do pass. This suggests that the exam is serving its purpose of filtering out those who wish to practice law but who cannot meet the minimum standards set by the Bar to protect the public.

Perhaps the better question is: "Does the bar exam objectively measure a person's ability to deliver legal services to the public at our above the minimum standards set by the Bar to protect the public and ensure the effective administration of justice?" If the answer is, "Yes," then no change is required. However, if the answer is, "No," then instead of simply lowering the passing score, the exam should be redesigned so as to achieve its assumed purpose more effectively.

Elisabeth Turner - Law Offices of David B. Epstein

The declining pass rate and the number of graduates with substantial debt who cannot pas the bar and/or find jobs is a serious problem. But the solution is NOT to simply lower our standards. These problems are created by the high number of law schools that recruit/admit students who are not qualified, by offering false expectations and false promises. The solution is to educate potential applicants about the reality of the job market, the debt they will have, and the likelihood of passing the bar after attending a lower tier law school. Even if we lower the cut score, we will not be helping these graduates- yes they will be PERMITTED to practice law, but it will not make them qualified attorneys, and it will not help them obtain the kinds of jobs they need to manage their debt. Lowering the cut score does very little to address the problems we are facing.

Anonymous

That the Bar passage rate is lower is no excuse for changing the current cut score. There are too many lawyers in California, there are too little jobs for lawyers. The medical profession is not changing the way they administer licenses, why should the Bar do the same?

If there were a shortage of lawyers and a incredible demand to hire licensed attorneys, then that may become an argument to change the score so that more people would qualify for a license. Since the facts do not support such a scenario, the cut score should not change.

Karen Watkins - Law Office of Karen Watkins

When I was in law school there was a direct connection to how well you did in school to whether you would pass the bar. I felt there were students in the lower half of the class who the school should not have allowed to continue in law school. I am concerned that lowering the score will allow people who are not sufficiently qualified to practice law.

Anonymous

The bar exam must remain a 3 day exam.

Mae Oberste

The State Bar and by extension, a rigorous bar exam, serve to protect the public from incompetent attorneys. California, you have low passage rates because you allow students from non-accredited schools to take the bar exam.

While you may be helping the school to increase their passage rate statistics, you are doing a disservice to everyone else. First of all, the public, by allowing subpar attorneys to practice law. Second, the attorneys themselves. It is already tough enough in this job market for students to find jobs. Don't create even more supply for a market with too little demand.

Anonymous

Becoming a licensed attorney is hard. It was hard when I took the bar exam in 1994. But going to law school and passing the California Bar Exam was nothing compared to the first four years of actually practicing law. Those first four years after passing the bar exam were the most difficult years of my life. Making the bar exam easier to pass will do nothing to protect the public interest or prepare one for the challenge of actually practicing law. While I understand that students often come out of law school with huge debt burdens (I was one of those students), the solution to the problem is not to make it easier to pass the exam. The solution is to better educate students who decide to take on that debt obligation of the realities of going to law school before they obligate themselves to such debt. Just like we protect the public from incurring debt obligations they do not understand in other areas, law students who choose to go to law school and borrow money to do it, must be given accurate and complete information about the total expected cost and debt obligation they will incur to complete law school, the overall bar passage rate and the bar passage rate of the school they will be attending. In addition, they must be given accurate and complete information about the percentage of students who obtain employment that requires a license to practice law within six months of passing the bar exam.

And while it is also important to have licensed attorneys from all backgrounds, the way to achieve diversity is not by making it easier to become one. Instead, we should be casting a wide net to make sure we do not intentionally or unintentionally exclude anyone. And we should make serving the underserved community more attractive. Not simply send unqualified attorneys to represent such communities.

I do not know whether the bar exam has become harder since I took it. I am not sure how it could have been made harder. But I do know that I worked very hard to make sure I was not one of the ones who did not pass it. I took law school seriously and studied day, night and weekends. I studied even harder for the bar exam. And back in those days, my recollection was that students who attended ABA accredited law schools achieved a bar passage rate in the upper 80% of first time takers. But please do not misinterpret my comments. I am not saying "I had to do so others must also." And I am not saying "we have always done it this way" so we should continue. What I am saying is that we need to protect the integrity of the profession and the public interest as we have been doing decades. If the bar passage rate is unacceptably low, it is because those in charge of selecting and preparing students to take the bar exam are failing. It does not appear to me that it has been caused by the exam itself.

Daniel Altshuler - L/O DANIEL ALTSHULER

I believe it's very important NOT to lower the standards of the State Bar but instead focus on increasing the skills of those taking the qualifying exam. Specifically, the Law Schools have a financially and ethical responsibility to teach the students well and offer the appropriate environment for learning, studying, inspiration, etc., including PRACTICAL skills in taking and passing the Bar Exam.

Why was an entirely industry created and continues to be maintained for decades, with numerous companies and services offered, to assist people in taking and passing the California Bar Exam, after a minimum of 3-4 years of Law School? In my view, a significant part of the students' training should include practical skills in taking and passing the Bar Exam. In light of the unfavorable results of the recent exams, this is obviously not being done well, even though the costs of such education has increased well well beyond the growth of wages and inflation.

My hunch, since I'm not aware of the details, is that tuition at Law Schools, colleges and universities is highly overpriced in light of the absence of more practical skills in obtaining gainful employment in one's chosen major or profession, let alone inspiration and passion that such costs, time and effort should instill.

Thankfully, my parents, especially our father, my He rest in peace, was a huge financial help for me. Despite this, and the liquidation of essentially all my savings, I still took out loans, which took me 10 years go pay off. I'm told the tuition and costs are much higher today.

In short, it sounds like all involved need to substantially improve: let's keep the standards high but focus more on inspiring and teaching the students, including more realistic practical skills in taking and passing the Bar Exam.

Sincerely,

Daniel Altshuler

Anonymous

The problem lies in our society and the changes that have taken place. With the advent of the internet, the i-phone and video gaming our current generation of students is either too involved in social media and has too many interruptions by our president's tweets. Instead of sitting there and putting in the hard work that it takes to demonstrate one's capabilities (because we don't want those who are not cut out for being an attorney to practice) they have too many interruptions, in my humble opinion, most likely from their i-phone (or a similar handheld device) and as such are not as capable of performing as those before them.

So what do we do? just like we had realignment where too many people were using drugs, instead of trying to cure the problem, we as a society gave up on that and decided to depopulate our prison system because it was costing too much.... same thing here... instead of trying to teach the public, the parents of children and those kids that are now the first of many to come generations of kids that do not know what a slingshot is or can not imagine the world without an internet connection in the palm of their hands, these guys can't handle the bar exam, its just too hard! they should have it easier and if we give that to them, then mark my words, the end is near.

Soon we will have doctors and surgeons on top of attorneys that are faaaaar less capable than those before them and the fabric of society will thus rip apart. For the above stated reasons, I humbly believe that lowering the scoring system to "aide" this generation pass is a recipe for disaster.

yours truly,

Sandra Coleman - Law Offices of Sandra J. Coleman

Do NOT lower the score. The public will perceive this as lowering the standards and allowing more unqualified attorneys to practice. There are too many unqualified attorneys practicing now. I see them in court; I get their illiterate motions. I have clients come in who have had shoddy work done by a prior attorney. When I passed (the first time I took the bar), the pass rate of 33%. That's fine.

If you want to make legal services available to under-represented populations, give incentives--like a bar dues reduction--to those who serve Spanish speaking populations, who practice in Santa Ana and not Newport Beach. I don't make lots of money but I feel good because I am able to help people who need it in central OC.

Jim Connery - retired

Ranked number 14 in the nation with the number of attorneys per capita to population, there certainly is not an attorney shortage in our state. Just because the State Bar pass rate has fallen is not a reason to lower the pass score. Should we lower the standard for passing the Medical Exam to be a doctor (where there is a real shortage of professionals)?. About one percent of initial Navy Seal applicants complete the rigorous seal training program. Should the Navy lower the standard to become a Navy Seal just so more candidates have an opportunity to become Navy Seals?

Practicing law is a skilled high-paying profession which requires competency. It should not be looked at as a social or cultural experiment so that people who have spent a lot of money on education have a guarantee for lucrative employment—but who in fact can't meet the standard of competency to be qualified to be a member of the profession.

As the standards of undergraduate education have fallen, and I suspect the standards of law school have followed suit, the State Bar should not have to be the fall guy for the failing educational system, by lowering test score standards for becoming an attorney. The legal profession in California should not have to accept weak candidates into what some may argue is already overburdened with incompetent attorneys.

Paul Clark - Eagle Aerial Solutions

I believe that it is our collective fiduciary duty to the public to not lower standards for attorney licensure. If the pass rate is declining, it is because those who are educating our future attorneys are becoming less effective at their duties. The public should not be forced to pay the price for the failures of the law schools. In my view, the focus should be on increasing the quality of education. Though the bar is not directly involved in this process, incentives could be fashioned to encourage enhanced performance by these institutions. Perhaps more thorough dissemination of pass rates for each school could be used as an incentive.

Bruce Mitteldorf - Mitteldorf Mediation

In my opinion, this is a paltry set of choices. What's missing -- admittedly a much more difficult subject -- is consideration of: to what extent does the current Bar Exam assess a person's readiness to practice law? And, might an alternative Bar Exam better serve this end?

While I am not inclined to lower the cut-score, I would be very interested in empirical research aimed at determining what sort of Bar Exam might best assess a person's ability and readiness to practice law. Determination of the appropriate cut-off score would come thereafter.

Manda Ness - Retired

I think it is unwise to lower the standards for our profession.

Anonymous

In addition to passing the Bar, new attorneys should be required to do a one year internship. This would not only improve the quality of service to the community but would insure one year of employment following law school.

Denis Hebert - Denis R. Hebert Attorney at Law

I just saw the results published for Western State College of Law, and they are saying their pass rate was 67% for the February 2017 exam.

Thus, it appears to me the California Bar Exam is achievable for those who put the work into it to achieve a passing score.

Besides, all of us licensed in the last 20-25 years did it, and passed. To lower the cut score would undermine those that had to obtain the cut score of 1440.

Would lowering the cut score result in less qualified attorneys? Don't know.

Lets keep what is currently in place.

Perhaps consider some reciprocity.

Arthur Lampel - Law Offices of Arthur Lampel

California has had a surplus of lawyers for the last two decades, the solution to the oversupply is not to open up the gates to even more applicants. Further, the current students at law schools are not as well prepared to practice as before, due to decreasing admission standards at law schools. To artificially raise the admission rate in response to these problems does nothing positive for the profession -- we will have even more unemployed or underemployed lawyers, who are not being properly trained.
If California wants to do something about the problems it could drop the tuition at the state owned schools, and/or set up apprenticeship programs for newly admitted attorneys.
But, again, the main problem is that there are not enough lawyer related jobs opening up in California to employ more than a small fraction of recent graduates.

Anonymous

Business and Professions Code section 6001.1 states: "Protection of the public shall be the highest priority for the State Bar of California and the board of trustees in exercising their licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount."

It is the job of the State Bar to protect the public with regards to the practice of law. It is not the Bar's job just to facilitate applicants in obtaining a law license. Testing and licensing applicants is the means by which the Bar protects the public, i.e. issuing the law license is merely a by-product of the Bar's public protection activities. What purpose would be served by lowering the score? Would it offer the public more protection or less? There are already multitudes of licensed lawyers out there providing less than competent representation. I believe lowering the score will only add to their numbers.

If the bar exam pass rate appears too low then there must one of two reasons for this: (1) the law schools, the students, or a combination of the two are failing at their objectives i.e. either the law schools are not doing a good enough job teaching the material and/or the students were not cut out to be lawyers or perhaps just did not put in the work necessary to be successful; or (2) the bar exam is too difficult and persons who would be good lawyers are being excluded. I believe it is the first.

My experience was that I went to law school at night while working full time. I took and passed the California Bar Exam on my first try. I do not consider myself to be a legal genius. I do consider myself to be a hard worker. I put in the work necessary to be successful. If I can work full time and pass the bar on my first try, why can't other students who work full time or even don't work full time do it? While I was in class I saw students on their laptop shopping on the internet or on their phones texting. None of those students passed the bar on their first or even second try. Is it any wonder why? If one is not willing to put in the work to be successful in obtaining their law license why should be believe they will suddenly develop a stellar work ethic when working on their clients' cases?

Further, the California Bar Exam is widely recognized as the most difficult bar exam in the country. This is a source of pride for those of us who passed it. It is also a deterrent for those sub-par law school graduates who want to practice law in California. The difficulty of the California Bar Exam tells law school students "Don't come here to practice law unless you have a good understanding of legal principles and the law and are willing to work hard for yourself and your client." The California market is already flooded with attorneys both great and mediocre. It would not do the public or the currently licensed lawyers any good to add more lawyers, especially those who could not pass the same exam that the currently licensed lawyers passed.

John ("Jack") Martin Jr. - Retired (former long-time Sacramento County Public Defender)

I took the bar four times before passing back in the mid-70's. I was held to a very high standard before being granted my ticket to practice. Why should anybody be now held to any lower standard ?? Wouldn't we now be creating something more along the lines of a "curve" for current test-takers to be graded against ?? I think such a change would very much dilute the overall quality of attorneys practicing in CA, and it could possibly damage CA's reputation, in this area of academe, across the country.

Devina Douglas - The law Office of Devina Douglas

Dear State Bar,
I am writing today to implore you to keep the cut score at 1440. As a relatively-recent law school graduate (and, of course, a relatively-recent bar passer,) I feel that I am in a position to offer an opinion that needs to be heard as I have all-too recently been in the trenches of legal education and been through the ordeal which is preparing for the bar exam. Here's why I think the cut score needs to stay at 1440: I think the quality of the students in law school leaves something to be desired. While I was in school, I saw that a significant portion of my class seemed to get by doing the bare minimum. They chose to prep for class by "briefing" cases by looking the cases up on Quimby, and then hitting print. They couldn't offer intelligent opinions. Their "legal research" stopped at finding the black letter law, without trying to understand why the court got to tits result, leaving them completely unprepared to apply the law they "learned." They saw no benefit in preparing their own outlines, and just passed down previous students outlines, never able to recognize there were holes in their understanding of the law. They were, quite simply, lazy. They complained that the professors weren't working hard enough to give them the knowledge they needed. And yet so many of these same students seemed filled with a bravado intentionally designed to mask their dearth of knowledge. These are not the kind of people we want to place in positions of responsibility for the important segments of other people's lives.

And because (in my opinion,) my school cared more about making money by putting butts in seats, the students who many of us pegged as future bar failures, didn't wash out, they were coddled. Further, since graduating, I have heard this same sentiment echoed by many, many new attorneys: that their school, too, accepted students who weren't "law school material," and graduated them, despite these students not being up for the challenge that (1) passing the bar, and (2) committing to zealously represent their clients presented. And it seems to be this is a trend reflected in schools across the country.

While my school offered a 3L-year elective, taught by successful past-students-now-attornies, that focused on tackling each respective section of the bar, the class wasn't well attended. While my school offered a "bar bootcamp" weekend, that seminar wasn't well attended. While my school administered a mock bar, that event wasn't well attended.

When it came time for us to transfer from being law students to prepping for the bar, the laziness and entitlement of my classmates continued. Many students didn't bother showing up for the Barbri classes many of them were banking on being the educational tool solely responsible for getting them through the nightmare which is the bar. And then they complained that the "homework" was too much. ...That the Barbi professors "didn't understand," or "weren't good teachers."

In short, it seems to me that a rather decent portion of the students coming out of law schools here in CA and sitting for the bar, JUST CAN'T BE BOTHERED TO PUT IN THE WORK. And those students, I came to learn later,

failed. They deserved to fail.

What's why I'm imploring you to NOT lower the cut score. It seems to me that the public cannot trust the ABA and CBA to hold law schools responsible for producing quality candidates for admission to the bar, leaving the public with only bar-passage as a measure of a lawyer's competence. That's why you MUST keep the cut score where it's at.

James Seymour

In my experience over the past ten years in dealing with recently admitted (ten years of practice or less) lawyers in California, I am frequently surprised at their inability to identify issues and represent the interests of their clients effectively. In my view, lowering the "cut score" would only exacerbate this problem.

Richard Bawden

Students need to be warned in advance of paying for a legal education how difficult it is to pass the exam and how difficult it is to get a job coming out of school.

Patricia Mahoney - Retired

I do not believe that the solution to the perceived problem of a low Bar Exam pass rate is to lower our standards. Instead the focus should be on making sure that the people who take the Bar Exam are in fact well prepared to do so. Without looking at whether the law schools are doing a good job, perhaps one solution would be to assure that everyone interested in taking the Bar Exam has access to Bar Exam preparation courses..

Jeffrey Hare - Jeffrey B. Hare APC

One cannot solve a problem unless the problem is properly identified, the survey data is reliable, and the results validated. What is the problem here? Is it that too many California law students being denied access to a profession based on an arbitrary and invalid benchmark, or is that there is a serious threat to consumer protection posed by lowering that benchmark? Is there any way to correlate the Score with compliance with professional standards of ethics and competence? Or is the Score merely a gatekeeper mechanism without any validity? Do lawyers who pass the Bar in other States provide less competent legal services? Are they more likely to commit breaches of ethical standards?

From the standpoint of the consumer, the costs of legal services is prohibitive for many, resulting in an alarming increase in the number of self-represented parties in our Courts, which invariably taxes the limited resources available and makes the process even less efficient. Would increasing the number of lawyers admitted each year result in lower costs for the consumer (assuming the level and competence of services remained constant)? This same logic was used, in part, to justify the reduction in the Bar Exam to two days. Obviously, it is far too early to see if this change will have any effect other than to trim the administrative costs of administering and grading the exams. And it is precisely for the same reason that I would urge a delay in lowering the cut score; in the absence of any relevant data, it is impossible to predict whether or not this would have unintended consequences.
As for the issue of consumer protection, having more lawyers is not the answer, and I say that with all due respect to the many excellent practitioners who advocate tirelessly for their clients. The solution lies in working to educate and empower the consumer to do a much more effective job being an informed consumer. Our schools no longer do an adequate job teaching civics, the rights and duties of citizenship, critical thinking, and the all-important roles that our three branches of government were designed to serve. In the early 1500s, Thomas Moore published Utopia (literally "No Place"), about a society where there were no lawyers, since the citizens were expected to know the laws and follow them, but in matters of dispute would be fully capable of advocating for themselves honestly and without deception before the court. I am not so cynical, but feel that we need to maintain the existing standard until we can reliably answer the question of what the standard should be. Moving the targets instead of adjusting the sights may improve the shooting scores, but it won't necessarily produce better shooters.

Anonymous

I see no reason to lower the cut score. The better solution, in my view, is to require bar exam candidates to have graduated from an ABA-accredited law school in order to sit for the exam. In my opinion, law schools that are not accredited by the ABA or at least by the State of California often do a great disservice to their students, leaving them unprepared for the Bar Exam and with a heavy student loan debt.

Anonymous

Why would I want to make it easier for someone to achieve something I worked so hard to get?

Anonymous

The bar exam presents a cruel joke for law school graduates. On a bright sunny day in early June, the new J.D. may participate in a graduation ceremony; receive a diploma, and congratulations from all present. However, the new J.D. discovers within days, that the diploma itself means little. The final exam week occurs after the graduation ceremony in July.

The bar exam measure many, but not all aspects of legal scholarship. Indeed, the formal, rigid examination formats are biased against the innovative attributes of excellent scholarship. Many law students need to learn how to take the exam and how to organize their knowledge of the law for the specific purposes of answering exam questions.

My guess is that many of the false negative exam failures are among the best legal minds. You are not required to agree with me. And, it is not an excuse for not passing. Like any competitive athlete, test takers have good days and not so good days, or may "play injured" also.

This is one aspect of the exam taking experience where data on repeat exam takers will be important.

I have been fortunate to receive (and to earn) an excellent education at first class, nationally ranked schools. I hold an A.B. and Ph.D. as well as a J.D., all from nationally ranked programs. However, I am not an elitist. The admission officers and faculty are the elitists.

I practiced law for many years in smaller communities where graduates of the "lower ranked" law schools were common. Also, I taught my Ph.D. subject matter to undergraduates for many years at various universities. I am concerned about the level of intellectual curiosity and genuine legal scholarship among ordinary practicing lawyers. Bar exams may not measure well these attributes.

I know some members of the State Bar of California who have not stepped inside a law library in years.

Thank you.

Michael Brisbin - Wilson, Elser, Moskowtiz, Edelman & Dicker LLP

The cut score should not be modified in any way. It should be kept at 1440 for the following reason:

(1) Changing the cut score because law students have not recently passed the CA bar exam sends the wrong message; if something is too hard let's lower the standard so more people pass. The reality is not everyone can or will pass the bar and being an attorney is not a profession where everyone who went to law school should receive a bar card.

Lawyers are entrusted with public's trust, confidences and legal issues, sometimes thorny legal issues, which is no small matter. You need lawyers capable of understanding and deciphering the issues, potential outcomes and then ensuring the client's interest are protected. If a law student cannot do the necessary analysis on a bar exam, how will or can they handle a more thorny issue presented by a real client? You rarely hear about the good or even great lawyers. You always hear about the bad or incapable lawyers. California doesn't need bad or incapable lawyers and lowering the cut score will make it easier for those type of lawyers to enter the profession. California's reputation of being the toughest bar exam in the nation should continue so only those persons capable of correctly analyzing an issue/outcome become lawyers.

You may believe the above comments does not take into account educational or diverse backgrounds, or other impactful issues affecting a person attempting to become a lawyer. It does and let me explain.

When I attended McGeorge from 1989 to 1993, I had to re-petition to finish law school because I did not pass my initial second year. I repeated my second year and then graduated from McGeorge in 1993. I worked extremely hard to figure out what I needed to do to pass law school and then the CA bar exam. McGeorge did not make my repeated second year easier or lower the GPA required to continue. The State of CA did not have a different cut score for me because I had to repeat my second year. Instead, it was me who had to figure out what I needed to do to pass and graduate from McGeorge, and then the bar exam. To prepare myself for the bar exam, my study partner and I studied everyday from June 1 to the week of exam (except July 4), from 9:00 am until midnight. We both wanted to become a lawyer that bad and we both passed on the first attempt. Law students today can do the same, if they want it bad enough.

So, the answer is not to lower the cut score, so more people pass. The answer is to challenge those who do not pass to learn and study differently, more efficiently, more thoroughly, harder, and to figure out how to pass the CA bar exam with a 1440 cut score. If a law student cannot achieve the current necessary score to become a lawyer, then the law student has not meet the necessary requirements to become an attorney. Unfortunately, not everyone will become an attorney, nor should everyone become an attorney.

Susan Bassi - Press Advocate - Publisher

The State Bar has a history of failing to uphold public trust in our legal system. There has been an erosion of ethics and professional conduct by groups of lawyers in civil, family and criminal law that adds not only to the clogging of our state courts, but to the image the public has about the legal profession. Educational standards for lawyers has also slipped. There are far too few ethical courses and mentoring programs whereby good lawyers pass on a high bar for our youth seeking to inherit and lead our legal system. Research and academics have been replaced with Google searches and Rutters citations in a manner that encourages lawyers to not think, and to act in a manner that results in playing the legal game to rack up costs that serve only for personal gain. Lowering the Bar for testing would be one more step to the erosion of standards that are vastly needed in the state's legal communities. Rather than lowering the testing bar, State Bar leaders should work with academics to address disconnections that occur between the classroom and educational materials and the reality of our modern legal system. A solution to low passage rates should not be to make entry easier, but should be seen as an opportunity to clean up the legal system, by restoring ethical standards , encouraging students to study the law without regard to an immediate economic gratification, and to raise the Bar in a manner that elevates pubic trust in lawyers, and the legal system as a whole.

Lawyers often become our elected officials , state legislators and judges. Creating a generation of leaders who were cut a break on grading exams to enter the legal community , is a VERY bad idea. I oppose lowering the exam standards.

Henry Slowik

As a retired member and specialist, I disagree with lessening the highest standard for passing the Bar.
Our law schools are over producing candidates who are unqualified for the practical practice which brings down the overall practice of law. The respect associated with legal practice has in my opinion eroded significantly.
Only by maintaining the highest standards to be admitted to practice, can the Bar insure the public confidence and respect for the legal system. To lessen the standards only encourages schools like my own, to grow larger and turn out more candidates. We need the highest quality lawyers to regain the public's respect, not more attorneys.

Crabbi Lawyer

I think lowering the score does a disservice to the public. They already made the exam easier by going to a 2-day rather than 3-day exam.

If anything, judging from the quality of work produced by many new attorneys, they should make it harder rather than easier to pass the bar.

Barzy Sabahat - Barry Sabahat, Attorney

If the bar examination is used to determine a minimum level of competence for attorneys, then that should be the only consideration. The rest is just political and irrelevant noise.

Robert Fesmire - Retired Attorney (San Bernardino, CA)

Lowering the current cut score of 1440 will undermine the excellence required of law school graduates desiring to practice in California.
I am a California attorney (retired) admitted in 1977. I passed the California Bar exam on the third try, just narrowiy missing it on the first two attempts.

It is and always has been a matter of some pride that California has one of the toughest bar exams in the U.S.A.; it is a mistake to lower the bar
FOR ANY REASON, to include any desire some may have as to racial diversity!!!!!

Finally, there are more than enough attorneys in California; It certainly cannot be argued that it is in the Public's interest to lower the current cut score.
This would simply mean the public was being deprived of the excellence demanded of the California attorney they consult, such excellence reduced by
allowing bar exam candidates to PASS with a LOWER SCORE!!!

PASS the California Bar Exam with the current high standards, or a) sell insurance (et. al.), or in the alternative b) go take an easier Bar Exam in some other
State.

Lorraine Pereverziev - LW Pereverziev, A Mobile Attorney & Notary Public

If someone is truly dedicated to becoming an attorney, it may take several times taking the bar before passing, but that perseverance is exactly what we want in our legal professionals today. One of the biggest complaints about attorneys, as I'm given to understand it, is the lack of ability to follow through, particularly with regards to the client. The lack of drive or desire to attempt taking the exam multiple times may be a pretty strong indicator of a lack of follow through.

I personally took the exam multiple times through all kinds of adversity including chemotherapy, radiation treatments, marriage separation, 3 moves, and very little resource to contribute towards the continuing costs. I missed passing by 3 points but kept going even though it killed me to have to do it again. A friend of mine lost everything she owned in the "Tea Fire" while studying for the exams, and went through a marital dissolution as well. She was lucky and managed to pass without having to revisit the exam many times. Point being, if they want it badly enough, they will figure it out. If they don't want it badly enough, they will not follow through.

I also feel it is a slap in the face to those of us who did persevere. I was approximately 50 points short on my very first attempt, while still undergoing my treatments. I was surprised I'd come that close but was "hell-bent" on success. Later, I was not granted any leniency when I missed passing by only 3 points. I had to work my tail off to achieve the goal. So should the up and coming bar-takers. The bar exam is hard, and a royal pain in the tush, but to a certain degree, it does weed out those who won't be able to handle the stress of the business. I feel for those who have to face taking it more than once, believe me. But I feel more strongly for those who did take it multiple times and yet kept right on trying.

If anything should change with the Bar Exam, it should be that the scoring becomes less of a crap-shoot. Your score is only as good as the person who is reading your essays is feeling at the moment. If the grader is exhausted and still has 50 more to read that night after a very long day at the office, then the score for the first essays will be higher than those toward the end of the stack. The grader who isn't feeling wonderful, or who has had a disastrous work day will give scores which will likely be less positive than those of a grader who just won a major case and is flying high on cloud 9. I would like to see the grading become more automated and less human-dependent so as to level the playing field for everyone. You teach the graders to look for key words and phrases. A computer algorithm can be generated to do it even better. Let's take the human-emotional variables out of the grading system.

Anonymous

Please keep the standards high. Sadly, while Bar admission scores are falling across the nation, this should not be used as an excuse to "join the dumb it down crowd".

Those candidates who lack the necessary skills based on Bar Examination results should be required to become better educated. Think of the wasted resources (client funds) which flow to incompetence.

Less than competent candidates should seek employment as paralegals or unlicensed technicians.

Employers (Law Firms) presently have to expend huge resources to "train" new lawyers. Mentoring must go on for years longer in current environment.

The decline in acquired legal knowledge is significant, and matched to the growing lack of civility in the legal profession.

Lowering Pass Rates is a slippery slope. Please don't do it.

Thank You California State Bar.

Sara Pezeshkpour - Metz & Harrison

We do not need more lawyers. What we really need are more ethical lawyers. More civil lawyers. Lawyers who understand that you don't need to bully, harass, and attack opposing counsel to achieve good results. We need increased oversight of lawyer civility. And, we definitely need a way to censure or call out lawyers who engage in repeated bullying and harassment, and who unnecessarily obstruct resolution to line their own pockets or to appear to be heroes. Right now, there are no good options for resolution of these issues. Lawyers are encouraged to be civil and ethical but where's the oversight? How long are we supposed to turn the other cheek before we quit the profession? I have been practicing for about 9 years and have been bullied and personally attacked repeatedly, by older and newer lawyers alike. Adding more lawyers to California, without doing something to address the growing incivility in our profession, is a recipe for disaster. Thank you for listening.

Anonymous

Lower the bar at everyone's peril.

- SSA - Office of Hearings Operations

I passed the California Bar on my second attempt in June 2008 (when I re-took the exam in February 2008) after I failed it on my first attempt in July 2007. The July 2007 exam was the first exam where additional subjects were added to the exam, such as Business Associations. In addition, it was also the first exam where test takers had to differentiate between California state law and Federal law for certain areas, such as Civil Procedure. Although I did not pass on the first attempt, I was extremely close in passing the bar where a second read was conducted on my exam. Even though lowering the passing score would have allowed me to pass on the first attempt, I now vote against in lower the passing score.

Psychologically, I was initially devastated in failing the bar exam on my first attempt. However, the failure mentally pushed me to persevere and to determine the reason for my failure. After analyzing why I did not pass the exam, I was able to narrow my weakness and focus on strengthening my weaknesses.

When I failed my first attempt on the bar exam, I was able to review my answers and scores (which are afforded to those who were close in passing). After comparing my answers to the sample answers, I agree that my work product was not deserving of a passing grade. I fervently believed that being forced to retake the exam a second time required me to focus on my weak subject areas. While preparing for my second attempt, I focused more on my analytical thinking and persuasive writing, while correctly issue spotting the problems of each fact pattern. In hindsight, if I was allowed to pass on the first attempt of the exam, I think it would have done a disservice to potential clients because I did not have the minimal competency to practice law, especially in the subject areas that I performed poorly in. After passing the exam on my second attempt, I know I have the basic legal foundation and mental capacity to withstand the stresses of an ever changing legal landscape that comes before me. The bar exam tests competency, but it also tests resiliency, all of which are important traits of an attorney, who may be the last hope for a client.

Paul Grech - Grech & Packer

California is among the few states that allow those who have not attened ABA accredited schools to take the bar exam. These unaccredited schools accept students who have lower test scores than accredited schools. In addition, the unaccredited schools have lower stadards for admission. The unaccredited schools are the ones whose graduates have the lowest bar passage rate. ABA accredited schools have much better bar passage rates. Maintaining the hgh "cut rate" while at the same time allowing those from non ABA schools to take the bar allows those with a diversity of background to take the exam but does not compromise the level of competence and achievement necessary for the practice of law. The answer to the problem is not to inflate grades or lower standards. The problem must be solved in the law schools and through the individual efforts of those preparing to take the exam.

Anonymous

I oppose the State Bar's proposal to lower the bar exam cut score unless it limits exam takers to graduates of ABA-accredited law schools.

Though I have spent my 10-year legal career in public service and currently work in the judicial branch, I'm a member of the State Bar of California out of necessity. It's the only way to be licensed as a lawyer in our state. In theory, the State Bar exists to serve the public --- the particularly low- and moderate-income Californians like my clients --- by facilitating access to lawyers and assuring protection from them. (http://www.calbar.ca.gov/About-Us) Yet while the Bar's proposal to lower the cut score may serve lawyers and law schools, it would not serve either of these important goals. Instead, the proposal provides another example of the State Bar's tendency to serve lawyers like me at the expense of the public it is charged to protect.

In recent years, the California State Auditor has issued a series of increasingly critical reports about the State Bar, depicting it as an organization teetering between incompetency and corruption. (https://www.bsa.ca.gov/reports/agency/8) In particular, a report from June 2015 concluded that the State Bar "has not consistently fulfilled its mission to protect the public from errant attorneys." (https://www.bsa.ca.gov/pdfs/reports/2015-030.pdf)

Against that backdrop, this hardly seems like an opportune time for the State Bar to try to lower the passing score on the California bar exam, which is its primary tool for protecting the public against incompetent attorneys.

To be sure, we have a high cut score in California. In 2016, California's bar-passage rate was 40%, the nation's lowest. Therefore, at first blush, our bar exam seems tough relative to other states. (Indeed, the Bar Examiners Agenda Item memo of July 28 emphasized this purported disparity as the most important reason for the proposal. Likewise, the attorney survey asked me to rank the importance of "the fact that the cut score in California is the second highest in the nation.")

But California has something other states don't: a large set of law schools marketing themselves to lower-performing students, including 42 (!) schools not accredited by the ABA. Of those, 20 are accredited only by the State Bar. The other 22 are COMPLETELY unaccredited. Graduates of these non-ABA schools can't take the bar exam in other states, so it's California or bust.

Though mostly bust. For instance, the LA Times found that nearly 90% of students drop out of unaccredited schools before graduation, never even making it to the bar exam. (Of course, they still end up with gigantic law-school loans like any other student, which makes the survey's asserted concern for "the burden of student loan debt for law-school graduates unable to find gainful employment after failing the bar exam" seem particularly insincere.) Those who do graduate and take the bar exam tend to do poorly: in 2016, the bar-passage rate for graduates of non-ABA schools was 14%, compared to 49% for graduates of ABA schools. (Stats here: http://www.ncbex.org/pdfviewer/?file=%2Fdmsdocument%2F205.)

The great recession reduced bar-passage rates at every law school. The Agenda Item notes that in the aughts, “the Bar pass rate went through a period of steady increase before reaching its peak in 2008. In 2014 the pass rate fell below 50 percent and has declined further each year.” (Agenda Item, p.2) Law-school applications have also dramatically declined since 2008. (Agenda Item, pp.3–4.) But the number of law school SEATS in California has not likewise contracted. (With the recent, notable exception of Whittier.) Therefore, every law school has had to reach deeper into the applicant pool to fill those seats.

Higher-ranked schools have been able to survive this deeper-dipping without demolishing their bar-passage rates because their students were already pretty good. Lower-tier schools, however, have seen their bar-passage rates decline more substantially. (See Agenda Item, p.5.) So for non-accredited schools, lowering the passing score of the bar exam is a lot more consequential — maybe even existential. (See Agenda Item, p.10.)

Taking this in, one view might be “perhaps this is a sign that these schools aren’t really providing many benefits to students or the public.” Another view, apparently, is “perhaps this is a sign that we need to move the goalposts.”

Until the State Bar fixes its structural problems, let’s not. As the State Bar’s own study warns concedes, lowering the passing score is likely to increase the risk of harm to the public by admitting a new tier of less qualified attorneys. Indeed, the study concludes public protection may best be served by RAISING the cut score. (Study, p.20.) Worse, it appears from the survey that the Bar hopes to shunt these less qualified lawyers off to underserved populations who can least afford bad legal advice. Moreover, the Bar has not considered (much less studied) alternative ways to address critical problems of diversity and access, such as examining its absolute ban on people convicted of a huge range of felonies absent a pardon or “overwhelming proof of reform and rehabilitation, including at a minimum, a lengthy period of not only unblemished, but [sic.] exemplary conduct.” (http://www.calbar.ca.gov/Admissions/Moral-Character/Factors) Whether the candidate has met that burden is, of course, subject entirely to the whim of the State Bar. (State Bar Rule 4.40(A).)

There may be good arguments for lowering the cut score for graduates of ABA-accredited law schools. But until California stops allowing unaccredited law schools to operate in this state and until the Bar starts making real, meaningful efforts to increase diversity and access, I will continue to oppose changes to the cut score.

Anonymous

I do not think we need to further lower the standards for becoming a lawyer in California. I practiced law here for 30 years and as a volunteer settlement conference judge and mediator I came across many lawyers who should never have been allowed to represent clients. Some were so inept, they could not possibly be properly representing clients. In my opinion, the bar should be raised, not lowered. Yes, we need lawyers to work with those who cannot afford the big firms. But no, we should not further lower the standards just to create a higher bar passage rate. I don't believe there are too few lawyers in the state. Thank you for considering my comments. I am currently an inactive retired member of the bar.

Anonymous

Before even considering lowering the pass cut score, the California State Bar needs to dedicate more resources to networking with the private and public sector in creating more positions for new attorneys. For example, many companies have in-house positions such as legal coordinator or contract administrator that would be a great first job for a new attorney, but companies are not willing to hire attorneys or bar waiters for those positions because they are afraid the attorneys will leave the second they have a "real" attorney position offer.

Anonymous

The purpose of the bar examination is to ensure that attorneys have the basic MINIMUM level of competency in order to provide legal services to his/her clients. If applicants are unable to earn the requisite score, they do not deserve to potentially serve the legal needs of clients. They should instead, study and prepare to illustrate to exam graders that they possess the requisite skills needed to competently perform services, rather than be coddled by dropping standards.

The idea that law schools are lowering their standards in order to accept "lower qualified" students is an irrelevant factor as to the determination of an appropriate cut score is for the bar exam. Certainly, there are worthy students who may not have earned the best GPA or top LSAT scores, who may still turn out to great legal scholars. Schools should be free to admit non-traditional or borderline candidates into their classes, and provide these students the opportunity to show that they belong by rising to meet the expectations required of them to succeed in law school. The same should apply with respect to the bar exam. Rather than lowering the bar at the risk of allowing non-qualified candidates to practice law, the State Bar should maintain the minimum level of standards expected of potential new members, and allow these individuals to rise up to meet these expectations.

California has already lowered it's standards by turning the bar exam into a two day test. Let's not double down on this mistake and risk allowing unqualified attorneys to practice law to the detriment of the public.

Jon Pettis - San Diego Defenders

I joined the Bar in 1996. I have a bar number just above 181000. Bar numbers are now over double mine. I find it somewhat absurd that more lawyers have joined the Bar since I have then in the entire time there were Bar numbers before me. One of the issues mentioned in the discussion of this issue is the high student debt burden. Part of the reason so many are struggling with that burden is because there are too many lawyers and not enough work. Don't water down the quality of those holding the most respected bar card in the world.

Anonymous

The proposal to lower the cut score to 1414 seems to be motivated by money. By that I mean that law schools that are failing to adequately prepare graduates are getting discouraged by low graduate passage rates. Lower rates mean that the schools attract less students and thus make less money. This whole thing seems like an attempt from the schools to ask the state for relief rather than fixing the problem: teaching graduates how to properly prepare for the exam. Lowering the score not only diminishes the accomplishments and qualifications of those who did pass at the 1440 cut score, if the lower cut score does increase the amount of graduates who do pass the exam, the market will be flooded with more attorneys who will have trouble finding work given the finite amount of jobs currently available in our field. Even if more jobs were to materialize, given the increased amount of graduates who passed the exam, salaries would be decreased. You would still have issues of graduates not able to repay law school debt since salaries would be lower than the current rate, which still may not be adequate. This question also assumes that lowering the score will actually increase the passage rate. Performing some analytics and applying an outcome to a past exam is not dispositive that lowering the cut score will help increase the passage rate. If it doesn't, what next? Do we lower it some more? Do we shorten the test? Do we decrease the subjects tested on the exam? Maybe we just do away with the exam and increase bar dues, why not.

We already allow those attending non-ABA accredited schools (which baffles me; why do those schools even exist) so I also assume that the higher cut score would be useful to weed out those who attend schools that are not willing to raise their educational circulum to create qualified attorneys.

Even if the proposed drop of the cut score to 1414 were "temporary", I have a suspicion that just like a "temporary" toll booth on a highway, the temporary adjustment will become the new standard.

Perhaps it would be better to focus our attention on increasing the effectiveness of the teaching programs and other ways to aide information digestion. If the schools are not adequately teaching the law, why would they continue to exist? In addition, lowing the cut score may create more law schools looking to cash in on the new found "increased passage" craze and we will be stuck with "for-profit"-type schools that take money and offer little in return.

Anonymous

The pass rate in California has always been one of the country's lowest. This is nothing new. It has been a known fact for decades. Therefore, when adults (that includes law school applicants/ & law students) decide to go to law school with the hopes that they are able to practice in California they assume this risk. This is called personal responsibility. But, more importantly, why make it easier for people to practice law in California when: (1) there are an abundance of lawyers in California. How about we instead focus our efforts to those that graduated law school during the recent recession; (2) there are several crappy law schools that charge a ton yet fail to adequately prepare their students. Why not shut those schools down and/or force the schools that have low pass rates to up their game; and (3) the millennial generation is generally speaking a lazier and more entitled generation. The bar was already made easier by reducing it to two days. Why enable millenials even more.

Brian Detrick - solo

The issue which should be discussed is not what is best for upcoming law students or unaccredited law schools. Your questionnaire dealt with fairness and student debt. These points remain irrelevant.

The issue remains only what is best for the clients. Lawyers are supposed to be more concerned with the clients whom they serve than themselves.

California does not need more lawyers who are underqualified. Such do not serve the public well.

Coming from a state which did not permit unaccredited law schools to take the bar, I was surprised when I learned that schools which the ABA believed were unqualified could produce candidates to sit for the bar in California. I would assume that the low pass rate is not because of hard scoring on the bar exam, but rather because underqualified individuals are permitted to take the bar in the first instance.

The “solution” here is not to license a poorer quality of lawyer, but to demand a higher quality of candidate to sit for the bar. Low pass rates are not the fault of an exam which measures the minimum standards of competency, but rather with the training of the individuals attempting to take and pass the test. There is a reason it is called a “bar” -- it serves to bar those who are unqualified.

I disagree with any proposal to lower the standards of the legal profession. It hurts the citizens of the State of California and the clients which we serve.

Melissa Engle - White and Bright, LLP

Since taking the bar exam, I have had no issue with the cut off number being what it is. One must study for the exam, & I have known those who did not study as much as was (obviously) required to pass. Thusly, they failed once or twice, & later passed.

The other significant statistic that needs to be analyzed is the data on those taking the exam from unaccredited law schools. California allows students from unaccredited law schools to take the bar exam. Some students should never go to law school, expecting to pass the bar exam. Passing the bar exam is not in their future, for whatever reason. Unaccredited schools & those law schools with lower admissions standards may be enrolling these students, only for the student's later disappointment with the bar exam. This is a statewide problem that is setting up some of our citizens for failure.

Data could also be gathered & analyzed as to what skill set, level of education, is needed before the student enrolls & pays for 3 or more years of law school; & what could indicate for the student if they might pass the bar exam, or what might indicate they might not pass the bar exam. The solution to this may be making the LSAT harder.

If new attorneys are unable to find employment, why would California accept a greater number of attorneys by lowering the pass score? To cause even greater economic hardship on those who cannot obtain employment?

Increasing the number of attorneys in California is at direct odds, & contradicted by a lack of jobs for attorneys.

Lowering the passing scores to increase the number of attorneys in California does not seem a reasonable or rational solution to the lack of jobs for new attorneys (who may have a huge debt for law school.) Moreover, the goal should be to focus on getting all schools ABA-accreditation, removing non-accredited schools, getting law school tuition decreased significantly, and avoiding students taking out massive student loans.

Lowering the cut score for the bar exam will only hurt the public in the long run as we will have individuals licensed who had no business practicing law to begin with. This is exactly the type of situation that the State Bar is supposed to prevent, not endorse.

Vida Tarassoly - The Law Office of Dr. Vida Tarassoly

A percentage passing rate is not as important as a qualifier as the actual number of passing candidates. It is my opinion that the increasing decline in California Bar passing rate may be due to increasing number of applicants graduated from non-accredited law schools. Rather than lowering the cut score to 1414, which will result in lowering the legal professional standard, I recommend that focus should be directed to revising the current regulations relating to passing the exam:

1. Making the Baby Bar Exam more demanding would result in a decrease in the number of Bar Exam applicants who are graduated from non-accredited law schools and who may not be competent to pass the Bar Exam, and therefore an increase in the pass rate. A more demanding Baby Bar Exam will discourage a student who may eventually not be able to pass the bar exam from pointless financial investment in law school tuition.

2. The current California State Bar regulations require that those candidates whose scores are close to 1440 to get a second reading of their written exam material. A candidate who may obtain a passing score in her second reading may still fail the exam when her two sets of scores are averaged, and when the average falls below the passing score. There is no technical and scientific support for this averaging methodology which without any historical studies or technical substantiations assumes that the two readings should be given the same weight in calculating the Candidates score. Additionally, the averaging methodology results in introduction of an element of luck in passing the bar exam for this type of candidate, as if the candidate was lucky enough to have had the second set of graders in the first place, she would have passed the exam rather than fail. I suggest, this averaging regulation be revised to allow any candidate who obtains the cut score, in either her first or second reading, to pass the Bar.

Jennifer Peterson - Law Office of Jennifer Peterson

I took and passed the bar in 2000 when we had to handwrite essays and the performance exam. The fact that people can now type their essays already puts them at an advantage because they can organize them better and they are neater and generally easier for graders to read.

I was also a grader for the exam in approximately 2006/2007 and went through the calibration meetings and learned more about the grading process. The grading is very fair and graders are calibrated to eliminate the subjective element of grading. Anyone who is on the cusp of failing gets at least a second read of all their essays so they get a fair shake at passage. There are specific criteria that needs to be discussed in responses in order to be considered passing.

There is no reason to make the test easier to pass. Do you really think this state (or the country, for that matter) is suffering from a lack of attorneys? If people are unable to pass the test they are either not paying enough attention in law school, not studying enough or they are just plain not qualified to be attorneys. Why should we lower the standard for passing? It's not as if no one is passing the bar anymore. The rate may be lower than it once was but there are thousands of people per year that still pass.

I am adamantly opposed to making the exam easier to pass. It's unfair to all of those who have worked so hard to pass the test at the current cut score. And, in my opinion, it's already easier than it used to be due to the ability to type responses.

Paula Black - Rauber & Johnson

My background: Asian, female, attending a California non-accredited law school - correspondence program - Bar exam pass at first attempt in 6/2001. I understand the variables taking into consideration in potentially reducing the current cut score. However, I do not believe that lowering the cut score in order to increase the Bar exam pass rate is the answer. I appreciate the standards currently in place and believe that lowering the cut score to assist in industry diversity, job availability for student loan debt payment, etc. is far outweighed by the competence and level of service that we are all sworn to provide and the integrity of those services.

Anonymous

Lowering the standard for the California Bar Exam is NOT the answer to the low passage rate. Scrutiny should instead be given to the preparation students receive in law school. Lower application rates had lead to lowering thresholds for admittance to law school, which may in turn lead to a lower quality applicant pool sitting for the bar. Lowering the cut score is addressing the wrong problem by the wrong means.

Anonymous

I have been a California attorney since 2000. I do not agree with lowering the cut score of the CBX. We should not lower standards to increase the number of people who pass the bar exam. California should take pride in the fact that it has set a high standard for entry into the legal system. I think the focus to solve the problem of declining pass rates is to increase the performance of Law School students. The fact that California has a policy that allows not only those who have graduated from schools nationally accredited by the American Bar Association, but applicants from California accredited and unaccredited law schools should also be re-looked. The passage rate for students who did not attend an ABA accredited school should not be a driver for this decision. I have served as a government attorney for 17 years and I believe the most important factors to the practice of law are competency and integrity. Lowering the CBX cut score will have a direct negative effect on those values. Thank you.

Anonymous

The test needs more performance exams (i.e. real world application) and less multiple choice questions.

Anonymous

Lowering the bar exam cut score will simply make it more likely that a larger number of unqualified people are able to become attorneys. If the State Bar cares about increasing its passage rates, then it should start doing what nearly every other state in the union does, and stop letting people without law degrees take the bar exam. Additionally, the State Bar should stop the practice of accrediting "California-accredited" law schools, which are essentially theft from 95% of the students, who will not be able to obtain jobs at reputable firms with the degrees they get. Once these populations of exam-takers are excluded, the passage rate should increase. Given the general reputation of the legal industry (i.e. a catastrophe is when a car full of lawyers runs off a cliff; a tragedy is when they survive), it is much more important that we preserve the competence and integrity of licensed attorneys in California than it is that we increase our passage rates through artificial means that will not affect the quality of the average California lawyer.

Melissa Fox

As someone who has passed the bar exams in Pennsylvania, New Jersey and California and who practices in California, I see absolutely no reason why the requirements for bar passage should be lowered at this time. The State Bar has already chosen to decrease the exam from the former three days to only two. I believe that by decreasing the rate requirements, the State is simply allowing those who are unable to meet the strict criteria for practice, to do so anyone. Further, due to the large number of unaccredited law schools that inadequately prepare their students to practice, the bar passage rates in CA are going to be lower. I urge the Bar to make no changes to the passage requirements.

Anonymous

Lowering the score also lowers the caliber of the attorneys being admitted to practice. This is not in the best interest of the community. Attorneys should be held to a higher standard.

Katherine Chu

We should not reduce the standards just because law students are not diligent or smart enough to pass. Reducing our standards will greatly hamper the quality of attorneys we have in the market and will result in senior attorneys having to second guess any attorney who passes after 2017.

Mary Beth Acton - Acton Law Corporation

California needs better lawyers not more lawyers. Lowering the score would allow more sub-standard lawyers to practice in California. The bar exam has already been cut from three days to two. If the bar pass rate is that low, there should be better bar pass programs, better teaching tools and better test taking/studying methods in place. Lowering the bar pass rate should be the last thing the State Bar should be considering.

I am completely against lowering the current cut score.

Kathleen Sikora - retired

Law schools should do a better job: require courses covered on the bar exam, test to strengthen bar essay writing skills (require bar form of essays in all written exams--closed book, IRAC), support students throughout law school, not just at the end, with essay writing skills programs and in other ways, look at the quality of teaching. There is something wrong with the fact that law schools are graduating people who fail the bar exam.

I believe that the form used in this public survey implies that to support diversity, remedy low bar passage rates, and keep students from huge student debt (all GOOD), we need to lower our standards. I don't believe we need to do that, and certainly not as low as is proposed. Isn't this insulting to minorities?

Has this proposal process been rushed for some reason? Have all committees reported? Is the lower standard mainly being advocated by law school deans?

I suggest that you take more time and come back with a proposal, including any changes like those that have been made over the years (e.g., added or subtracted topics on the exam, changes in format, etc.) that can be applied to all exams going forward. Choosing 2 years to apply a lower standard to seems odd. Why these 2 years? It's kind of a slippery slope, and unless there is something obviously wrong with the bar exams of those years, I would leave the scores alone.

Good that you are looking at these issues. Thank you for the opportunity to comment.

Susan Middleton - Retired

While bar pass rate is an important consideration, the percentage of practicing attorneys gainfully employed should also be considered.
The bar is a reflection of candidate capabilities. I would prefer not to see it watered down.
Susan Middleton 128963

James Wright - Oracle

Lowering bar standards to match lowered admission standards at some law schools in the wake of the recession is a service neither to the public we serve nor to the bar itself. Unsurprisingly, given the already wide variance in competence of admitted lawyers, I have not heard a single practicing lawyer I know state that they believe admission standards should be lowered, and this has been a subject of quite some discussion. Lowering standards will have ill effects on both the profession and the public - don't do it.

Phillip Kolczynski - Retired

Whether to lower the California bar pass rate because of a recent trend of poor pass rates?

As a retired practitioner, I have the time to provide an in depth response. I will be careful to avoid the mindset of those who have already “climbed the boarding ladder,” who might be unsympathetic to those trying to board.

I have the perspective of over 40 years in practice. I did not go to law school in California. I was civil trial lawyer in federal and state courts. I had seven years in practice before I moved to California in 1984, to take a job at a law firm in Los Angeles. I took the full three-part exam, not the attorney exam and passed the first time. I am not brilliant, I prepared.

A bar exam as well constructed as the California bar exam, may measure legal reasoning and preliminary competency. However, the California bar exam requires careful preparation. An important reason not to lower the bar pass rate is that passage reflects DILIGENCE, which is the single most important quality that any true professional should have. There is no shortage of intelligent people who are good students; we need more lawyers who will demonstrate that they are committed to professional responsibility and prove they have the diligence necessary to properly prepare and represent their clients.

Factors that shoud be considered when explaining lower pass rates, but that are not mentioned in the official request for input from the bar:
•How does the diminishing bar pass rate break down into graduates of unaccredited law schools, partially accredited law schools and fully accredited law schools?
•How does the dimishing bar pass rate break down into first takers vesus repeated takers?
•How about the passage rate trends for attorneys taking the bar in Califorinia, who are already admitted in other states?
•I always felt I had a privilege to practice, not just a license to practice; how will lawyers, who are already perceived negatively by the general public, be viewed if admission standards are lowered?
•California courts set perusasive legal precedants that are followed by many jurisdictions. California may have more problems than most states. We need more better lawyers, not just more lawyers. Member # 122974

Anonymous

The trend towards a smaller percentage of test-takers of the CBX passing, does not mean that the current cut score of 1440 should be reduced. The State Bar should consider WHO is taking the current Bar Exams - are there more people from non-accredited law schools taking the test than in years past? Are there more people from out-of-state law schools taking the test? Are there more people who have gone to law schools outside of the USA taking the CBX? Are people in these groups the test-takers that are failing to meet the 1440 cut score? Or are ABA-approved California Law Schools failing to prepare their students for the real world as well as they used to?

Before categorically reducing the current cut score simply to increase the CBX pass rate, the State Bar must look at what schools these test-takers are coming from. Are the majority of current test-takers coming from what were once non-accredited or non-ABA approved schools? Maybe what needs to be examined is the accreditation process; those determining accreditation; those determining whether or not the ABA should approve a particular school.

Do not reduce the cut score simply because a lesser percentage of CBX takers are passing. We do not need unqualified people practicing law in California. It would be ridiculous to add less qualified people into the California State Bar simply because the pass rate for the CBX has diminished. If the cut score is reduced for future test takers, what about previous examinees who would have passed had the lower cut score been in effect at that time? Who will fund the law suits defending the old cut score for previous testers? Imagine the number of people that will now retake the CBX in order to try to pass?

Please examine the true reason for lower pass rates -- do not reduce the cut score simply to increase the CBX pass rate. Do not lower the standards previously established because it seems the test is harder to pass. Maybe it's not the validity of the CBX cut score that should be questioned, but the quality of the crop of people who are signing up to take the CBX that is deteriorating, thereby decreasing the pass rate. Thank you.

Anonymous

The law profession is presently over saturated with attorneys. Competition includes unlawful detainer assistants, paralegals operating independently, internet competition, and mega firms expanding their areas and seeking more clients. Lowering the Bar Exam pass score would be unfair to recent successful candidates who have passed the Bar Exam, as well as all prior practicing attorneys. The difficulty of the Bar Exam in California is well known, and imparts confidence in clients of California attorneys. "Dumbing-Down" the Bar Exam sounds harsh, but that is my perception and will likely be the perception of other attorneys and clients, if the Bar Exam pass score is reduced. Lowering the pass score may also lead to some litigation by unsuccessful candidates seeking retroactive application to prior years Bar Exams.Lowering the Bar Exam pass score serves no useful purpose to the profession that I worked extremely hard to attain.

M. Christine Brady

The State Bar should not dumb down the bar exam. I passed the bar exam in 1982, on my first try after attending Loyola Law School, Los Angeles. The people I knew who went to ABA Law Schools and studied hard, passed The bar the first time. Even the people who I knew that went to California approved law schools and studied Hard passed. People who went to bad law schools or failed to put in the necessary effort, did not pass.
Law Schools that are not at least California approved should not exist; they are stealing people's money since They have such low pass rates. More recently, I have had the opportunity to watch my children's friends and their friends prepare to take the bar. While I do not know anyone recently who went to unapproved law schools I have met many that went to good schools. All of the people who studied hard passed! Those that did not study hard and did not spend most of their time between graduation and the exam studying, failed. I am not one to condemn a generation but I have noticed that some Members of this generation feel entitled and don't feel like they need to work for anything. There is a lot of Immediate gratification as opposed to deferred gratification. These people should not be rewarded by lowering the Requirements. It's not fair to clients that may unknowingly hire them. It is also not fair to those who have failed in the past By maybe just a few points. There are plenty of lawyers in California to go around. Let's keep our standards high! I have always been proud to say I am an attorney from California knowing not just anyone can pass our bar. High standards mean high quality!

(Please excuse the strange Uppercase letters. There seems to be a slight conflict between this survey and my phone.)

Elena Contreras

I'm a paralegal and not an attorney but I know several people who have passed the bar on their first try and one on their second attempt. I don't this that there is a need to make it easier as you want future State Bar members to really have the knowledge and dedication to do their job well.

Clyde Dewitt - Law Offices of Clyde DeWitt

I took and on the first attempt passed each of three bar exams, Texas (1973), California (1985) and Nevada (2016). In each instance, the preparation for the bar exam was at least as important in my competence as an attorney as was the last and as was law school. I graduated from the University of Houston Law Center, a mid-level ABA law school. In the years that I have practiced, I have found associates decreasingly aware of fundamentals owing to pointing in the direction of specialties in law school. I also find law school graduates have a decreasing ability to write. Forcing focused bar-exam preparation requires that graduates be familiar with fundamentals and have adequate English language skills.

Robert Cleek - Cleek and Elin, Novato, CA

I may be missing something here, but I find I'm left to guess why the pass rate is declining. Is there any data on this that might indicate whether the CBX is more difficult or the examinees are less capable? Knowing which would be a significant factor in determining my preference.

Assuming that the CBX's difficulty level has been constant while the pass rate has fallen, lowering the cut score will only ensure the admission of a greater number of lawyers with lower qualifications. This is not good for the bar nor for the public. There are more than enough attorneys in the State of California and, frankly, more than a few of them are only marginally qualified as it is.

There is really very little point in attempting to do anything with the cut score until the cause of the pass rate decline is identified. As I am sure the Committee is well aware, there could be many reasons for the decline in the pass rate. It could correlate with the increase in graduates from law schools which lack ABA accreditation. If so, as they say, "oh well." There is absolutely no justification in "lowering the net" for candidates who are deficient. My heart goes out to them, nonetheless. It is sad to see those who do not have the qualifications to obtain admission to ABA-accredited law schools being lured into for-profit "strip mall" or "internet" law schools that graduate them for the price of horrendous student loan debt when they have little or no hope of ever passing the CBX.

"Equal opportunity" and diversity are certainly important considerations, but, here again, "lowering the net" does not serve the interests of the bar nor the public and perhaps more importantly, taints the entire pool of such attorneys as presumptively having been held to a lower standard of competence. The need for a bar that reflects the demographics of the State's population must be addressed first and foremost by educationally equipping diversity candidates to compete on an equal footing with the general pool of CBX examinees. The pattern of law schools granting preferential admission to diversity candidates does the candidates no favors if they lack the foundational education to compete with the general pool of the school's students.

I worked my way through law school at an ABA-accredited night law school and through some miracle, I passed the CBX on my first attempt. In those days, the "first time" pass rate hovered around a third of the examinees who had graduated from ABA-accredited schools, but dropped precipitously as the accreditation levels dropped.. That was nearly forty years ago. Since that time, the CBX has changed significantly, most notably by the addition of the "performance section" of the exam. That innovation was, as I recall, intended to make the CBX easier to pass for some examinees, but did not result in a higher pass rate, as I recall. Now I hear that the CBX will be shortened to a two-day test, again in the hope of increasing the pass rate.

If the correlation between the pass rate and the accreditation level of the examinees' law schools is any indication, and the CBX can be presumed to be no more difficult from one year to the next, which would likely be a conservative estimate, given all the efforts to make it easier to pass, the decrease in the pass rate is logically a result of the competence of the graduates the law school industry is turning out. A closer examination would, I believe based only on anecdotal evidence, reveal that there are more students graduating from non-ABA-accredited schools in the examinee pool than before and those examinees are less qualified than the ABA-accredited schools' graduates. If that is the case, there can be no justification for lowering the cut score unless it is merely to permit the admission of less qualified candidates. Similarly, when comparing the pass rates of other States, it may well be that those other States have far fewer examinees who did not attend ABA-accredited law schools than does California. That would also result in a higher pass rate in those States, all other factors being equal.

There is, however, another possible explanation. I entered law school in 1974 at a time when ABA-accredited law school applications for admission were at the highest number in history. They have, I believe, dropped in number since then. At that time, a career in the law was very attractive. It may not be so attractive at present. The tech and financial management careers often promise far higher financial rewards than does law these days. It may simply be that "the best and the brightest" aren't as interested in becoming lawyers than they once were and the law school system simply has less to work with than they did forty years ago.

Whatever the reason for "declining pass rates" the problem should not be the fault of the CBX, assuming its difficult level remains constant, but rather the fault of the law schools who are simply not turning out graduates who are as equipped to pass the CBX as those in the past. There's no reason that the Committee should apologize for its high standards. I have always been proud of having passed one of the most difficult bar exams in the nation (even if my score may have equaled the cut score!) I'd prefer to practice with colleagues that have done the same, rather than a "new wave" of less-qualified practitioners turned loose on the public for no greater reason than the pressure of complaints that the CBX is too difficult.

Anonymous

Absolutely NO to reducing the cut score!!!! It should be difficult to pass the Bar exam. This sounds like the millennial sense of entitlement rearing its ugly head. This is not a participation trophy!

Alison Kwan - CCSF

Already, there are so many unqualified applicants. It is not surprising that deans of law schools whose students have performed poorly in the last year or so are pushing for a lower bar pass rate. Law schools should do more to educate and prepare their students, as opposed to simply making it "easier" to pass.

Anonymous

It's not fair to all the people who had to take the Bar exam multiple times before because they were under 1440 that now, we're considering lowering the score just to accommodate new graduates.

The test is the same - it has been for many, many, many years. Why would we lower the standards of our professions? If people honestly just aren't smart enough to pass, then they shouldn't practice law - because it's much harder in the real world than passing a test. Taking the Bar has been the easiest part of becoming a lawyer over the last 13 years - and I thought the test was hard! But if you can't discipline yourself for two months and adhere to a rigid schedule and be able to apply yourself to learn and study and memorize - what makes a person think they can handle real life cases? Real life cases that affect real people's lives? How do we know they're able to be good conscientious attorneys who will spend the time with the client, to be able to sacrifice their personal lives at times to work late - to be fully prepared to articulate and fight for their client if they couldn't it to pass the test?

I'm sorry to say, that since I've started practicing, I've noticed that there are many dumb attorneys. To lower the bar score not only will degrade our profession, it's a disservice to the public by making unqualified attorneys available to them.

John Frank - Retired

I believe you are not asking the right question. The question to ask is, "is the exam reasonable?" Manipulating the cut score to produce a given pass ratio is simply a quick answer to the wrong question. If the test really reflects what is academically required to be a lawyer you stick with it.. Maybe the graders are doing something wrong.

It might also pay to take a look at faculty qualifications...often things not learned are really things not taught.

Miles Coatsee - Law Offices of Miles J. Coatsee, Esq.

Unless the declining bar passing rates are the result of a recent increase in the cut score, the cut score cannot be the cause, and therefore there is no need to lower the cut score. I think we can all agree that there is no shortage of lawyers in California. So why the angst about declining bar passage rates? I can't help noticing that it is LAW SCHOOLS that have brought this issue to the fore. They have a financial interest in making it easier to pass the bar exam. Nobody else is concerned about it.

Is there a fairness issue here? Possibly, if the bar exam has gotten more difficult in recent years. Has it? Are the questions more difficult, or are the exams being graded more harshly than in years past? If so, then maybe that should be looked at. (But that is a different issue than the cut score.) If not, then everybody who has taken the bar exam is in the same boat, and there is no fairness problem. (And believe me, I'm a big advocate of fairness. I can't stand unfairness or injustice. That's why I became a lawyer in the first place. If I perceived a fairness problem here, I'd be up in arms and squawking loudly about it.) If I can pass the bar exam at a score of 1440, it can't be THAT difficult. ;-) There's no reason that any person who desires to become lawyer shouldn't be required to meet the same standards as all those who have gone before.

Anonymous

This move to lower the passing score is the continual slippery slope evident everywhere in our society. Everyone should receive a ribbon or prize for competing; everyone is a winner, no one loses; everyone should graduate, so let's lower the requirements to ensure this happens, etc.

Such hand-holding and raising one "in a protective bubble" ill prepares a person for the real world. Lawyering is about competition, through and through. You have opposing sides who are inherently at conflict, and their attorneys advocate for each side. But only one side will prevail, such is the inherent fact of a conflict. Coddling this lawyer that they should always win, and if not, we should make sure they did (e.g. lower the bar exam score until they pass). This cheapens the accomplishment of passing the bar, allows a bar passer to not commit to the preparation for passage, which teaches them discipline for their future profession, etc.

As a current CA bar member, and a member of Gen X, this is a horrible decision to lower passage. But sadly consistent with the Gen Z mentality, instant gratification. I want my bar license now, I can't delay gratification and have to study to pass.

Anonymous

It is my impression that when I took the California bar exam in July 1989, a great number of those who failed did so as graduates of unaccredited California law schools which left their students ill-prepared to pass. I graduated from Northwestern University School of Law, rated at the time among the top 20 schools in the country. Of the 16 Northwestern graduates who took the California bar exam that July, 6 failed, consistent with the failure rate for that exam. A far greater number failed when graduating from unaccredited California law school mills. In my opinion, lowering the cut number allows those schools to escape improving their record and contributes to a number of ill-equipped graduates entering practice.

Aaron Grunfeld - Sole practitioner

I have reviewed the materials supplied. Thank you. They appear to be comprehensive and balanced. Weighing the various considerations presented, I feel there's no benefit to making the change to a lower passing score. Increasing the pass percentage rate of itself does not have material merit or benefit. A lower CBX pass score may very well increase admissions of persons who can do public harm. As stories and articles appear on the news to report on change to a lower score needed for passing, one can further expect a lower favorable view of the legal profession in eyes of the public....again, with no worthwhile direct benefit to the profession. Please keep the status quo.

Sheila Hanson - Retired

Please do not lower the cut score. We Californian's already have a hard enough time navigating the laws of the State with those that HAVE passed the Bar. We need the top notch, sharpest individuals representing us, don't "dumb it down." There are so many on-line, night school type law schools that maybe that is what should be addressed - the lack of quality education, not the test.

Mike Dias

The job of the bar is tonprotect the public from low tier incompetence. Lowering the bar serves. O one, especially not the public. Shame on the originator of this bill.

Marvin Couture - retired

Obviously there are too many law students in California - most bar exam takers do not pass, yet there are sufficient attorneys in the state. Instead of lowering the pass rate for the bar exam, perhaps the law schools should take in fewer students and spend more time on individual students, thus preparing them to pass the exam. If law school tuition rises as a result of lowering the number of students, so be it. Only qualified people should be admitted, with no accommodations for any potential student who does not meet the admission criteria. The law is too important to weaken it by admitting people who cannot meet the standards that are necessary to keep respect for the legal profession at a high level. The legal community in Clifornia has to decide which is more important - maintaining some sort of irrelevant "balance" in the profession or maintaining high standards so that the people of the State are represented by able, qualified, ethically responsible attorneys.

Anonymous

The California legal market is oversaturated with attorneys and the Bar Exam guards the integrity and quality of our profession by ensuring that only applicants who have the diligence and dedication to fully prepare for the exam pass it. Law schools need to invest more time and resources to assist their students in preparing for the exam. The solution is not to lower the pass score. Doing so would undermine the Bar Exam's purpose of ensuring that only those who are qualified are allowed to practice law.

Martin Loppnow - File number 100706

Either implement the cut permanently or do not implement it. To only apply to one bar will create turmoil for those whose score would have passed but for not taking that bar, The reason for cutting on one bar must be to see if passage rate goes up enough, but this can be seen hypothetically for every bar ever taken. Thus more datum and less turmoil if you either implement it permanently or never implement it.

Anonymous

This would be absolutely unjust to those who have passed the rigorous standards of the california bar. The score is indicative of a standard of competency and ability to handle cases one would see in a large state such as California. The score should remain in place as is. You have already decreased the number of test days, why? Does California want a sudden influx of incompetent attorneys or those who simply can not handle the rigorous duties and mental capabilities needed to be successful in the practice of law. The public deserves to trust that the California Bar has continued to do its best to ensure those who have passed the bar are competent to practice law. Lowering passing scores is not in the best interest of the people of California.

Lawrence Hall

I think reducing the cut score is a terrible idea.

Maintaining a high standard of proficiency is essential to maintaining the high quality of attorney services that the California public deserves to expect. The public expects a high level of skill and competency. People typically hire attorneys because they face problems or life issues that only the peculiar knowledge of a qualified attorney can provide. Increasing the number of attorneys by lowering the required skill and knowledge level would be a disservice to all Californians.

By analogy - I would not want to know that my doctor was only able to practice medicine because the state authority decided to lower the medical cut score.

Christian Picone

California has a unique State Bar that allows a larger set of eligible people to sit for the bar exam. My research shows that only five other states allow state accredited law school graduates to sit for the bar exam and three other states allow non-accredited law school graduates or those who have "read law" sit for the bar exam. The policy of California to be uniquely inclusive as to who is eligible to sit for the bar exam requires that the State Bar protect the public by ensuring that unqualified persons practice law and that means a higher fail rate than the national average. This is not a knock on non-ABA accredited law schools but the ABA accredited law schools make a calculated cut and admit those students that are more likely to be successful on the bar exam. That does not mean that non-ABA accredited law schools do not serve a purpose. Many successful California attorneys attended non-ABA accredited law schools. The non-ABA accredited law schools are beneficial. They allow people to attend law school who strive to become lawyers at a later stage in life, who geographically lack access to an ABA accredited law school, or who lack the economic resources to attend an ABA accredited law school. However, that means that the State Bar must set a higher standard to pass the exam than the vast majority of other states that take advantage of the ABA accredited law schools' cuts to admission.

The State Bar cannot have it both ways. It either lowers the passing rate, and follow 41 other states and prohibit non-ABA law school graduates or those that "read law" from sitting for the bar exam. On the other hand, if the State Bar wishes to retain its "uniquely inclusive policy" then it should maintain an above average fail rate.

The bar exam's purpose is to protect the public to ensure that only qualified attorneys represent people, businesses, and entities before state and federal courts in California. In fact, a unique facet of the federal courts in California is that those courts require nongovernmental attorneys to have passed the California bar exam. That is not the case in most other federal jurisdictions. I was admitted to the Central District of Illinois upon proof that I was admitted to practice law in Colorado and before I had passed the Illinois bar exam.

I have sat and passed three State Bar exams. Without question or hesitation I can confidently say that California's exam was the most difficult exam. I can also confidently state that I do not want to see the California exam pass rate change. The California bar exam was the only state exam that I took that allowed non-ABA accredited law school graduates to sit for the exam. It seems that the most concentrated voices to lower the passing score are those that wish to gain from an easier exam. The two groups seeking change are those students that have been unsuccessful and the deans of California law schools, especially the non-ABA accredited law schools. As to the former they will always exist to some degree (and I am sorry). As to the latter, law schools are in the business of providing service to a group of people that expend an enormous amount of money to train to become lawyers. If the law schools' constituents are having difficulty passing the bar exam it might be because the law schools are failing to adequately prepare the students to take the bar exam. Maybe the State Bar should be asking the law schools what they can do to prepare students to take the bar exam instead of the law schools asking State Bar to lower the passing exam score.

Thank you for considering my position.

Kathie Browne - Kathie Browne Attorney at Law

The declining pass rate of the State Bar is more likely attributed to persons attending law school and taking the Bar Exam, who were not adequately prepared for the Bar Exam, as a result of attending for profit unaccredited schools. These schools prey on people and take their money and don't adhere to proper standards for admission. Students end up with huge amounts of student loan debt and are unable to practice law or find jobs in the profession. There is no shortage of lawyers in California. There is no need to lower standards. The State Bar has a duty to protect the public from people who are unqualified and engaged in the practice of law.

Steven Kornberg

why would we consider lowering the standards for admission to the bar? If anything we should increase the standards to uphold the integrity of the bar.

Anonymous

We are not doing the citizens of this state any favor by foisting less qualified lawyers on them.

Luke Marvin - potential law student

As a prospective legal student, I believe lowering Bar Exam standards would have a detrimental effect on the legal profession and harm our potential clients. Becoming a lawyer should be a difficult process requiring dedication, self-discipline, and proficiency. A client expects mastery of law, not mediocrity. I am not sure why there is a need to increase the passage rate, unless there is a shortage of attorneys.

If there is a pressing need for more legal representation, then as Justice Gorsuch suggested during his Senate confirmation hearing, a discussion about alternative legal professionals is warranted. Some affordable justice advocates have argued for loosening regulations on the legal industry so that low-income and otherwise unrepresented plaintiffs have more access to the legal system.

While this might be an interesting solution, the Bar Exam should be evidence of excellence.

Lawrence Knapp - Law Ofc of Lawrence Knapp

Lowering the cut score will necessarily mean lowering the quality of the legal representation of the State. For this reason alone, lowering the cut score is a bad idea.

Barbara Jones-Erickson

I am concerned about a decline in the value of education in general, and the all-too-willing acceptance, in general, of cheating and laziness in passing students, at any level, forward. This bar exam cut score proposal is, to me, a prime example of lowering standards in order to pass people forward who may not be adequately qualified, and who may, in being passed forward, end up causing harm due to incompetence. We should be working to find ways to motivate students to do, and be, better, rather than lowering standards because students are not motivated to learn, and thus fail exams. Over the many years that I have been a lawyer, I have unfortunately been witness to increasing lack of competence in representation, and to a general lack of respect for the law. Lowering the score required to pass the bar will only cause further increase in a lack of respect for the law. If we value and cherish our system of justice, we should show it by requiring that only the best will qualify to work within it.

Anonymous

I agree keeping the score as-is, DO NOT CUT THE SCORE.

What will follow? Are schools then going to drop law school GPA requirements so less students fail out of law school? It's bad enough that each school has a different grade normalization scale some schools are scaled towards a "B" average while others are scaled towards a "C" average – that makes for some very interesting GPA differences amongst graduating students), the bar is the only objective standard to assess all students equally.

One of my good friends took the CA bar 5-times before he passed. He had sheer unrelenting determination to pass the exam, he studied and re-took the exam until he passed. To lower the score is to spit in his face, it spits in the face of every student who has sacrificed and given blood, sweat, and tears to pass that exam. Additionally, I passed the CA bar on my first try – and I have diagnosed learning disabilities. I studied my butt off for that exam (12+ hours per day, 7-days per week for the duration of the prep period) and I passed it on the first try. To lower the score is a slap in my face.

The attorney market is already a very saturated one. Lowering bar passage scores only increases the saturation, and does so by allowing unqualified attorneys into the field.

The attorney survey sent by the CA Bar on the topic of lowering the pass score included opinion polls. "The following statements are often considered relevant factors in determining an appropriate bar exam cut score. Please rate the importance you assign to each of the statements from 1 (not important at all) to 10 (very important)" One question was: "The burden of student loan debt for law-school graduates unable to find gainful employment after failing the bar exam." I would really like to know why this is a factor in lowering the pass score? When an individual decides to enter law school, he/she is well aware if they do not pass the bar, they cannot practice law. It's a risk you affirmatively take, I do not understand why this would be considered a factor in lowering the bar pass score. If a student doesn't understand this risk upon entering law school, then she/he probably should not be practicing law.

Perhaps CA has a declining pass rate because the exam is 3-days long (not 2-days as the vast majority of states are). It doesn't take a rocket scientist to figure out that a 3-day exam would inherently be more difficult than a 2-day exam – even if simply based on mental stamina.
Perhaps CA has a declining pass rate because is a state with a larger population of non-accredited law schools? (or as the Chad W. Buckendahl, Ph.D. report puts it, "…California's more inclusive policies as to who may sit for the exam…California has a uniquely inclusive policy as to who may be eligible to take the Bar Exam. Not only those who have graduated from schools nationally accredited by the American Bar Association, but applicants from California accredited and unaccredited law schools are also allowed to take the exam, as well as those who have 'read law.' This sets California apart from virtually all other jurisdictions." CA should re-assess who they allow to sit for the bar exam, before it lowers its standards to pass the bar exam.

DO NOT CUT THE SCORE

Joeph Kevin Downes

We need to preserve the level of competency required for admission to the State Bar.

Lowering the required standards will only diminish the quality of justice and increase the expense of delivering justice.

With the current number of attorneys licensed to practice law in California, there is no longer any realistic lack of access to the system of justice for members of any community in the state.

Anonymous

You have already dropped the exam to two days and now you want to lower the passing score? I disagree with this wholeheartedly! There is no benefit to watering down the profession. If people can't pass they need to study harder. Going to law school is a business decision, it works out for some and doesn't for others. It is a risk that people take and it is not the Bar's job to manage an individuals risk. Instead, the Bar should focus on maintaining the integrity and competency of the profession. Moreover, lowering the passing score does nothing to serve populations who are underserved. Quite frankly it is an insult to suggest that lowering the score would help underprivileged groups. Everyone deserves to have an attorney who competent enough to pass the exam as is.

John Dyer - COF DCSS

Don't dumb down the Profession.

And if it aint broke, don't fix it.

These Millenials want stuff handed to them and don't want to buckle down and work as hard as we did?

Too bad.

Lower Standards yield lesser results.

Anonymous

I am a foreign attorney passed the California Bar Exam recently. I found the exam was not so difficult because I could pass it for the first time despite of my English difficulties--my English skills are not so good (less than 100 in TOEFL). Further, I did not have LLM or JD degree in US. I prepared for it by my selves using some published materials. If Cal Bar takes the lower cut score, I am anxious about the quality of future attorneys in California.

Gary Drummond - Prindle, Goetz, Barnes & Rineholtz

It seems to me that the pass rate percentage would be more instructive, and perhaps revealing, if it were broken down into categories -- graduates of accredited law schools and those from unaccredited schools, first-time exam takers versus multiple takers, and perhaps those from out-of-state schools. (I assume that the results of the attorney exam are not included in the percentage.) Gary T. Drummond State Bar No. 47709

Anonymous

We have way too many unqualified attorneys in California. You've already made the exam 2-days instead of 3-days, please don't make it any easier. Please make it harder.

Daniel G

California has over 160,000 lawyers and growing. It's only second to the State of New York in the number of active lawyers and it is in the top ten when it comes to the number of lawyers per capita. There is no shortage of lawyers in California. In fact, the surplus of lawyers has made it nearly impossible for lawyers to find meaningful employment.

I manage a law firm with 50+ employees, and have the opportunity to review hundreds of resumes annually. On a regular basis we have lawyers applying for administrative jobs. We have even had licensed attorneys apply to be our receptionist. The market is so saturated with lawyers looking for work, especially new lawyers, that the going salary for new attorneys is actually less than for a paralegal with two or three years of experience.

I've also had the opportunity to hire and train both new lawyers and also "JDs" who unsuccessfully have taken the bar (some multiple times). There is a direct and observable correlation between the skills, competency, and qualifications of those that pass the bar on their first time and those that did not. The bar exam was not difficult and does not test difficult subjects. Moreover, the three day exam also served as an endurance test to weed out those that did not have the mental stamina to handle a career in the profession of law. The new two day test has already eliminated this aspect from the exam.

The idea that we need to make the exam easier because new law school graduates are not competent enough to pass the same exam that their predecessors passed for decades is ridiculous and absurd. You wouldn't make the driving test easier because less drivers as passing. You would not make the medical boards easier because fewer doctors were passing. To even entertain the notion of making the bar exam easier serves to cheapen the practice of law. It sends a message to the general public that the new batch of lawyers are not as smart as their predecessors, and renders the bar exam meaningless and arbitrary.

Aside from the addition of some new subjects, the current exam is essentially the same exam that generations of lawyers have taken in the past, and prior generations were able to obtain acceptable bar passage rates. If new graduates are unable to pass the exam, it is because these new graduates lack the skill and training that their predecessors had. These “Millennials” have not acquired the skill necessary to competently practice law. While there are other careers where this is acceptable, law is not one of them.

We have already made the exam easier by shortening it to only two days. There is no need to change the scoring. There are already too many licensed lawyers in California that cannot find jobs. There is no reason to make the bar exam easier to add to the glut of unemployed lawyers.

Anonymous

Has the Bar looked into the reasons for why pass rates are falling? It seems to me that the reasons for a falling pass rate should be identified before simply lowering the standard to make sure it is not a symptom of systemic problem in the legal education system. For example, is the lowering trend correlated to the loosening of grading standards in law schools? The exam has already been cut by a third to make it easier, do we want to lower the bar even further by lowering the score needed to pass? If the reason for a failing pass rate is inadequate legal education, then education should be the focus as opposed to simply lowering the acceptable standard of the legal profession.

Leon Kousharian

As a practicing attorney for almost 20 years, I am saddened by the number of extremely qualified recent graduates (who passed the bar exam with the current cut score) who are struggling to find employment. I do not see the benefit of lowering the score to further flood the market with lesser-qualified attorneys to compete for the limited employment opportunities available for those who were able to pass the bar exam with a cut score of 1440.

Anonymous

Keep or raise current scores. Extend the exam back to 3 days. No reciprocity, and no national bar exam. There are too many attorneys in California. There are too many law schools. They pay professors too much for too little actual work, and those professors are often cloistered academics who write meaningless and redundant research and never practice. Non ABA schools should be shutttered. The law schools take advantage of the students. They charge exorbitant amounts and take advantage of the students who are forced to pay their loans off over 30 years. The loans are non-dischargeable. The schools then beg the alumni for donations while the students are still barely able to pay their loans and stay afloat. Newly minted lawyers cannot find jobs. If they can find jobs, they are forced by student loans to take and stay in jobs for which they are not well suited. They cannot easily buy homes or start families. Protect the professionand the practitioners. Let the industry recover. Don't betray your colleagues.

Anonymous

As CA and the rest of the nation go forward, it is critical that CA keep very high standards for admission to the State Bar. THE RACES, RELIGIOUS AND ETHNIC GROUPS SHOULD NOT BE FURTHER SEPARATED FROM THE REST OF THE PUBLIC, WITH DIFFERENT LOYALTIES AND STANDARDS OF THEIR PROFESSIONALS. INSTEAD, TAX INCENTIVIZED PUBLIC AND PRIVATE LEGAL SCHOLARSHIPS MAY BE PART OF THE ANSWER.

It is a privilege to represent members of the public in the practice of Law. I have done so for over 50 years. The public is not better served by diluting the standards for such representation. PRESENTLY, when a lawyer is admitted to practice, he/she does not sign an agreement to limit their practice to any area of law, nor to any particular ethnic, religious or racial group. On the contrary, they are free to offer ALL legal services to the public at large. Indeed, by allowing them to practice, the State is representing to the public that such members have the integrity, ability, and honesty to perform such services. Certain areas of Law have become so demanding they require SPECIALISTS who are certified.

The CA Bar should not be setting standards based on "affirmative action" politics, but rather on the merit and abilities of those lawyers who practice Law in this State AS A WHOLE. These high standards should be demanded of all lawyers. If it is otherwise, the minority, religious, and ethnic public are not getting the same high quality of legal services they deserve.

Instead, scholarships should be established for those would-be lawyers who agree to practice Law in minority, religious or ethnic communities for a period of time as a condition to receiving the scholarships. That way, all the public will have equal merit and quality in the legal services provided. The high standard for public representation would be retained.

A PUBLIC OR PRIVATE SCHOLARSHIP ARRANGEMENT (MAYBE WITH TAX INCENTIVES TO THE PROVIDERS) WOULD NOT REQUIRE THE DIMINUTION OF THE HIGH STANDARDS THAT CA IS KNOWN FOR AND THAT ALL THE PUBLIC HAS A RIGHT TO EXPECT.

K. E. Johnson,
Attorney-at-Law
(Retired)

Stephanie Johnson - Johnson Moore

I disagree with lowering the cut score because the integrity of the profession depends on competent attorneys. I fear lowering the current cut score will produce incompetent attorneys who are unprepared to face the demands of the profession. I personally found the difficulty of the California bar exam prepared me for the due diligence our profession requires. As I prepared myself for the exam, I found myself saying "look it up" if I didn't know or understand a term. And I feared if I cut a corner here or there, and didn't look up a term or concept every single time I came across something I didn't know or understand, that would result in me failing the exam because it is such a difficult exam. Maybe I would have cut a corner here or there if I knew the examiners were making the exam "easier". Also, the examiners already made the exam "easier" by reducing it from three to two days. The exam should be hard, and knowing it's hard will inspire students to study hard, hopefully producing a competent attorney on the other side.

Anonymous

I believe that the public deserves the best trained attorneys to represent them both in and out of court. Choosing to lower the cut score for any sociological / cultural reason such as increasing diversity or providing more legal representation for underserved populations does not meet the goal of giving that population best trained top attorneys to give them equality of representation in and out of court. If bar scores are dropping, that's not a reason to "dumb down" the attorney pool with easier standards!! I am an attorney who passed the first time and I worked hard to do it. Others can also deserve it by working hard to pass the bar exam.

R. Wesley Pratt - Brent, Fiol & Pratt LLP

Lowering the cut score is a mistake.

The California economy, on the whole, has been solid. As we have seen in the past, law school applications dip when the job market is strong. The application rate rises when jobs are less plentiful.

I believe that the declining pass rate is a product of law schools accepting students with weaker credentials.

I have been disappointed with the stamina and work ethic of new attorneys.

Changing the cut score is reactionary and a mistake. The practice of law is not for everyone. Please do not allow entry into the practice of law of those who cannot pass the bar examination with a cut score of 1440.

Anonymous

By all means, lower the cut score to whatever the pitchfork crowd asks for — tell Bozo the Clown that he, too, can represent strangers in matters involving their life's savings and saving their lives. Let no California snowflake have to feel the pain that I did in failing the Bar. All will rejoice – the newly minted attorneys with their new licenses, as will the experienced attorneys who now have incompetents as adversaries. The attorney previously concerned about malpractice can now breathe easily because his newly minted colleagues have lowered the definition of a "reasonable attorney."

Only the public will be harmed (and perhaps judges will be annoyed at the fools that they will have to deal with in the courtroom) — but it's not the job of the State Bar to protect the public, now, is it?

Richard Rodriguez - Law Offices of Richard Rodriguez

The real problem with the glut of attorneys in CA is that CA allows other types of schools which are for profit to operate law schools. If CA only permitted ABA accredited schools to operate we would not have a glut of attorneys. This leaves the state bar with a limited option to insure quality control and minmal competence of attorney candidates. That is through a rigorous bar exam. The real job of fixing the problem of eliminating non ABA schools from CA is the legislature which has done nothing to address the problem. CA operates on the flawed premise that "anyone has the right to try to become an attorney". This totally ignores the truth and reality that potential candidates vary in their writing and analytical abilities which means that the potential candidate must bear the burden of demonstrating minimal entrance requirements required by all ABA schools. While all candidates should have the opportunity to demonstrate they possess the minimal skills required to succeed in law school & pass the bar exam this does not mean that the state bar and law schools should lower their standards because thery bear the responsibility of protecting the public from being exposed to attorneys who have licenses to practice but never met the minimal standards for admission to an ABA school and are now rewarded with an easier bar exam.

Richard Rodriguez
San Diego, CA
Admitted in CA & NY

Anonymous

It appears that the perceived problem is that the pass rate is declining and something must be done to fix this 'problem'. Perhaps it is not a problem at all, but simply a reflection of the current state of education. If that is the case, then the solution would be to correct the educational problem, not simply avoid it by pursuing the easy but unproductive solution of changing criteria. Admittedly, it is always easier to change (lower) criteria than to fix a qualify problem. But the only result is a lowering of quality. Unless the bar exam has somehow become more difficult over time, the rather apparent answer is that the quality of applicants, on an overall basis, has declined. This may be the result of California's extremely broad criteria for eligibility to take the bar exam. But the price of allowing such broad eligibility is that the relative number of qualified applicants will inevitably be lower than in jurisdictions with more restrictive eligibility criteria. That is simply a consequence of allowing what other jurisdictions might consider to be over-inclusion. One potentially interesting fact that has not been provided is whether the absolute number of admittees has changed from year-to-year. (This would be relevant if the pass rate for certain categories of preparation was constant while the pass rate for other categories was declining, e.g., ABA accredited schools vs. unaccredited schools.) If the declining pass rate is actually the result of more applicants taking the exam, the problem may simply be an increase in the number of unprepared applicants. The study provided really does not thoroughly examine the entire issue, nor, in its defense, was it designed to do so. Perhaps a more robust analysis of the matter would be useful.

William Johnson - Retired

California and New York attorneys are thought by other attorneys not licensed in those states to be the best in the country. It would be a mistake to lower the standards. Lowering the Bar Pass score lowers the standards of attorneys in public practice. I found the younger generation attorneys have low writing capability.

Anonymous

I am a recent law school graduate and a recent CA Bar member. I passed the CA Bar in 2016 on my second attempt. I believe that lowering the Bar Exam cut score will not only not resolve the problem we face but that it discounts the efforts of recent attorneys like myself who genuinely worked hard to insure our success in passing the Bar. We need to work as a community to discover the root of the problem, not to lower the standards that have upheld for decades.

George Heridis - Law Offices of George Heridis

Passing the bar is not an unattainable goal. Proper study and preparation will allow any law graduate a really good chance at passing the bar. There are many other states in which a law graduate may pass the bar and still practice federal law in California. I am curious to know why bar passage rates have dropped recently. If the test and scoring has not changed, then there must be other reasons. Perhaps too many out of state law graduates unfamiliar with California law are bringing down the passage rate? If that is the case, California does not need more out of state attorneys anyway.

Anonymous

We should not lower the cut score. If anything, we should make it more challenging to pass the bar exam.

We do a disservice to the profession, the public it is intended to serve and the courts of which members of the profession are officers when we invite unprepared individuals into the ranks.

The bar exam is a test of minimum competency. And it is not so challenging that any given law school graduate would struggle with it. It requires preparation. Those who are not able to prepare adequately for this exam have no business in the practice of law, where similar preparation is owed to clients and courts as mandated by several ethical rules governing the profession.

Anonymous

There are a glut of California attorneys, many of whom were never able to find employment requiring a law degree. They face large student loans and the depressing realization that they should never have pursued a career in law. By lowering the cut score, you will signal to those considering pursuing law that the path is now easier. If anything, the cut rate should be raised to discourage more people from pursuing law, incurring debt and never finding meaningful employment in the law.

Anonymous

When I attended law school in 2001, the law school in question admitted a broad array of students with very low grades and LSAT scores and then after the end of the 1st year, cut 1/3 of the class. These students were forced to incur one year of debt when they were unqualified to attend law school in the first place. It is the responsibility of the law schools to act as a gate-keeper to admit only qualified students who can graduate law school and pass the bar as it is graded presently. It is not the responsibility of the State to lower the standards to admit individuals who cannot pass the Bar which have been passed by other qualified attorneys. If law schools continue to admit unqualified students, certainly those students will continue to have difficulty passing the Bar examination. It would be inequitable for the public to be served by unqualified lawyers who were only able to pass the Bar once it was made easier. Unlike other professions, the meticulous ethical rules and professional rules govern our duty to the public and it is this responsibility that must be considered when determining to "release" scores of unqualified attorneys into the public domain.

With regards to arguments that these attorneys will serve public interest and low income populations, not only is there no guarantee of such, to wit, aren't these disadvantaged populations in the greatest need of the most qualified attorneys?

Finally, with regards to arguments that this state has the second highest cut score, there are many things that this state has, including a very large population of attorneys and very desirable living conditions. In fact, it is for that reason our real estate prices are some of the highest in the country. These are prices we pay for the luxury of residing in this state. With that in mind, there is no reason to lower the score to be commensurate with those of other states which need such scores to draw in counsel. There is no shortage of attorneys in the state or lack of desire to reside and practice law in this state.

Thank you.

Derek Davis

I read the entire study, and the logic of option number 2 escapes me. The focus on lowering the entry standard misses several exceedingly important factors that no one studied. First, has there suddenly become a paucity of attorneys in California? I am not aware of any shortage of attorneys or crisis of "fee escalation" due to difficulty finding attorneys. In fact, to the contrary, members of our bar are consistently pressured by clients that other attorneys are willing to take lower rates and less compensation because there are so many others willing to do the work. Adding lesser qualified attorneys to the mix seems dangerous to the public and to the livelihood of our existing bar members.

With declining bar passing rates nationally, the significant question exists as to whether our bar preparation course and legal education standards have dropped off from past efforts. Some effort to address education and training deficiencies seems like a better use of time and money on all fronts rather than adding under-prepared attorneys to an already crowded bar. No other profession would evaluate pass rates for a professional certification or licensing exam and lower the standards absent a critical/fundamental shortage or emergency need to do so. Can you imagine the public outrage if physicians and pharmacists lowered the entry level passing rate of their respective licensing exams? The passing rate is almost irrelevant compared to the sheer number of attorneys and demand for their services. The greater issue for the bar is whether we are admitting qualified attorneys, well prepared to serve the public.

Finally, the purported underlying reasons for making the change to the rate have no validity as applied to any other profession. For example, the need to have attorneys represent the legally underserved population. While this is an admirable goal, physicians, nurses and engineers don't cut their pass rates to serve this same population. They don't flood the market with doctors to help the medically underserved population. Rather they focus on alternative ways to fund well-qualified health care professionals and hospitals through MediCal and other cost-offsetting programs. Likewise we should not flood the market with under-qualified attorneys simply to provide lower cost or no cost assistance. We should focus on obtaining alternative means of compensating attorneys who are competent to pass the bar. In this way, maybe we can attract others to our profession who see it as a place where a good living can be earned, folks who can actually pass the bar exam after education and training.

Please keep the passing rate where it is. I see no crisis of a shortage of attorneys. There is simply no need.

Brian Dennis - Brian Dennis, Attorney at Law

If the objective is to have examinees be subject to a rigorous and demanding study process and exam in order to insure that the examinees are well-prepared, and so that successful candidates have demonstrated the discipline necessary to pass, then keep the score as it is.

On the other hand, if, just because fewer candidates are passing, presumably because they have not met the same continuing standards, and you wish to lower the threshold to allow those with less adequate test preparation and test-taking skills to pass what they couldn't pass had they met the same traditional standards, then lower the score.

Either you keep the same standards and demand that the exam-taking population meets those standards, or you accept a lower level of competency just because the outside society's test-taking standards are not what they have been in the past.

I vote not to lower the standards, and have the test-taking population rise to the historical/current standards - not to cater to lower standards. The attorney-using population will best be served with the same standards being met.

Camnhung Le - Dreyer Babich Buccola Wood Campora

The California State Bar's passage score has been held the same for decades. It is not a secret that this bar is very difficult and held at a higher passage rate than most states. In saying that, it is an honor to serve as counsel in the state of California. This privilege must be earned; lowering the passage rate would only place those individuals who did not put in the time, effort and dedication to be placed in the same category as those who have. The California State Bar is not impossible to pass, it takes self-motivation, dedication, and perseverance to overcome. Those aforementioned traits are what we want instilled into our future attorneys. Lowering the passage rate would only reward the individuals who did not work hard enough to pass the test and punish those who have worked hard enough to pass the California State Bar at its current passage rate. Keeping the current California State Bar passage rate would protect and preserve the quality of this profession. Becoming an attorney in California is a long journey. However, those who successfully survive the journey--including passing the State Bar--deserve and truly earned the title of Esquire. I have personally taken this exam twice and passed on the second time. If I did not pass on the second time, I would have gladly taken it a third, fourth, etc., until I fully earned my position with the other individuals who have passed the California State Bar.

Anonymous

I took (and passed) the July 2016 California Bar Exam. It was a difficult test--and it should remain as such. The State Bar of California has declared that it is evaluating whether to change the cut score in reaction to declining pass rates. This is misguided. The CBX is intended to be a test of minimum competency for would-be California attorneys. Therefore, the only consideration that should be made in determining whether to change the cut score should be whether the cut score does not reflect the level of competency required by the State Bar. Lowering the cut score to improve pass rates would simply be a public relations move completely disconnected from the goals and spirit of the California Bar Exam and the mission and obligations of the State Bar of California. I respectfully submit my comments for your consideration. Thank you.

Thomas Gasparini

Two issues are raised by the statistics concerning passage of the California Bar Examination in the past few years:
1. Is the difficulty of the Bar Examination consistent year to year; and
2. If the Bar Examination difficulty is consistent, then the statistics concern passing the Bar Examination are the result of either the quality of the education preparing candidates, or the candidates themselves.

If the State Bar is convinced that the Bar Examination has not become more difficult, then the emphasis should not be on making it easier to pass, but on either the quality of legal education, or the qualifications of the candidates, or both.

Let's not dumb down our profession. If only 20% of the candidates can pass the Bar Examination, then that is how many new lawyers are admitted in California as a result of that examination.

Barbara Broughton

I do NOT think the score to pass the bar exam in California should be lowered. I am strongly opposed to lowering the score at all. It would be unfair to the candidates that had to struggle repeatedly to pass this exam, let alone bear the expense and agony they have to endure to do so. Yet those attorneys endured the studying until they were able to pass. It would definely be an unfair and discriminatory advantage if you lowered the score and other test takers got an easier way out to passing! It isunfair to set a criteria for some and change it because you have a few wealthy candidates who do not wish to buckle down and study like everyone else has had to! DO NOT allow this to happen! Each person who chooses to take the California Bar knows what it entails. It should not be changed to accommodate a select group!

Anonymous

I took the July bar in 2016 and didn't pass, and then retook it in February of 2017 and passed it . I don't support lowering the cut score. If you don't pass the exam then you retake it. Retake it until you pass or don't become an attorney.

When law students signed up for school the information on a passing score on the bar exam was available to them, and it is known that the California Bar is one of the most difficult.

Changing it now isn't fair to the past takers who passed the exam at 1440.

Any changes to the cut score should be announced 3-4 years before it the change to the cut score takes effect. (Even though I don't agree with changing the cut score, I do think any changes should be announced before students sign up for law school)

Anonymous

I am a partner in a 20-member law firm in Ventura County.

I have never seen a study that indicates that more attorneys are needed in California. I have never heard anyone - inside or outside the profession - state that there are not enough attorneys in California. On the other hand, I have heard many people opine that there are too many attorneys in California.

Lowering the cut score will not only significantly increase the number of attorneys in California, that increase will be comprised primarily of lesser qualified attorneys. This will diminish the quality of the legal services provided in this state and harm the integrity of the profession.

I regularly encounter attorneys who - at least in my opinion - are not sufficiently qualified to practice law. Lowering the cut score will significantly increase the likelihood of even more such persons being admitted to the bar.

I saw that one of the considerations for lowering the cut score is that there are many persons who attend law school - and rack up student loan debt - who then fail to pass the bar in California and are, thus, not able to work as an attorney in the state. There is a part of me that feels bad for such persons. But I do not believe that the solution is to lower the standards for the profession. Those persons can always seek admission to practice law in another state or choose a different profession. No one has ever been told that attending law school was a guarantee for (1) passing the bar, or (2) becoming gainfully employed as a lawyer.

It is truly unfortunate, but law school tuition has skyrocketed, the number of law schools has increased, while the number of attorney jobs has slumped. Lowering the cut score will make things worse. It will lead to an increase in attorneys but not an increase in the demand for attorneys. This means that (1) law school tuition will remain high or will increase, (2) there will be even less pressure on law schools to make sure that their graduates are sufficiently qualified to pass the bar and to practice law, and (3) there will still not be enough jobs or clients for those persons entering the profession.

I do not see any good reason to lower the cut score. I would implore you not to do so.

Steve Marshall - DNA

I feel that the Option to lower the cut score will dilute the pool of superior legal talent currently admitted to the bar in the State of California. While test scores are not necessarily a measure of legal talent, they do serve as a requisite minimum measurement of retention and application of the basic principals of the law in its complexity and ought not to be reduced in a well-intentioned but poorly considered attempt to be egalitarian. The practice of law requires focus and discipline. So does passing the Bar. Let's keep it that way. It should be acknowledged that I myself do not and never have been a member of your esteemed profession - my trade is in Arboriculture, not arbitration. But attorneys utilize by services and I'd like to see your profession retain its high standards.

Todd Martin - Law Firm of Todd Martin, Esq.

The California Bar is tough, but so is being a lawyer in California. You wouldn't be doing anyone any favors by lowering our standards to let in people who might not have what it takes. Also, there is a certain amount of prestige that goes with being a California lawyer because we have high standards for our bar. That prestige would be diminished if we lowered our standards.

Richard Hall - City of Riverside Office of the City Attorney

The state bar exam has already been reduced from three days to two to make it easier to pass. Now a "study" says that the "cut score" should be reduced, further lowering the bar for admission to the bar. If this trend continues, why not just do away with the bar exam and let anyone who wants to practice law hang a shingle? By reducing the length of the bar exam and, now, by potentially reducing the "cut score" to make it easier to pass the state bar exam the State Bar is virtually abandoning its responsiblity to ensure that substandard lawyers (of which there's already a surplus) don't end up providing substandard services to unwary clients.

In my opinion anyone admitted to the bar having passed the two-day bar should have an asterick affixed next to their bar number so that the consuming public is aware they did not pass the bar exam that has been the "gold standard" of state bar exams for decades.

Anonymous

The solution of lowering the bar exam cut score misidentifies the problem. In the wake of the recession, the number of applications to law schools plummeted. Many schools, worried about declining attendance and the loss of tuition, lowered their admission standards. The declining bar passage rate can be traced directly to declining admission standards. Focusing on improving admission standards will have the effect of raising bar passage rates without lowering the cut score, and will better ensure that only the most qualified applicants become California licensed attorneys.

Benjamin Hobson

The Score is set up to determine if an applicant is qualified by passing this minimum threshold. We shouldn't simply lower the bar to let a set % in regardless. This would simply encourage more unprepared applicants. If 100% get above, then 100% should pass. If 100% are below then 100% should fail. It does disservice to the profession and put clients at risk of unqualified services.

Anonymous

Lowering the pass score will only serve to exacerbate existing issues. Law schools need to take responsibility for the students they enroll into their programs. For too long, law schools have failed to identify strong candidates to their programs and have failed to properly prepare their students for success on the bar exam and beyond.

By lowering the pass rate we will be harming the public. We need attorneys that are competent. Lowering the pass rate goes against ensuring we have competent attorneys. This is absolutely a horrible idea that will undoubtedly cause more harm than any good to the public and the legal profession in California.

I strongly urge the State Bar of California to not lower the pass rate.

Anonymous

Increase the cut rate above 1440. There are too many unqualified attorneys in California.

Anonymous

California law schools already graduate approximately two students for legal position available in the state each year. A limitation on the number of people eligible to practice law in California -- even an artificial one imposed by a difficult professional exam -- is not out of line. It is also not coincidence that the highest pass rates come from the best law schools in the state. A portion of the low test scores can be attributed to quality of education rather than the difficulty of the exam. The fact that California allows unaccredited law schools to exist, and allows their graduates to take the bar exam, also contributes to the low pass rate. Further, the exam has only recently been changed from a three day exam to a two day exam. It would be better to wait to see the effects of that change, which puts less strain on the test takers and could improve scores, before lowering the cut score.

Anonymous

What utter nonsense. Lowering the standards for admission to practice law would only result in more marginally qualified attorneys than already exist in California providing bad advice to those who need well reasoned advice the most.

Gary Spritz - Self

DO NOT DUMB DOWN THE STATE BAR .....

ITS HARD FOR A REASON ....

HONOR THOSE WHO HAD TO TAKE IT OVER AND OVER AGAIN !!!!!!!!!!!!!!!!!
AND THEiR tenacious effort and
JOY OF PASSING FINALLY.

SORRY THERE ARE NO 2nd place trophies.....

Bradley Brunon

Lowering the standards for passing the exam is not needed. UCLA had a pass rate of 80% and other accredited law schools have similar pass rates. What benefit does the public receive from allowing less well educated test takers being admitted. The bar exam is not a perfect predictor of legal competence but it has served that purpose for many years. Because the current test takers can't pass the exam is more a function of the quality of the test takers than the efficacy of the exam. There are enough mediocre attorneys admitted under the current standards, lower the cut score will only increase the number of marginal attorneys.

Anonymous

We do not need more lawyers. We need more competent lawyers serving the public. That is the issue. The issue is not that the Bar pass rate is declining leaving people in school debt and hurting the State Bar's bottom line for the collection of annual dues. The State Bar is in existence to serve the public, not themselves and less competent nascent lawyers. If you want the Bar pass rate to increase, hold the law professors' feet to the fire.

Anonymous

It absolute nonsense to blame the lack of passage of the Bar on the exam. It is the caliber of students - not qualified to practice law - that is the problem.

The law schools also share responsibility. They have built these temples to mediocrity and have failed to do what they are hired to do - train professionals. Instead they are churning out mediocre men and women who have not seen the inside of a courtroom, who have absolutely no respect for the laws or mores of this nation and expect (more accurately) believe that they are ENTITLED to pass the exam/practice law simply because they have been awarded this piece of paper.

With the numerous disbarments and suspensions, it is frightening to think that the Committee is seriously considering this nonsense. Do we really need more unqualified individuals preying on the public?

My response is an unqualified - NO.

Anonymous

Dear State Bar of California:

I am a recent law school graduate who passed the July 2015 California Bar Examination. By way of some background, I am the first in my family to graduate high school, college, and law school, and grew up in an impoverished town in Southern California. I write to express my opinion that the bar examination score should remain unchanged for at least three reasons: (1) maintaining the same passing score will ensure that the public is protected from unqualified legal professionals; (2) the examination has already undergone a dramatic change from a 3-day test to a 2-day test; and (3) there is a likelihood that students admitted to the bar once the cut score is lowered will sustain stigmatization.

(1) Public Protection Is Most Vital

The State Bar repeatedly states that public protection is its most important mission. Indeed, I am reminded of this every time I log onto the State Bar's website or look at my bar card.

To fulfill that mission, bar examination standards should not be lowered. Though passing rates have been depressed in recent years, we should not overlook the fact that many students who attend questionable law schools take the bar exam in California every February and July. Lowering the cut score seems like a way to put a band-aid on some real issues - namely, that unaccredited law schools in California should not be operating at all if their primary intention is to prey on vulnerable students. In other words, is California's current cut score really unconscionably high or are we letting pretty much anyone take the exam? Are we continuing to let questionable for-profit institutions prey on consumers? I had the privilege of attending a so-called top-10 law school but even such schools could do a better job of preparing students for the bar exam. In other words, simply lowering the cut score seems to let law schools (both accredited and unaccredited ones) "off the hook" as to what THEY could do to improve students' analytical and writing abilities.

It is often said that the bar exam score should be lowered because the bar exam is irrelevant to what a lawyer actually does on a day-to-day basis. I wholeheartedly disagree. Though the bar exam may test students on topics such as "murder at common law," the fundamental skills that the bar exam tests is analytical thinking and writing ability. These are critical skills that lawyers practice everyday.

I also fear that lowering the bar exam score will hurt the legal profession's reputation in the long-run. What would we think if medical exam boards lowered their respective cut scores? Would populations be less willing to get treatment from a doctor that passed his/her medical boards after the relevant exam score was lowered? Are we

admitting that the legal profession is hurting for more lawyers if we lower the bar exam score? What are other ways that we can incentivize lawyers to work in rural communities?

(2) The Bar Examination Has Already Changed Dramatically

The bar exam cut score should also remain unchanged because the bar examination has already undergone a dramatic change with the conversion to a 2-day format. I remember walking into testing for the third day and feeling exhausted. A change to a 2-day format could boost exam pass rates without the need for the lowering of a cut score.

Simply put, it is too premature to change the cut score in light of the recent 2-day exam format change.

(3) Lowering The Cut Score Can Cause Stigma

I am also concerned that lowering the cut score will stigmatize applicants who end up passing the bar exam after the score is lowered. In other words, it is possible that other legal professionals (and the public at-large) will view these newly-minted lawyers as less qualified than lawyers admitted prior to the lowering of the cut score.

I am already hearing things like this now with fellow lawyers complaining that they had to take a 3-day bar exam and not, as it is today, a 2-day exam. Maintaining the same standards across generations of lawyers helps ensure that the lawyers of today are, in some sense, as qualified as the lawyers of yesteryear.

Being lawyer in this country, especially during these trying times, is an enormous privilege. Maintaining the highest ethical, professional, and admissions standards are critical.

Robert Hufnagel

There is no reason to lower the score. There is an abundance of attorneys in the State of California. Lowering the score will only add to the market a surplus of unqualified, substandard lawyers. The current score is necessary to maintain basic modicum of quality lawyers. We should not lower the score to accommodate a declining interest in the law among law students.

Gina Mariani - Law Office of Gina M. Mariani

Is the California State Bar caving into a generation of self-entitled, privileged children whose parents have helicoptered around them their whole lives, so that they cannot stand on their own two feet? Cut the score and you diminish a long withheld standard of hard-working lawyers who earned their way here blood, sweat and tears.

Aaron Hicks - Rizio Law Firm

Lowering the score is quite unfair to all of those over the years that have failed. Especially those who spent thousands of dollars taking it and then retaking it multiple times. If this passes, it should be retroactive.

Anonymous

I believe that the California Bar Examination is a difficult but fair examination. The examiners grading the test have taken it upon themselves to do the thankless job of reviewing and grading numerous bar examinations. For the most part each and every person tackles this job with the best intentions. I appreciate the willingness of these heroes to do this job that lawyers like myself do not have the time (and in many cases the patience) to do. I support the current California Bar Examination because of these individual graders and the overall integrity of the California Bar. I believe that one of the most significant values of the current 3 day California Bar Examination is its longevity. Graduate students taking the test today are able to truly measure themselves against the students who took the test 40 years ago. While I fully appreciate the criticism against the California Bar Examination (when I was a law student - I was one of the loudest critics), and I recognize the distance between the California Bar Examination and the practice of law, the success of passing the California Bar Examination is an important milestone in the legal career of every California lawyer. However, I am concerned about the implications associated with drastic and substantive changes to the California Bar Examination for those students taking and completing it in the future. Will they have an unjustified asterisk attached to their legal careers? I do not believe changing the current California Bar Examination is fair to those students who will be struggling to take and pass it in the future. Though these students are the loudest critics of the current bar examination and will surely disagree with these sentiments, when they become California lawyers I am sure they will have the same appreciation and respect for the California Bar as I hold today. But once the Examination is changed, those new California lawyers may be unfairly marked - through no fault of theirs, with an unspoken asterisk which belittles their accomplishments, skills and dedication to the practice. Unfortunately, like those students who did not pass the examination on the first try, their accomplishments, skills and success cannot fully redeem this unspoken asterisk. Though I do not believe that either changes to the test or the fact someone passed it on the 2nd try is any reflection on the person as a good lawyer, I am aware of this unjustified stigma held and expressed by others. Overall, I think that it is unfair to those future students who pass this modified California Bar Examination. I believe that the risks that these student may be stigmatized overweigh the benefits associated with the increase in the number of qualified California lawyers every year. There are alternative ways to accomplish the justified goal of increasing the bar examination results and the number of new California attorneys without modifying one of the milestones in each and every new California lawyer. Thank you.

Barry Garrison - Retired from Fresno County DA Office

Please do not lower the standards for becoming a member of the California State Bar just because more and more unqualified candidates are failing the State Bar exam.

Justin Uhd

In the interest of the reader, I will keep this short. I have three arguments for NOT lowering the cut score and KEEPING it at 1440:

1. Diminishing the value of my license, education, and prestige associated with being a licensed attorney in California! When I was interviewed for my current position as an ORISE Fellow at the CDC, my soon supervisor said: "So, you're an attorney in California, huh?" I responded with, "Yes, ma'am, that was one tough test!!" Her response, "hardest in the nation I've heard." Without the prestige of our Bar standards, I might not have my job today. What you are proposing to do directly negatively impacts me in such a way I truly feel harmed and damaged if the standards are lowered.

2. Public safety and standards: The legal profession has a high standard because literally every single aspect of being a lawyer substantially and seriously impacts peoples lives for long periods of time. Lowering your standards lowers the quality of care to the general public. Its also unfair to the people who "pass" under a lower standard because they might not be qualified to actually practice law, and cause real damage to someone's life while practicing law. On top of the financial ruin that young attorney could face, the emotional harm knowing their screw up ruined someone's life could be seriously damaging. Additionally, there is no market

3. Integrity of the profession: The standards are what they are because we're the best. Enough said. Additionally, there is no market deficit on the number of California attorneys. Lowering the standards increases the number of practicing lawyers in California (a saturated market) and harms current lawyers and those who can pass under current standards.

In conclusion, please do NOT lower the standards but KEEP the standards at 1440

Anonymous

As a matter of administrative law and fairness, the bar should not change the cut score. In addition, the temporary fix is wildly unfair. I believe this is so because it is arbitrary to apply the temporary fix because it unfairly advantages applicants who took the bar in July. There is not an emergency. Why not come up with a well reasoned approach and then apply prospectively? I took the bar last July and failed. After studying and passing the February 2017 bar, I appreciated the things that I learned the second time around. At the same time, I didn't have any random rule change to help me pass it.

Anonymous

The bar exam is performing its objective - setting a minimum standard of competency for the legal profession. The explanation for the low pass rate is simple - students are less qualified than they were in the past. As you well know, enrollment at law schools around the country is down. To maintain revenue, law schools are also admitting less qualified students rather than limiting their student bodies . One look at the average LSAT score and GPA of incoming classes in the last 4 year compared to the mid-2000s proves this point. LSAT score and GPA are a relatively good predictor of whether a student will pass the bar.

The cost of law school has continued to increase, despite low starting salaries and fewer opportunities for growth than before. Good students want a good paying and secure job that will allow them to service their debt obligations. Good students also do their research. The job placement rate for new attorneys is one of the lowest among the traditional professions, and the pay compared to starting salaries for computer-related professional jobs are also low. Further, the likelihood of becoming a partner at a firm has decreased in the last 10 years. As a result, law school has come to be viewed as a bad investment of time and money compared to the other career options good students have.

All of these factor contribute to the low pass rate. The bar exam is not the problem, it's the profession itself that is need of adjustment. I suggest shortening the time it takes to acquire a law degree by one year which will help to lower the costs. It is also imperative that some law schools close. There is an oversupply of lawyers which is putting a strain on incomes.

Michael Brown - Dorenfeldlaw, Inc.

There are already too many attorneys in California. In 17 years of practice, I've encountered enough attorneys who are incompetent and/or unethical. While I am sympathetic to the fact that there are all these law students coming out of school and trying to enter the workforce, there is no reason to make the Bar any easier.

The difficulty level of the California Bar helps weed out candidates who cannot demonstrate sufficient proficiency. On occasion, students who should pass do not pass for whatever reason. But then they pass the second time. If a candidate cannot pass after more than two attempts, that may mean that the candidate is not sufficiently proficient to practice law in this state. So the difficulty level serves its purpose.

Adding more attorneys who are not proficient is an invitation to flood the already-overburdened court system with malpractice cases.

Law schools need to be more careful about the skill sets, credentials, and abilities of the students they admit; they also need to place more of an emphasis on passing the Bar.

The law schools who have terribly low Bar passage rates should be thoroughly examined to discern whether they should be allowed to stay in business. Unless you know ahead of time that you do not want to practice law, there is no point in attending a law school that will not prepare and equip you to pass the Bar exam, particularly where these law schools charge exorbitant fees. If a law school is going to charge $30,000 or $40,000 per year (or more), then it should be able to provide a very high passage rate.

If this were medicine instead of law, no one would be suggesting that we make it easier for less competent physicians to get a medical license.

The cutoff should stay where it is.

Anonymous

Actually, I found that there are too many lawyers who really aren't very good. Whether this is a result of the lawyer being too lazy to do the research or that the Bar Exam is too easy, I cannot say. Maybe consider raising the cut score instead of lowering it.

Elaine Roark

There are too many lawyers in California. As a 2012 grad, I spent years struggling to find a job -- because there are so many of us. Our services have decreased in value and as a result I have actually left the profession for the most part. I could not successfully establish a career as an attorney in this state. Had a left I think it would have been better. Had a graduated now instead of 2012 I think things also would be better. Suffice to say, making it easier to become an attorney will not help our profession and deliver competent attorneys.

Do I think the bar exam is a ruthless, cruel and actually poor way to create attorneys? Yes. I think that would be solved by having a written and oral portion of the exam (or re-assessing the entire process). Not by allowed people to pass at lower levels.

Blaine Mcphillips - L.A. Office of the County Counsel

The cut score ought not be lowered. The California Bar Exam should remain difficult to pass. In fact, why not make it harder? Not everyone is cut out to be a lawyer. The CA Bar Exam should weed out those individuals that lack the necessary intelligence or fortitude to pass.

Employed Ca Attorney

A little bit about my background. I went to law school during the height of the "economic downturn" (2007 - 2010), and had to compete for a place at a decent law school with hundreds of other over-qualified, jobless, would-students from around the country. I was wait-listed at a California law school that was then ranked #39 in the country, but has since slipped dramatically in the rankings (I'm sure you all can figure out where I went). I was eventually accepted in July 2007. I barely graduated with a 3.0 from this school. I thought for sure I was unfit for the practice of law, despite graduating Phi Beta Kappa and with honors from UCLA as an undergrad. If I could barely cut it at my law school, how was I going to be able to pass the bar?

Funny how that turns out. I took Bar Bri just like everybody else, because I didn't want to be the only one who didn't know all the "tricks," or whatnot during the exam. And when I got into that huge room and tested for 6 hours a day over the course of 3 days, I kept saying to myself "this is pretty easy. I feel like I'm nailing this." Did I nail it? Apparently, yes. Not only did I pass on my first try, but I was one of only 2% of test takers of the July 2010 bar exam who was asked to be a grader of future bar exams. This from the kid that graduated from a now tier-two law school with a 2.97.

Do I have any sympathy with the folks that are having trouble passing the exam? Yes and no. I have sympathy for those who may not have been qualified enough to go to law school in the first place and who have been targeted by greedy law schools looking to fill enrollment quotas. I have sympathy for those who have probably struggled over the course of their law school career and were not helped by their law schools, or not helped enough. I think it's the responsibility of the law schools to adequately prepare their students for the bar exam, NOT THE STATE BAR OF CALIFORNIA. If the pass rate hasn't changed in years, then what is contributing to the declining pass rate? It stands to reason that it lies somewhere in between the quality of the education of the test-takers and and the abilities of said test takers.

Recent bar pass rates do not exist in a vaccum. How many people are passing? Is it still a substantial amount of people? Do we have a dire need of more attorneys in the state of California? Anyone looking for a job as an attorney in this state would probably argue otherwise. And as someone who couldn't find employment in the legal profession for quite some time, I know what I'm talking about.

You have to have some standards for the practice of law; this isn't elitism. This is protecting consumers and those who are in need of legal services. Many people keep making the argument that the high cut score disproportionately effects those attorneys who plan to practice in under-served areas. But shouldn't those people to whom the legal services are targeted deserve a competent attorney? Just because they are poor or on the outskirts of society doesn't make it ok for them to get legal services from someone who may not be competent.

I know that this is a complicated issue. But I don't think that lowering the bar exam cut score is the answer. I know many are going to argue that I'm just another in a long line of people who "got mine, and screw the rest of you." And maybe there's some of that at play. But the legal profession is not a pat-you-on-the-back-and-give-you-a-trophy-just-for-showing-up kind of profession. It can be cut-throat. It can be contentious. And even when an attorney is not a litigator, public defender, etc., they still have the potential to really affect someone's life if they don't do their job competently.

Being a lawyer is hard. I just don't think that we're doing anyone any favors by making the bar exam easier.

Debbie Perez

I do not agree with the cut score being lowered. It is unfair to those individuals who passed prior bar exams with a score of 1440 or above. I understand that the California Bar Exam is an extremely difficult test to pass, but the solution is not to lower the pass score. The focus should be on law schools to better prepare students to take and pass the bar exam. It is unfortunate if some individuals do not pass the exam, but lowering the bar is not going to help them in the actual practice of law.

Edward Wei

Serious people think California possibly needs to lower standards so that we can have more lawyers? Incredible. If anything, I think the minimum cut score should be raised, not lowered.

Jill Franklin - Department of Children and Family Services

No way!! There are too many lawyers and not enough jobs as it is. If they can't pass, they need to study harder.

Anastasia Salmon - Hackard Law, a PLC

Cutting the score is not going to serve the legal community well. Lowering the standard for bar passage will only result in an increase in incompetency in the practice of law. California is not short on attorneys. We should be striving to protect the community of legal practitioners. Lowering the cut score would, in fact, harm the community.

Victoria Naidorf - Broker Risk Management LLP

There are already far too many marginally competent attorneys. Lowering the standards will not improve the profession nor will it achieve any of the goals that are needed for society such as more attorneys for indigent clients. Creating a mandatory internship period working in underserved areas would be a far better approach.

Rissa Stuart - Kahn, Soares & Conway, LLP

There is not a shortage of attorney's in California. Why would we want to promote less proficient attorney's by lowering the cut rate. The purpose is not to benefit the public, but rathet is to continue to promote the interests of law schools.

Anonymous

It is critical for the State Bar to analyze the current state of law schools and their ability to prepare test takers. Perhaps the declining bar pass rates is a result of the quality of law school admission standards today. Also, what are law schools doing to prepare test takers for the CA bar exam? The State Bar should also look at the quality of bar exam prep courses and materials offered to test takers. If the level of difficulty of the bar exam has been consistent all these years, we need to take a hard look at the quality of law school admission standards and what law schools are doing to prepare students for the CA bar exam. Lowering the cut score by itself is not the answer.

Anonymous

Do NOT lower cut score to accommodate individuals of limited intellect and/or achievement from being admitted to the bar notwithstanding their having "successfully" graduated from law school (which school as an aside has undoubtedly lowered its standards over time)! CA Bar should invoke what few safeguards it has to counter the ever deteriorating pedigree of legal practioners in CA.

Footnote: This questionnaire is virtually impossible to complete on a mobile device. Probably designed by someone for whom you now wish to lower the cut score.

Anonymous

Thank you for the opportunity to comment, especially since the issue involves a more universal problem. Thus, I ask, what is the American educational system coming to? Every time I turn around, I read that this educational institution and that are looking to lower educational standards and passing grades, instead of reaching for higher standards for students. If you want to compete in the world economy, you cannot keep dumbing down American youth. I believe the cut score should be raised and the legal educational standards are made the best in the world.

Sean Mackenzie

Is this a joke? The State Bar's mission is to protect the public, and now it is entertaining a movement by Law School Deans to lower the cut score? That will directly harm the public. Here's an idea - place the burden of raising bar exam scores on the Law School Deans. Law school tuition increases every year. Make the Law School Deans earn it. Its their job to educate their students.

The Law Schools say lowering the cut score will increase access to justice for lower income people. What is there to guarantee these new attorneys with scores of 1414-1440 will even work for low income people?

I do volunteer legal work. Access to justice is a significant and complicated problem. Why doesn't the State Bar require instead of recommend pro bono work for all its members? Why doesn't the State Bar mandate pro bono work from Law School Deans! I fail to understand how lowering the bar pass score increases access to justice. It will only harm the public.

I passed the California Bar Exam on my first try because I paid attention in law school and I studied for the exam. It's not that complicated, and I didn't even go to one of the fancy law schools that are behind this movement. Place the burden of education on the law schools.

Sincerely,

Sean MacKenzie, Member of the State Bar of California since 2012.

Anonymous

Keep current score but hold law schools more accountable to proper training and education.

In the year I passed, 26 students from Cal Berkeley took the test and 26 passed. 100% pass rate; however, the overall pass rate for the Winter 2000 test was about 34%--an all time low. When I spoke to one of the students, they indicated that Cal Berkeley had a very strong study curriculum for passing the State Bar. Many schools, such as mine, were not so diligent; thus, I needed to study harder on my own time. I had to take the test several times. Is it possible that since there are many online courses being provided to law students, that the level of studying is getting lower rather higher for the bar exam; thus, reducing the overall pass rate. On other words, since law is now being taught in many formats, not just the traditional format, this may be affecting the quality of training/education for the State Bar of California.

Chris Yuen

Let's have California have the highest bar requirements in the country.

Ashley Posner - Posner Law Corporation

California's bar examination has always been challenging. I took and passed the bar in 1982 when the pass percentage was very low. I was a 22 year old immigrant with no college education and am proud that my effort was rewarded with success. Cheapening that experience to increase the number of marginal lawyers does not promise an improved society for our state.

Victor Davich

From SBCA cover sheet:

"Evaluating the California Bar Exam has included deans and other law school representatives. At an April 6 Law School Assembly meeting, the State Bar hosted deans and law school administrators to discuss the definition of minimum competence that was needed for the Standard Setting Study."

Why are you letting the fox guard the henhouse? It's outrageous, egregious, and you just don't seem to get why Deans from CA schools have a vested interest in lowering the scores for many reasons. Here are some of them:

They make themselves look good and keep their jobs
They entice unwitting applicants to shackle themselves in huge debts with contrived pass stats. Sometime for decades.
They increase applications and attendant fees. Law school apps are down 20%. Don't you think these Deans need to raise some quick money to justify their exorbitant salaries.
They allow Deans to continuously castigate our Bar as a trade organization and exclusive union--and worse, as UC Berkeley Dean has been quoted in NY Times instead of looking to their own inferior selection processes and training.

As a member of the CA Bar since 1987, I implore the Supreme Court to keep our high existing standards in place---both for the protection of your citizens and international reputation of our Bar. Stop these foxes now!

Respectfully submitted.
Victor Norman Davich
CA Bar # 129242

Anonymous

TO LOWER THE ADMISSION STANDARDS IS TO MAKE A MISTAKE OBVIOUS TO THOSE WHO WERE ADMITTED UNDER MUCH TOUGHER STANDARDS. TO THOSE WHO HAVE FOLLOWED THE RULES IT LOWERS THE STATUS AND CHEAPENS THE PRESTIGE OF THE BAR .

MAKE IT TOUGHER. KEEP THOSE HARVARD AND YALE LIBERALS OUT.

Anonymous

Don't submit to the snowflakes. The declining rate is due to snowflake thinking everything needs to be handed to them without studying.

Anonymous

This profession has alway been about providing the best service to the public to protect their rights afforded them by the law. By lowering the existing standards, while this may be a benefit to the applicant it almost assures a reduced quality of service to the public. As a part-time adjunct professor of law it has become increasing apparent that the quality of education in California has been compromised to the point where more and more students find it difficult to even engage in proper sentence structure much less express themselves clearly. It is no wonder then that there are problems on the essay and other written portions of the Bar Exam. The overall quality of the students granted access to law school I believe has been affected and we can ill afford to subject the public as well as the court system to marginal attorneys.

Anonymous

I don't believe that the legal profession as a whole will benefit from a benefit from a lower cut score. We certainly don't have a defecit of attorneys in state or nationally. Increasing the number of attorneys that pass the bar will only further increase competition between recently barred attorneys for a limited pool of jobs. Most positions are attracting over 300 applicants at a time. That does not reflect a profession that should actively increase the rate of new entrants. In addition, California has always had one of the hardest if not the hardest bars in the country. Why would we lower that high standard without a public need?

Anonymous

Cutting the score is outrageous and undermines our entire legal system. I am embarrassed to be barred by the state of California if you choose to cut the score. Shame on this even being an option. Just disgusting.

David Henderson

Candidates for the Bar should take "focused" refresher courses to target "any" subject areas found weak (i.e., areas tested too low). Only diligence will prepare one for the Bar, and thus for a career of "focused" preparation in practice of Law. Three day Bar should be maintained too, as this exam more likely models the "diligence" of practice.

Anonymous

I am strongly opposed to lowering the cut score as to do so would only serve to dumb down the quality of attorneys admitted to practice in California. The exam is already being made easier to pass by the changing of the exam from a three day exam to a two day exam. Merely attending law school is neither a guarantee for passing the exam, nor of obtaining a job. I graduated law school in 1986 and if someone did not pass the bar, the thought process was to study harder the next time around. The mind set was of personal responsibility and that it was one's own hard work and determination that would get one across the finish line, NOT a make it easier for me because I deserve it because I went to law school and now have loans to pay off mind set. If the medical board decided to lower its' cut score, I doubt that the public would think it would be acceptable to admit less qualified doctors to practice medicine. I doubt the public would feel much different with regard to attorneys.
Although I have been on inactive status for many years, I have often heard that the younger attorneys do not write as well. Perhaps, the emphasis should be on the quality of their education and not lowering our standards. The fact that California has one of the most difficult bar exams has always been a benchmark for the quality of attorneys here. The fact that someone doesn't pass the bar here doesn't mean they are barred from ever practicing law. There are 49 other state bars and if someone truly wants to practice law there are certainly many venues available for one to do so. As you may not always get in to your first choice law school, you may not get your first choice of venue to practice in.

Medea Bern - Medea Isphording Bern, esq.

California's citizens deserve competent legal representation. Dumbing down the score not only puts our people at risk of receiving shoddy legal advice, it is a slap in the face to those of us who exhausted ourselves and often our families to adequately prepare ourselves for the Bar Exam. California is supposed to be a state that values excellence. This move would indicate our shift toward mediocrity.

Ryan Carlson - The Law Offices of Douglas F. Walters, APC

This says it all. Please read article in link below, from Hon. Judge William F. Fahey.

https://www.dailyjournal.com/articles/342590

Eugene Berkenstadt - Bornhoft & Berkenstadt

I failed on my first attempt in 1978 to pass the bar by 2 points. In my next attempt I passed with a passage rate of 28% of those who took the exam. I am now (after 39 years of practice) retired so I don't have a financial reason to be concerned with competition. I have been teaching young lawyers how to be attorneys for at least 10 years. Do not lower the standards. We need competence, honesty and integrity more than we need more attorneys. The best attorneys will continue to take the test (which doesn't really validate quality attorneys) until they pass. The bar exam remindes me of my Marine Core training....you never quit and your never give up, and when you finally pass you have something to be proud of that reminds you every day of your carrier (and after) that you have any obligation to help people without regard to financial reward. The higher the standard the better!

Christian Gascou - Gascou Hopkins LLP

In my 17+ years of practicing law, I have seen an increase in the number of attorneys who are unfit to practice law. Lowering the pass rate will only increase the number of those unfit to practice law and increase the number of investigations, suspensions and disbarment proceedings.

Todd Langford

The bar exam is difficult. It is supposed to be difficult. We want attorneys in the State of California to have the mental aptitude and stamina to provide quality legal services. Lowering the passing score to raise the passing rate appears to just let in less qualified attorneys. Given that the national pass rates have been falling as well, I would just leave it as is.

Anonymous

There is no shortage of lawyers in the state of California. Lowering the standard for those admitted to practice law will only facilitate a shortage a market shift in supply and demand. The supply of licensed lawyers already exceeds the available demand for full time legal jobs. Lowering the score just lowers the standard.

Mary Ellen Lemieux

I hold the test prep companies more responsible for failing to adequately prepare their students to pass and to have the stamina to do so. Rather than lower the pass score, I would rather allow students an additional sitting to pass the one portion they did not pass.

Amber Sullivan

Attorneys should be among the most qualified professionals extant. Cutting the score will serve to lower the competence level of attorneys generally. Attorneys, while not literally saving lives like doctors, are close behind, handling matters which greatly affect persons' lives. Accordingly, if anything, the standard should be raised, not lowered.

Moreover, last I checked, there was a surplus of lawyers, adding to my confusion as to why this proposal is even up for consideration. The last thing CA needs is more attorneys, let alone more unqualified attorneys. Do us all a favor: keep the Bar pass score at 1440.

Thank you.

Jack Yinger - Retired

Perhaps it's time to institute a viable intern program prior to allowing a candidate to function under the supervision of practicing attorneys possessing the expertise and the will to take on such an endeavor not free labor but a genuine interest in helping young folks in learning how to reason like a lawyer

Michelle Landry - Putterman Landry + Yu LLP

Every year, the State Bar is asked to investigate numerous cases of attorney misconduct and malpractice. For every complaint made, there are many that go unreported. Our goal should be to maximize the public's trust and faith in our profession and to encourage rigorous study and learning in our field. In part, this means setting high standards for admission to our Bar. All of the material presented on the Bar exam is taken from subjects taught in law school. Thus, the Bar Exam legitimately tests each applicant's knowledge level at the end of their course of study. The only objective that the test should have is to set out to ask fair questions. If the questions are not fair (i.e., they create confusion, are too subjective, etc.), the answer is to refine the test, not to cut the score. If, however, the questions are judged to be fair, why should we lower our expectation that admittees should possess this minimum level of knowledge?

As an attorney in practice for 20 years (and having had to pass the rigorous exam myself), I favor upholding the highest standards for California.

Anonymous

I believe lowering the cut score would also lower standards of what is required to be a California attorney. Candidates need to be thinkers in English since that is the language of the country. Just as in other professions, a client paying for counsel needs to have a professional who can determine the best route or solution through the US laws and customs required for society to abide by.

Time needs to be devoted by candidates to know the bar exam answers. There can be no shortcuts. The profession is already held in low esteem by so much of the public due to ineffective, unknowledgeable legal counsel that is available by some who should not hold a license in the first place. If I were making the score decision I would actually make it more difficult to obtain a legal license.

Perhaps a different tier of professionals is necessary to have representation that would protect all society members.

Anonymous

While it is important that the Legal Profession includes individuals from diverse backgrounds, the public has access to legal services, and there is a large financial burden resulting from student loan debt when a candidate fails the bar exam (as listed in the State Bar's survey); it is more important that those who are charged with the privilege and responsibility of being an attorney in California are qualified to practice law. The Bar Exam cut score as it stands now ensures that attorneys meet a highly set, minimum standard. While it is true that passing the Bar is no indication of an individual's ability to practice law, the current cut score ensures that less of those who do not possess the required skill are allowed to cause harm to the public. A profession that is entrusted with highly sensitive matters and has the ability to cause great harm to those it touches should not lower its standards simply to allow more candidates to pass the Bar Exam. It is better that droves of potentially excellent attorneys are denied their license to practice law in this state than to let a single, unqualified attorney negatively impact their client. While it is difficult to see JDs not pass the Bar after spending large amounts of time and money pursuing their dream, scores of law school graduates find success in other fields without ever having practiced. Furthermore, if a candidate does not pass the Bar Exam on the first try they are able to take the exam as many times necessary for them to pass. Failing the Bar Exam does not irreparably harm the life of the taker; however, a sub-standard attorney can inflict mortal harm to their client. Likewise, to address the access issue, it is better to have a smaller pool of qualified attorneys rather than a large, financially affordable pool of sub-standard attorneys for the public to engage. Instead of changing its standards to reflect public opinion, the profession should stand its ground and refuse to "lower the bar" for the sake of inclusion.

Michael Morphew - The Markham Law Firm

Members of The Bar, remember when you studied for the bar exam? The long hours, piles of flash cards, mountains of outlines and books, Facebook, and enough coffee to keep Peru busy for a year. Wait, did someone say "Facebook"?

Welcome to the new reality. Students studying for the bar are on Facebook, text groups, and websites shopping. If that sounds out of place, it should, but it is the current reality. As a recent graduate, bar passer, and free bar coach/tutor to my classmates and friends, I tell The Bar the issue is student focus.

Passing the bar exam requires A LOT of studying, and that studying requires FOCUS. Constant interruptions not only breaks focus, but inhibits long-term memory retention. A student may spend all day "studying," but in reality only a couple hours of work are accomplished.

If you want to understand the lower passing rates, The Bar need look no further than a law school library during bar prep. There you will see students with their smart phones on their desks—in ready view. The main bar prep courses are done on computer, and it is also a ready portal to the internet and all the distractions one could imagine. Then there are the study groups—once a reinforcing factor, but now a source of distraction. When one person in the group is interrupted by a distracting text or post, they interrupt their study mates to share.

A law professor friend of mine looked into why her school's bar passage dropped. She echoed all I mentioned above. Even during the online lectures presented to a group, students would be on their individual computers shopping and surfing Facebook.

All things being equal, the cut score did not change; the focus of the students has. Law school deans have asked The Bar to lower the score for their own benefit—bar passage rates directly impact their schools' national ranking. But instead of better preparing their students for the task, they ask to make the test easier to pass. And, by preparing, I mean teaching the students HOW to study, and writing skills. I have donated a lot of time to friends and classmates to help them improve their writing—something our law schools should be doing considering the money they charge.

California has an abundance of licensed attorneys. I have friends that cannot get a legal job because there is so much competition for any entry-level position. One friend gave up and left California, and is relocating to Nevada where he will sit for another bar to practice his trade. On the other hand, as a former judge tells people, "there is always a shortage of GOOD attorneys."

Licensing requirements serve to protect the public by establishing a minimum requirement to practice law. The Bar, and law schools, should focus on improving the skill level of attorneys, not the pass rate. A higher pass rate with lower skilled attorneys does nothing to help the public.

Robert Callahan - Law Office of Robert E. Callahan

I have been practicing law in California since graduating from Santa Clara University School of Law in 1975. I am frequently disappointed by the quality of many attorneys I deal with in daily practice. The inability to draft clear and concise legal documents is the most concerning shortcoming I see. I think California needs tougher standards, not lower standards, to ensure the quality of California lawyers remains high.
I am also disappointed by the ethics of many attorneys, even highly experienced practitioners. Recently I was asked to review two situations involving fee disputes, and the complete disregard by the attorneys of the standards referenced in the state bar's Arbitration Advisory 2016-2 - Analysis of Potential Bill Padding and Other Billing Issues was truly appalling.
Please be diligent in protecting the public and the integrity of the legal profession by establishing rigorous standards, not more lenient standards, for admission to the State Bar of California.

Anonymous

Reduced passage rates should not be a barometer for lowering the scoring bar. Those who have passed the bar at the current point system ratios have proven that the current standards are fair and adequate - prove that the bar exam is objectively and subjectively reasonable for those test takers now and in the future. Changing the testing standards and methods only diminishes the esteem of the test, marginalizes the efforts and successes of those the web pass the test hundred current standards. Reduced passage rates can be attributable to many other factors other than testing standards such as the competency of those taking the exams, the stressors of the test taking process as well as the efforts put forth by the exam taker. This State Bar is member fully against changing any testing standards

Darrel Woo - 1952

Given that the CBX has moved from 3 days to 2 days, why not wait for those results before contemplating change? The State Bar might be comparing Apple's and oranges.

Anonymous

Although I do agree with keeping the current score at 1440, I do think a further evaluation of grading and grade evaluators needs to be investigated.

I passed the California Bar Exam on my 2nd attempt. After failing my first time, I had to reevaluate myself, my methods and attempt new bar exam practices, which ultimately benefited me in the long run and led to my passing second attempt. I would not recommend lowering the score in future exams but there are some areas that I would like to point out that I felt were unfair.

1) On my first attempted failure, I was given no detail of my MBE score. As i live in california, for whatever reason the MBE score itself is revealed, but no detailed information of what areas and what questions I did not perform well in. How can i improve myself if i don't even know what i got wrong, meaning the areas? Just the MBE score number itself doesn't reveal to me anything.

2) In my writing analysis, some of my essays had a first read score of 55, and a 2nd read score of 65. How is that possible? How could a first reader clearly score me in a failing number, but a 2nd reader give me a 10 point increase saying it was a passing essay? I believe these readers read these essays too quickly, supposedly only reading each essay for a 1 time average of 3 minutes total. Such a disparity should not exist in the scoring. If you need to increase the amount of readers, or decrease the amount of test takers, those might be options you need to look into, but scorers are looking at essays too quickly and not doing a good job of scoring.

3) I took the 3 days test to passed the 2nd time where I believe the writing counted more than the MBE portion. Ive heard for this July exam that the writing and MBE is an even 50/50 weighted average. Again if your not going to give any MBE analysis on what areas the kids are doing poorly on, then there is no reason to give more weight to MBE.

I don't believe in decreasing the total points needed in passing, however I do think reform is needed for the exam.

Thanks

James Dorn

The number of ineffective or incompetent attorneys I have encountered means too many unqualified people are passing the bar examination. Lowering the cut score will only exacerbate this problem.

Farzad Nezam

I would raise the score above 1440.

Anonymous

California has enough attorneys. The excess amount causes everyone to scramble for a piece of the pie. The result is a lower quality of legal product. We need to return to the time when being an attorney was respected and there was collegiality between attorneys. This will not be accomplished by allowing more people to pass. The law schools should prepare their students better.

John De Leon - State Compensation Insurance Fund

The quality of the bar is already uneven. Lowering the bar passage score will degrade it even further.

Carl Pearlston - Carl B. Pearlston

In actuality, in view of flurry of attorney discipline cases and inadequate representation, I think the cut score should be raised to 1500. We don't need more poorly educated and inadequately trained attorneys of less than sterling character.

Anonymous

I have met a large number of inompetent attorneys, who should not be taking client money. Reducing the cut score will reduce the quality of lawyers in California. A large number of graduates from lower ranked law schools will not adequately represent clients in California courts, and may not have a sufficient grasp of the law.

Martin Perlberger - Perlberger Law Offices

California does not need and cannot suffer more lawyers who are less competent or less qualified than current existing members of the Bar. Lowering or modifying the cut score would open the door to less competent and less qualified persons becoming lawyers/members of the State Bar.

Anonymous

Being a member of the California State Bar is a privilege that many have aspired for, and some have failed. California has not shared reciprocity with other states for its own reasons. Partly, I always believed that California expected more from its members. Unfortunately, the State of California has already chipped away at the high standard by removing parts of the examination process. Although the Bar exam is a closed universe exam, the ability to complete and pass a three day exam was one of many indicators that a candidate could survive the demand of real world law practice. Unfortunately, this test of time has been done away with. Now, the California Bar is considering reducing the cut score for candidates. Part of the reasons that the California Bar may be seeing lower pass rates appears to have more to do with recent law school admission requirements, than with the cut score of the bar examination. At one time, being a member of the California Bar was prestigious, and was not seen as something that you could buy. By lowering the score, especially after shortening the exam, the State Bar is watering down the meaning of being a member of the California State Bar.

David Small - Law office of I. David Small

California is already the most open state to become a lawyer with state bar accredited schools and, even unaccredited schools.

We must not lower bar exam standards since that is the only test of grasp of legal knowledge and insight.

State colleges recently eliminated the requirements for competency in high school math and English.

As a modern society, how low can we set the standards and still thrive?

Alexander Harper - Self

I am very concerned that this is being proposed by a progressive agenda! The place to examine changes or improvements is at the Law School level and also sync any correction or proposals with the Baby Bar exam. Perhaps require the Baby Bar to be taken even for students that are below a certain grade point in fully accredited Law Schools! Our Profession is as critical to a healthy existence as our Medical Profession. The Public confidence and protection is paramount. I am reading that many young attorneys who have passed the State Bar of California cannot find work! Why is this being considered? Respectfully submitted Alexander Anthony Harper 35019.

Allen Wilkinson - Allen P. Wilkinson, Attorney at Law

When I took the California Bar Exam in July 1979, I thought it was incredibly easy, much easier than the exams I had taken in law school (and I had attended a State Bar approved law school, that was not accredited by the ABA at the time.) I think there are already too many incompetent or marginally lawyers who are licensed to practice law under the existing cut-off rate. Lowering the cut-off rate would mainly allow an increase in less skilled and schooled law school graduates, diminishing the quality of the profession and persons licensed to practice law. In fact, in light of what I have seen, heard, and read, I think that if any action should occur regarding the bar pass rate, it should be raised to a minimum of 1,500. I am also in favor of requiring newly admitted lawyers to do at least a six-month residency with an established lawyer, just as would-be doctors are required to do a residency before they can practice on their own. The competition among lawyers for clients is fierce, and I believe that lowering the cut-off rate to allow more people to become lawyers threatens the quality of legal services to clients.

Michael Federici - Vivoli Saccuzzo, LLP

Just don't lower it. Becoming an attorney is meant to be extremely rigorous. The public's trust and confidence should only be reposed in those who can hack it. Being a California attorney is highly prestigious exactly because it is so insanely difficult to become one and because practicing (particularly litigating) in California requires steel willpower.

Opening the sluice just to appease the failures among us will serve no one - including the failures.

James Turney - Law Offices of James C. Turney

There is enough sloppy law being practiced. Do not reduce the quality of the profession.

Anonymous

I was admitted to practice in California more than 25 years ago. I can say without hesitation that there are currently many California attorneys who are barely competent. I oppose any action by the State Bar to admit individuals who are less competent than the ones who have already been admitted.

Anonymous

The standard should not be lowered.

Joyce Clifford - Law Offices of Joyce E. Clifford

I disagree with changing the Bar pass requirements. Enrollments are down at law schools and they have lowered their standards for acceptance to keep enrollments up I do not believe the California Bar should follow that lowering of standards. The problem seems to be with the schools in what and how they are teaching. Law students are incredibly bright. There should be little reason why they cannot pass the Bar exam. If they are provided the skills and information from the law schools the students should be able to succeed.

Anonymous

I have been a judicial officer in California for a decade and many attorneys have appeared before me. I am not impressed by the quality of the attorneys that I have seen, and I think that lowering the pass score would only make it worse.

I have sat for the NY, CA and PA bar exams and passed them all on the first try. I graduated from an ABA accredited school. I think the problem with the pass rate in California is the sub-par quality of many of the law schools. If California wants to improve the pass rate, it should only allow students from ABA-accredited schools to sit for the bar. The legal market is overcrowded with poor quality attorneys and allowing more of them into the bar will not improve anything.

Paul Welchans - Retired

Maintaining professional standards and protection of client interests should be of paramount concern for the Bar. I fail to see how lowering exam standards will further those concerns. I oppose any action by the Bar that may jeopardize client interests regardless of whether such action may superficially have appeal of potentially advancing less paramount goals for the Bar.

John Lytle - The Law Office of John B Lytle

Dummying down the bar exam is not the answer.

If the current cut score is lowered you will be creating 2 classes of attorneys. The first class of attorney's can say they passed the bar exam when it was tougher and you had to no more. The second class of attorneys would be those that pass the bar exam with a lower cut score. This type of argument would leave doubt in the public's mind as to the qualifications of an attorney who had to have the cut score lowered in order to be able to practice law.

Before the cut score is lowered, a thorough investigation of what and how law schools are now teaching the law students as compared to 30 years ago. The State should make sure that it's not the fault of current education standards and the lack of educating before lowering the cut rate.

I agree if only 51% of Hastings graduating class could pass the current bar examination, something is wrong. The following issue should be investigated prior to lowering the cut score for passing the State Bar.

1. Did Hastings lower its admission standards in order to obtain enough students?

2. How many professors at Hastings have been hired in the last 3 years?

3. In the electronic age, are the students gaming the system at Hastings?

4. Have the professors methodology for teaching law changed in the last 3 years?

If the answer to these questions is yes, it is more likely than not that other schools have followed suit and copied Hastings' practices.

Robin Boren-Coleman Sexton - The Law Office of Robin Boren-Coleman Sexton

The bar of California is incredibly difficult and it should be. The preparation is incredibly odious, as the t should ups be. Any practitioner who passes this exam may have thousands of individuals lives in their hands. We need to stay with standards that we have had all along.

Elizabeth Strickland

Lowering the standard will not help bolster either public confidence or attorney skill and professionalism. Allowing less qualified applicants to become attorneys in an already well-populated market will not help our clients.
Leave the score at 1440.

Anonymous

The bar exam is a basic competence test, to lower the score would be detrimental to the profession and the public. There should be no shortcuts to admission. Perhaps, some of the non-ABA approved schools that accept students who have had lower LSAT scores or other problems that preclude admission to an ABA school are the issue. My understanding is that first time takers from ABA approved schools have always had the highest pass rate. Other schools need to do what the higher pass rate schools are doing to ensure the continued integrity of the profession and to ensure that the public is being properly served.

Anonymous

By lowering the passing score or making the exam easier we appear to be bending to the complaints of those who are not qualified to pass and are complaining the exam is too hard. Additionally this is disrespectful to those licensed attorney who passed at the higher rate and are having an incredibly hard time (1) finding a job and (2) getting paid a living wage given the student loan payments. Lastly, this looks like the state bar simply wanting to admit more students to ensure there are enough due paying members to fill their coffers, a cash grab if you will.

Finally, the focus should not be on making the exam easier to flood an already saturated market with more attorneys. The focus should be on improving legal education and legal practical skill. The current legal education system is adequate. We should adopt a more medical school type approach with a residency program. This will help and give confidence to those graduating students be able to practice on their own should they choose to or otherwise not find a job at another firm. This will ensure a more competent and ethical pool of young attorneys which in turn will result in more young attorneys getting additional referrals and spreading out the client pool more evenly. In theory this would result in better access to legal help for all as young attorneys would get their names out to the general potential client population making them more accessible.

Karen Woodbury

Since there is no suggestion that the Bar Exam grading standards or test difficulty have changed in recent years, then it seems that the observed decline is mostly due to lowered standards in law school admission and/or grading in law school. I think it would be a mistake to lower standards for lawyer competency just because there are relatively more less-capable students in law school.

I think we should favor Type 2 errors (false negatives) over Type 1. Protection of the public from incompetent counsel should be more important than adjusting demographic numbers at the public's expense. Incompetent doctors can kill people, but incompetent lawyers can destroy people's lives in other ways. The pass rate would be higher if standards in law schools were tightened up; the State Bar shouldn't have to fix the problem at the public's expense.

Benjamin Shisler - Enovachem Pharmaceuticals

The bar exam has not become more difficult over time. People have always failed the California bar in record numbers. The drop in pass rates may be owed to a combination of multiple factors, including:

(1) The proliferation of new law schools (regardless of accreditation)

(2) A drop in the quality of law students accepted to these institutions in order to maintain class sizes in response to lower application numbers. Maintaining class sizes ensures that academic employee salaries are paid.

(3) The prevalence of alternative forms of final exams that don't assist in passing the portions of the bar that present the greatest challenge, such as multiple choice law school final examinations.

Our profession should learn from our contemporaries in the medical profession and do more to maintain the quality of those entering the profession. There are extraordinarily high bars to entry in medicine and these bars ensure quality. Those who respond that the law is not medicine have a low opinion of what is at stake for our clients on a daily basis. Those who respond that the bar exam operates dissuade or exclude a diverse membership should note the diverse classes of newly minted medical doctors.

Don't lower barriers. Raise them. The public deserves the best.

Anonymous

Stop admitting unqualified students to law school and the bar passage rate will increase.

Anonymous

If recent law graduates are unable to pass the bar exam, then there are one of two issues that need to be looked at: the schools are failing to properly prepare the students for the exam or the students are failing to prepare as hard for the exam as previous classes have, or 2) the subjects that are tested should be changed.

I don't believe the solution is to "lower the bar" so that more graduates can become attorneys. The practice of law is becoming saturated as it is and automation is just another issue that will leave more attorneys unemployed in the future as well as more self represented litigants. Over saturating the field of law with additional attorneys simply to pay for their law school debts, will leave even more attorneys unemployed in the future as clients seek to self represent on matters, or as more paralegals engage in the unauthorized practice of law, or as legal zoom becomes a stronger force in the legal field. The answer is not to lower the standards, but to ensure that graduates that are entering the legal field are the best they can be. We should not encourage more students to go through law school simply because the bar is easier to pass, rather we should encourage students to work hard to pass this difficult exam as we all have. I took the exam in February of 2011 and was admitted in June 2011. I have over $250k in debt. I sympathize with the students who have large debts, however I feel that lowering the standards will only allow more attorneys to go into a field where the jobs just aren't there for young attorneys.

Anonymous

I did a small amount of looking around and I see that from your July Agenda Item concerning this subject that you commissioned studies comprised of law school deans and law school professors to give you recommendations as to whether to lower the bar cut rate score.

Rhetorically, let me guess, these law school professionals recommended lowering the cut score! Of course they do (despite all the "buzz phase generated" crap put in the report), because they have a vested interest in saying so. That is because it is their fault the Bar pass rate has declined, and so the solution is to reduce the line for a passing grade. Really?

An analogy is this. Why on earth would the chickens hire a wolf to do a study on the increase in the chicken population?

Don't let your staff pull the wool over your eyes.

Anonymous

I don't believe that the bar exam should lower the cut score because there should be a standard to become an attorney in California. The original score been the measure. By lower the score, I feel like we are only opening the door to less competent attorneys. The bar exam requires all attorneys to be able to issue spot and conduct analysis in a variety of issues since California has one of the most complicated laws in the country. Also, in my experience as a graduate student recruiter, there has been an extreme decline in law school applicants, which has resulted in less than stellar students. Just because these law students make it through law school, does not mean they necessarily will succeed in a professional setting.

Anonymous

If we are going to lower the threshold for professional licensees in the legal industry, then perhaps we should look into lowering the threshold for licensing medical doctors as well.

Anonymous

We need to stop lowering educational standards.

Sam Edwards

It is wrong to reduce the standard to pass the bar. It will decrease the quality of representation. Improving education prior to the bar is the solution to this problem.

Anonymous

It is vital to make the "bar high" for the privilege and honor to practice law.

James Rouse - Law Offices of James W. Rouse

The problem is not the bar exam. I believe it is necessary to uphold the highest level of competence in the bar possible. Without the commitment and competence necessary to pass the bar exam, applicants are not going to be able to adequately serve the public. Lowering the bar to allow admission to accommodate currently unqualified applicants is a disservice to the public that we serve.

Anonymous

I didn't pass on the first attempt. I did pass, however, after becoming intimately familiar with the law. For the purpose of fairness and providing the public with security in the state's safeguards against those who may be inadequately prepared to practice law, the standards must remain the same.

Anonymous

Why is it fair that generations of aspiring attornies had to suffer under the difficult auspice of having a three day exam and an excruciating difficult pass rate to overcome. If the state bar does decide to make this change they should at least grant some form of Mcle credits to those attorneys that passed under the old pass rate. Otherwise why is it fair at all to give preferential treatment ?

Emily Aldridge - Bleichmar Fonti & Auld (formerly Gibson Dunn & Crutcher)

I took the California bar exam in 2014 while working full time at a very large global law firm in San Francisco. It was my second bar exam; my first was in New York after graduating from law school in 2011. I was able to pass the California bar on my first try despite having limited time to devote to bar study, having attended law school in New York, having no prior familiarity with California law, and studying on my own with the aid of a relatively inexpensive iPad app (Bar Max). The fact that I could pass the bar exam under these circumstances--and I know many other California transfers who have done the same--demonstrates that the bar is already scored on a reasonable curve. I would likely think the same even if I had to take the California exam twice.

Bar exams are not meant to be easy to pass. There should be a high bar for attorneys practicing in this state. Lowering the cut score is not the solution to the problem of too many students graduating with sub-par educations from poor law schools. The solution to that problem is to publicize the fact that unaccredited law schools provide students with worthless degrees. That would be a worthy public service. Lowering the cut score would only flood the legal market--which seems to have only just recovered from the recession--with attorneys who are not qualified to practice here. The state bar is not responsible for ensuring that the majority of law school graduates pass the exam. The state bar is responsible for ensuring that California lawyers are among the best in the country. One way to accomplish that is to keep the bar exam at its current challenging, yet reasonable, level of difficulty.

Anonymous

There are plenty of malpracticing lawyers already, requiring, if anything, a higher score, not a lower one. If the Bar is truly concerned about the supply of qualified attorneys, it should look to putting pressure on law schools to lower outrageous tuition so that bright and articulate college graduates choose the legal profession and don't feel excluded based on the cost of legal education.

Anonymous

This conversation is an embarrassment. It reminds me of giving trophies to every kid in little league or having a graduation from preschool. Being an attorney is Not a right it's an honor and privilege that needs to be earned. Do not dumb down our profession. Only 42 per cent passed when I took the bar in 1979 and somehow we have survived. I cannot tell you how offended I and betrayed I feel to see this is even up for consideration

Shawn Curtin

Lowering the cut score will not improve the quality of attorneys in California, and will probably do just the opposite. The way to improve the quality of attorneys is to improve the education they receive BEFORE they take the bar exam.

California apparently has one of the highest cut scores in the nation. This is the way it should be in a state that has 300,000 attorneys and should be setting the highest and best example for other states.

Erik Dibble

In my eyes, two of the primary purposes of the Bar Exam are (1) protecting the public from unqualified applicants becoming licensed attorneys, and (2) maintaining the integrity, caliber and professionalism of the Bar. I agree with Option 1 because it is consistent with these purposes.

I disagree with Option 2 because it advances interests that should be of no concern to the Bar Exam; namely, making it easier for law graduates to find employment as licensed attorneys, and/or making it easier for law graduates to repay student debt. Even if Option 2 was selected, there is no guarantee that t would have the desired effect For example, the private sector might refuse to hire all passers of the 2017 Bar Exam on the grounds that standards were temporarily lowered. Rather than accept a pool from a temporarily lower standard into their ranks, they might draw from other pools. The Bar Exam has no control over what factors are considered in hiring standards.

It is not obvious to me that declining passage rates are a problem. It may be a sign that the Bar Exam is working. However, if the State Bar believes it is an issue that needs to be corrected, the issue should be addressed at the law school level by removing ABA accreditation for law schools who consistently fail to graduate students capable of passing the bar exam, enforcing strict standards on law school marketing and law schools' representations made to potential applicants, and by educating the public and law school applicants about the entire process required to become a licensed attorney, including passing the Bar Exam at its cut score of 1440. It should be addressed at the law school level because the most likely explanation of declining pass rates is that the rates are the product of declining admission standards and/or educational standards at law schools, or there are too many bad law schools.

Yass Mcneil - McNeil Law Group

Although California may have one of the toughest bar exams, it is only behind New York in number of active attorneys. The purpose of bar examination is to make sure qualified individuals become attorneys, not that we have a pretty picture with lots of different people in it. As it is there are a lot of unqualified attorneys in our community that fail to provide the service and protection that the public deserves and pays for. By allowing people who would not have been able to pass the test to now enter the profession to be inclusive misses the point. The Bar Exam is not a popularity contest, its a measure of an individuals knowledge of the law, and ability to function under pressure, and perform at his/her best. I am a female, Iranian-American, and I got into a good law school, and I passed the bar on the first try not because I was a member of any minority group, or because I received any special treatment, but because I am qualified. I had high LSAT scores, I did well in school, and I can perform under pressure. When my clients come to me, and I proudly tell them I pass the bar exam on the 1st try, that means something to them. It means even though I am a woman, and I wasn't born in this country, I had the intelligence, stamina, and the heart to do something most people have not been able to achieve. Don't take this badge of honer, and sign of excellence away from all the future women, and immigrants that pass the bar. Let us continue to serve the public with confidence.

Tom Kwan

All bar applicants know the minimum bar passage rate prior to sitting for the Bar. Too often we hear arguments that the Bar Exam is too difficult and an arbitrary cutoff prevents many well qualified applicants from being able to practice law in California. I argue that easing the passage requirements will dumb down the entire legal profession in California. We already have too lawyers who are unprofessional. Just look at the disciplinary record. We need to maintain high standards not for lawyers as a whole, but for the people of California who deserve the best and not more incompetent lawyers.

If the problem is that the exam does not determine if a prospective lawyer is qualified, then change the exam to be more relevant. It is utter stupidity to think that lowering the passage score will solve the problem of fewer lawyers passing the bar. The goal is for competent lawyers not just extra lawyers.

Anonymous

Lowering the standard for Bar admission will reduce public safety and the overall integrity of the profession. Perhaps instead you should be looking at two other potential issues:
1. Consider strengthening the CBA and ABA accreditation requirements if the law school are not preparing their students to pass the bar exam.
2. If there is a concern that keeping the standard high is threatening to the success of minorities (as the survey would lead one to believe), then providing access to additional tutoring services to raise the candidates to the standard is a far better option than lowering the standard.

Anonymous

The most important reason to have the bar exam is to ensure that only the best qualified test takers actually pass the exam and enter the practice of law. Lowering the standards to allow for a higher pass rate is deleterious to the goal of having only the most qualified exam takers pass the bar and become admitted to the practice of law. It is very important that only qualified people of the highest intellect, legal knowledge, writing and oral argument skills be admitted. This ensures that members of the public who need competent lawyers are able to obtain same. "Dumbing" down the pass rate (as well as the actual test itself) in order to artifically increase the pass rate is inherently the wrong approach lawyers. Members of the general public (as does sitting jusges and practicing lawyers) expect that our profession takes whatever steps are necessary to ensure that lawyers actually have the requisite skills necessary to competently practice law.

Lowering the current passing score of 1440 simply to accomodate the desires of those who cannot acieve the current cut-off score rewards mediocrity and penalizes those who can and have demonstrated the necessary intellect and skills necessary to competently practice law.

Please do NOT allow mediocrity to take over our great profession.

Anonymous

Why the bar passage rates are falling and how does lowering the passing score solve that problem? Law school taught me very little about practicing law, and I went to a top 10 school. I learned more from my bar prep class than law school. What problem are we trying to solve by lowering the passing score and does this really solve the issue? Do we really need more lawyers in California? It's hard enough trying to find a job as is.

Anonymous

I write to note that the survey sent to members of the Bar (https://fs22.formsite.com/sbcta/form42/index.html) was poorly drafted and confusing, especially with regard to the ranking of various "factors".

The form asked "2. The following statements are often considered relevant factors in determining an appropriate bar exam cut score. Please rate the importance you assign to each of the statements from 1 (not important at all) to 10 (very important)."

First, it is unclear whether the recipient was being asked to rate those statements as important in general, or whether to rate them was important to determining the cut score. Second, there was no apparent connection to whether a particular factor would weigh in favor of maintaining or lowering the score.

For example, I believe that it is very important to "Increas[e] diversity of attorneys from different backgrounds," but disagree that this should weigh heavily in setting a cut score. Thus, it was unclear whether or how to answer the Bar's poorly drafted question ... nor will any results be meaningful.

It is unfortunate that many students may be burdened with law school debt, but that is also not a reason to lower the passing score. The Bar (as broken and dysfunctional as it is) has the ultimate duty to protect the public from unqualified or unscrupulous attorneys and impostors. That is not done by lowering the admission criteria.

Perhaps the Bar should explore alternate forms of admission, such as through an appropriate apprentice or "journeyman" program that would allow a candidate to demonstrate proficiency via alternate means. Doing so would require vetting via the moral character process before participating in the program (to aid in protecting the public), and the candidate could spend some number of years serving the public under the supervision of attorneys and judges to satisfy appropriate credentialing criteria culminating in the granting of Bar membership. Perhaps that may result in the award of a more narrow or specialized license, which could be a benefit to such process.

More ideally, the Bar would do more to protect the public from unscrupulous private unaccredited law schools that use students as victims to pull in federal and private loan money knowing that the program will leave its students ill-prepared to pass the bar exam or serve the public.

Brad Heisler - Heisler & Associates

Are law school students today less intelligent than they were in the past? I don't think so. Law schools and students need to recommit themselves to the hard work of training good lawyers. Legal topics that are not on the Bar exam should be limited and saved for lawyers to take up after they have mastered the basics.

Anonymous

WHY WOULD WE WANT STUPID ATTORNEYS??? WE HAVE ENOUGH ATTORNEYS WHO ARE STUPID.

Anonymous Lowering the cut score not only allows less qualified people to practice law, but also damages the already overcrowded legal market in this state. Lawyers already have no jobs, bad reputations with the public, and barely make as much as regular college grads. Now we're going to saturate the market? That's contrary to supply and demand, and will be guaranteed to damage the legal industry in the long run. CA needs less lawyers, not more.
Anonymous Just look at the number of disbarments in this month's report is reason enough not to lower standards. We should be raising our standards, not lowering them.
Anonymous Lowering the score will only decrease the quality of lawyers in the state of California! These law schools whose graduates struggle to pass the current bar exam should either accept better qualified students or shut down. There are plenty of lawyers in the state of california and adding more will not benefit the public at all.

Tony Nasser - Barnes Law

Licensed California attorney.

This exercise misses the question that should be asked: We shouldn't be concerned that people are not passing the bar, we should be concerned whether the bar exam the most effective means to filter who may practice law? The answer to that question is a resounding NO. (See, e.g., http://www.nytimes.com/2011/10/25/opinion/are-law-schools-and-bar-exams-necessary.html) Instead of going through this song and dance to change the score on the existing exam, the entire exam needs to be reconsidered. An apprentice-based system should replace the current law-school and bar exam model.

However, idealism aside, the current caliber of lawyer is very sub-par and for that reason I am opposed to making it easier get licensed. I'm only two years into my practice and already the average California attorney I have encountered is ineffective and untrained at the profession. Of course, this is because law schools and the bar exam completely miss the actual practice of law, but permitting more people to become lawyers is not going to fix the problem of abysmal lawyers littering the bar.

What needs to happen is a fundamental shift in how the bar markets to and trains incoming lawyers, and a change in how they are admitted to the bar. Two changes would significantly help: first, more transparency with incoming students concerning what the practice of law actually entails and what skills are necessary to succeed, as in my estimation 75% of first year law students are clueless; and, two, a training curriculum that focuses on actual practice skills, such as critical thinking, rhetoric, and writing, rather than a historical appreciation of how the law developed. In my experience, substantive legal classes were useless; I'll learn the law in more detail when confronted with the problem in my practice, and a semester of Constitutional law, for example, is nothing more than what a good secondary source offers. This rote memorization is required for the bar anyway. Moreover, these are subjects that do not necessarily make a lawyer more effectively represent his client and can be left for those interested to read up on such in their free time. Last, as touched upon earlier, instead of a bar exam, prospective attorneys should be required to apprentice with an established practitioner who then must vouch for the apprentice to be licensed, with some kind of minor liability if the apprentice is disciplined within their first 5 years.

A modification of the system to the above would, in my opinion, solve the current problems facing the bar as well as drastically improve the caliber of young attorney. Permitting more people to be attorneys is not the answer.

Owen Bates - Law Office of Owen Bates

I've always been increadibly proud of having obtained both my JD and my license to practice in California. This is in part due

to the general high regard that passing the California Bar Exam brings to you. If the issue is to produce greater numbers of lawyers, then

there are better ways to do that rather than lower the standards by which one becomes licensed.

Jesus Arias - Law Office of Jesus Eduardo Arias

There's nothing to support lowering this score. So far keeping such high score has made the profession in California more regulated, more strictly observed. Reducing pass score -in other words -" making it easier" , is just a short cut to alleviate the reason of the real problem. And the problem is that Students are not being best prepared by their law schools in order to pass the bar Exam. Tuition is ridiculously high, students cannot afford and are not interested in paying a lot of money for a law degree. So they opt for cheaper options. Then cheaply prepare and now the expect that you also cheaply grade them. Wrong path folks. Don't go south - let's reach for excellency or else nothing will stop the decline of our profession's decorum.

Best regards

Michael Miller - retired-former city attorney & hearing officer

Unless there are proven substantial flaws with the Bar Exam itself and it's grading there is no important reason to lower the score. Cannot lose sight of a primary goal of the Bar Exam- help assure qualified members of the legal profession. Exchanging this for other goals such as more diversity is not proper, even though I support diversity in the profession. Lowering scores to allow more diversity is a partial admission that lesser requirements are necessary for a diverse bar; this is not really true, but the message is there. Keep the current cut score. Thank you.

Anonymous

Just because the rest of our public education system is "dumbing down" everything, is the best reason NOT to "dumb down" the requirements to pass the bar.

Just like they say, "What do you call someone that graduates last in Medical school?" Doctor That's not the one I want to operate on me!

Being an attorney should not be easy to achieve. If you want it bad enough, you will do what it takes to get there!!!

Greg Gesterling - N/A

What evil are we trying to fix? The Cal Bar has historically been the most difficult bar to pass in the nation. Declining pass scores in my opinion are due to the declining quality of the students taking the exam. Declining student quality is related to the declining interest in a law school education as a good investment with a high return. As interest declined, many second tier and above schools lowered their entry standards to attract a larger share of a shrinking pool of applicants. Why does CalBar believe lowering the cut number will improve the quality of those graduating from law school? The two issues are unrelated! Finally, because California is the only state that observes a liberal bar qualification rule, CalBar should increase the cut threshold to acccount for this policy. Frankly, the year I passed (July, 1984 exam), the pass rate was one of the lowest recorded. Yet, the number of State Bar membership has increased since then. Do we really need to make CalBar membership easier to achieve?

- Dentons

As an active member of the bar of CA and practicing lawyer for 7 years, I do not agree with lowering the cut score.

I urge you to maintain the current cut score of 1440 in order to maintain the current standard and caliber of lawyers in the state. The current cut score is a good measurement of a law student's ability to accurately understand and uphold the law. Lowering the score will allow students a license a practice that just do not pass muster and as a result poor quality lawyers will be borne. I personally know people who did not pass the CA bar exam because they simply did not have the ability and rightfully so we cannot allow people into the bar who are simply not qualified. There are already TOO many lawyers in CA and little job prospects for them. Lowering a the pass score in order to churn out more lawyers is NOT the answer.

This initiative is a ruse by law school deans and schools to raise their passage rates in order to raise their rankings. Instead, they should focus on doing a better job teaching practical skills to enable their students to PASS the bar exam. Teach classes like bar prep courses IN LAW SCHOOL using methods such as what BarBri uses - that would make more sense.

I personally did not pass the first time I took the CA bar exam because I did not have the skills required to pass from law school. After I took a Barbri bar prep course, I passed easily. It's a skill that teachable and thus, lowering the pass cut score is not necessary.

Anonymous

We need to protect citizens from unqualified representation. This is particularly important in California because we have non-ABA options to qualify to sit for the bar exam, and because we are a desirable state that attracts a large number of people from other areas who want to live and practice law here.

Benjamin Eisenberg - Attorney

Wait 4 years. The drop on passage rates may be cyclical based on the collapse of the law school bubble.

Jeana Sciarappa Schott - Scuarappa Schott ip, plc

Keep the level of competance high for lawyers. Id much rather see an evaluation of educational programs at the law schools and how to improve This element of training to be an attorney than to cut the Passing score for the bar exam. One would expect better training would equal more persons properly prepared to take and pass the bar exam.

Thomas Starrett - Thomas C. Starrett, apc

Lowering standards for an individual to become an attorney will not serve the public interest. Instead, it will create an even larger pool of marginal lawyers who have difficulty finding work and, instead, find themselves operating on the fringes of the profession in marginal areas of practice.

Lowering standards will only diminish the overall quality of the Bar membership. Remember, we are a profession and not a trade. If standards are lowered to permit an expansion of the membership, then why have admission requirements at all, I ask rhetorically?

Anonymous

Lawyers carry out a crucially important role in society with far reaching ramifications for members of society. The consequences of sub-standard legal advice can have a devastating effect on the lives of clients not just in criminal or family law but in many areas of practice.
We would not tolerate a lowering of the pass rate for medical doctors (who would want their appendix removed by someone that had fallen below the requisite examination pass mark?)
The same exacting standards must also apply to the practice of law. Nothing is more important in a democracy than protecting the rule of law and interests of justice. It is only fair that those carrying out that role have met the highest standards.

A better resolution to the problem would be an examination of the education materials and methods used to teach the course.

If we end up with a state of play where there are less attorneys than is desirable then that is still surely preferable to a glut of advisers with some who have fallen short of the mark.

The State Bar of California rightly enjoys a gold standard status, but even a slight lowering of the score would irrevocably ruin this reputation in the eyes of the lay person and the media.

Anonymous

I do not believe that the option should ever be to lower out standards. We must look to cause of low passage rates. I, as bar applicant, would find it insulting. The suggestion is that I am incapable.

Elizabeth Shirey - U.S. Army JAG Corps

Being a member of the California bar carries a certain status/reputation boost in our field precisely because the cut is high. Please don't lower the threshold and cheapen the membership! Efforts should be focused on law schools that are charging enormously high tuition without actually preparing their students to pass the bar.

John Karayan - Law Offices of John E. Karayan

The cutoff is too low as it is. The exam has been simplified too much since I took it in 1977.
If candidates cannot at least meet current standards, they should not be admitted to the Bar. Instead, they should study harder and better. Lower the cutoff because candidates cannot meet long established standards would do irreparable harm to the public and the courts by foisted unprepared candidates upon the public and teh court system.

Ani Shirinian

I take great pride in havin passed the california bar exam and saying that I am a California attorney. I have taken the bar 5 times and would have passed nearly every single time had the score been 1414. I think it's extremely unfair for the standards to change after so many people have struggled to pass this exam at such a higher standard. I wasted years of not being able to practice because I never attained the 1440 score. I think it's unfair.

Also I believe there are so many lawyers that lowering the standards would just make it a more common profession. Employers are already taking advantage of the lrge quantity of lawyers and paying less and less. I graduated in 2004 and the starting salary has not changed. Lowering this pass rate will give us more less qualified lawyers.

My sentiment is shared by everyone I know. Please don't cheaphen my license and everything I have worked so hard for.

Anonymous

The state bar should not lower the its standard just because the law schools have lowered theirs to admit less prepared students. We are a profession; I can't imagine the medical board lowering its standard to accomodate less prepared doctors.

Ken Brand - Sole practitioner

This is nonsense. If not enough attorneys pass the bar using a long established methodology so what. Either they need better education or they don't qualify. Stop the nonsense and move on - it's like political correctness. I'm a bar member with 40 plus years of practice experience.

Mark Schneider - Vetexlex

The grading scale and the essential content of the Bar exam has not changed in over twenty years. Neither has the intelligence or inherent ability of today's law students diminished. What has changed is the academic culture, from one that by necessity required rote memorization and exhaustive test preparation, to the smartphone culture of instant answers and chronic distraction. The Bar ought not diminish the profession by catering to these weaknesses, but remain steadfast in its commitment to ensuring it's current, and reasonable, threshold of competency.

Anonymous

Shame on me for discriminating against people for not being very smart.

J Ernesto Grijalva - self

By dropping the standard, we are suggesting that the Bar finds it more acceptable to allow less qualified individuals to be trusted with a client's assets, freedoms, rights than for the total number of Bar members to drop. That is not a good message to send.

I would not be comfortable learning that the AMA, or even that my local auto mechanics, had dropped their rigorous standards to allow less qualified people to provide me services. Why would the Bar find that concept acceptable?

If there is a genuine concern that California is approaching a point where there will not be enough attorneys to serve all that may need one, then would it be more prudent to bifurcate the license to practice law into different levels (those that have a score of 1440 or better who may practice fully and those with 1414 who may be restricted from practicing in certain areas)? Would that not make more sense than to lower the standards?

Anonymous

We do not need dumber attorneys.

Ferguson Michael - Private Practice

In the interest of protecting the integrity of the profession, the bar exam should remain challenging.

Maisha Daniel-Jamerson - Frontier Communications

If the bar exam cannot be passed with its current threshold then law schools should be held accountable.

Geraldine Lewis - self-employed

I understand that the pass rate for the bar is increasing. This reflects the level of ability and education of the applicants. That would be the apparent change that has taken place. The test hasn't changed. So while the bar exam could probably be modified, I don't see why we should cater to applicants who can't pass the bar exam as it stands now. Applicants need to better prepare and perhaps law schools need to step up and prepare their students better as well.

Anonymous

The CA Bar should maintain high standards and not lower the score. In fact, consider raising the score even higher.

Maureen O'Hara - No firm

Standards should not be lowered. If attorneys cannot pass the test, they should not be admitted to the State Bar.

Christine Shanahan

Let's start with the fact that not every law student is meant to be a lawyer. And it's OK if not all of them become lawyers, despite the fact that it may be their dream. REALLY. By lowering the cut score you are, in essence, encouraging the students with those lower scores to go ahead and celebrate their mediocrity. Is this truly something we want to promote? That says less about those students than about the expectations that we (those of us who did have to struggle through a 3 day - yes, THREE day - bar exam that we ultimately did pass) have of them. One problem with that is that it gives those students the mistaken idea they carry some inherent deficiency that renders them unable to compete with other students (or with us, their predecessors) on an equal footing. By judging them on a lower standard you're telling them that they don't have the ability to meet the higher one. If they do in fact possess such ability, then they should be encouraged to meet that higher standard, and if they do not, then, as I said, it's OK if they don't become a lawyer. If they are not passing the bar exam, there's a reason why, whether it's the students themselves, or the legal education system. But ultimately, you do not fix these problems by lowering the bar. You do it by lifting the student or changing the educations problems. I STRONGLY suggest you all to read an article in "Above the Law" that I just came across, entitled:

To Cut Or Not To Cut (The Bar Exam Passing Score)
Does the mission of public protection conflict with lowering the passing rate for the bar exam?
By Jill Switzer

http://abovethelaw.com/2017/07/to-cut-or-not-to-cut-the-bar-exam-passing-score/?rf=1

Robert Krupka - Krupka Law Group, P.C.

To remain relevant and trusted, lawyers practicing in CA require the training and ability to assess a clients legal needs and address them competently. Lowering the standards will erode that ability and erode the trust the public has in lawyers. That is going in the wrong direction.

Anonymous

The California Bar Exam should remain rigorous and should not be watered down.

Robert Harlan - Harlan Law

We are over populated with lawyers at the present time. We need the best legal and ethical minds devoted to the practice of law.

Anonymous

The problem is not with the cut score, it is with the inadequate preparation of the persons taking the Bar Exam. To begin with the educational requirements for admission to the Bar are set so low that it guarantees that many applicants lack the necessary tools to become attorneys. The bar needs to be raised so that every applicant has at least a Batchelor's Degree. That alone would significantly increase the Pass Rate. Secondly, applicants should required to attend a accredited law school. Too often, unaccredited law schools accept unqualified students just to fill their classrooms.And even accredited night schools are guilty of this. I taught one year in an accredited night school and was so appalled at the poor quality of most of the students, I quit.

It is time that the State Bar enter the 21st Century. This is not the 19th Century when Abraham Lincoln became a lawyer by studying law with another lawyer. The State Bar needs to abandon that mentality that everyone should have the opportunity to become an attorney. Certainly, there always will be exceptions to the rule, but that doesn't justify maintaining low standards for admission to the Bar and hope that the incompetent will be weeded out by the Bar exam. The State Bar has a duty, a responsibility, to ensure that the public is protected from incompetent lawyers and one way to do this is to ensure that only the best qualified are allowed to even take the Bar Exam..

I say this from my own experience. If I had entered law school after I completed the first two years of college, I would not have been admitted to a good law school and I do not believe I could have passed the Bar. It was the last two years of college that really prepared me for college. I had to do so much research and writing that I refined my analytical and writing skills. Thus, I had no problem passing the Bar and becoming a successful attorney.

In summary, lowering he cut score is not the answer. To do so would only flood the public with more incompetent lawyers and that would result in far more business for the State Bar Courts, as well as further erode the public perception of lawyers.

Donna Travis - The Travis Law Firm

We should not lower standards for our professionals.

Anonymous

I believe the score should be kept at its current level or increased. The practice of law, especially in California, should not be open to charlatans and swindlers. While the exam is not a perfect sieve for ensuring that only reputable people become California attorneys, it still prevents many unqualified candidates because of the effort and commitment required to pass. Reducing the score will also increase the attorney pool which will create an abundance of lawyers and will impact the bar negatively (when many or most of the people that "pass" the California bar cannot find work.).

In conclusion, there are moral, ethical, and economic justifications for not making the California easier to pass. The quality of candidates has dropped, but that does not mean the requirements for becoming a California attorney should drop.

Anonymous

We have enough lawyers in California, many of my colleagues are struggling to find work in the aftermath of the economic downturn. If you want to improve bar pass rates, re-evaluate school curriculum to ensure that people are better prepared for the exam.

Robert Epsen - State Bar Member

Lowering the cut score amounts to bailing out the law schools that lowered their admission standards in the face of declining enrollments associated with the economic Recession in order to keep their classrooms and coffers full. Now they are screaming for relief from the State Bar in the form of a lower cut score. If a law school cannot meet ABA accreditation standards, so be it - the State Bar should not be in the position of rescuing such a school from its own folly. As a matter of consumer protection, the State Bar is obligated to maintain existing high standards. Consumers of legal services have every right to assume that their attorney has met those standards.

Scott Winterstein

Evaluation of lowering the cut score of the California Bar Exam needs to answer the following question(s): Does the current cut score serve the purpose of providing the public with the assurance that lawyers new to the practice of law will have the necessary knowledge, skills, and abilities as any other lawyer practicing law? Will lowering the cut score provide the same amount of consumer protection to the public as does the current cut score? These are the questions that need asked and answered as the purpose of the bar exam is not to have the bar exam results used as a method of rating the quality of a law school, but to provide the public with assurances of a lawyers abilities to practice law. Therefore, before the cut score is lowered the California Bar Examiners need to evaluate and determine why the pass rate has been on a steady decline, and those issues need addressed first by the institutions responsible for them.

For example: law schools have been accepting less qualified students with lower GPA and LSAT standards. Perhaps, the California Bar Examiners should require all first year law students to take the FYLSE with the same passage requirements needed by students who attend non-ABA accredited/approved law schools. This should allow more qualified applicants for the exam, possibly raising the pass rates. The cost of a law school education needs examined as potential law students may be choosing other fields of study with a greater financial return on the cost of investing in post secondary education. Making the return on investment greater would bring back more qualified law students, reducing the need to lower the law school admission standards. Another item of concern is the availability of well paying junior associate positions with established law firms. Many law firms have outsourced the work junior associates typically perform to third world countries increasing competition for fewer jobs. If graduating law students were assured these positions were available to them upon completion of law school and passage of the bar exam, a higher qualified student may be applying for entrance to law school. These are just a few of the very complicated issues that should be addressed before lowering the cut score. If these issues are not addressed bar examination scores could maintain on a steady decline. If this happens how low are the California Bar Examiners willing to lower the cut score?

These issues need addressed before lowering the bar exam cut rate. On it's face, lowering the cut rate gives the impression that the California Bar Examiners are lowering the cut rate to help law schools maintain enrollment. The purpose of the bar exam is to ensure the public that a new lawyer has met certain minimum standards to practice law, thereby providing the public with a measured amount of consumer protection; therefore, the cut rate should remain at the current score of 1440. The current cut score has worked for many years, possibly decades, is there a need to lower that score now?

Anonymous

California has an abundance of lawyers. Lowering our standard to admit additional sub-standard members to the bar does not make sense.

Anonymous

I am a member of the California bar and practicing attorney; I am also an ESL speaker and attended law school out-of-state and acutely understand how challenging our bar exam is. That being said, I do NOT believe we should lower the cut score to increase the overall pass rate. I think it would be a long-term and fundamental mistake that will result in a decline in the quality of legal professionals in our state. If anything, I think the California Bar should offer discounts or subsidized bar study programs (ideally, free programs) to help students that may be working full-time or otherwise cannot afford to take time off to study for the exam. Thank you for your consideration.

Anonymous

The Bar Exam should act as a filter, to allow only the best and brightest to pass. This is best for the public. There is no need to lower the passing score to allow even more attorneys, since there is no shortage of attorneys. In fact, there is already an over abundance of new attorneys and many struggle to find work. The more students they admit, the more money Law schools make, therefore Law schools are over swollen with admissions, which is the root of the problem. The State couldn't possibly need or utilize all the new attorneys if more law school graduates were able to pass the exam. The filtering out should occur at the law school admission stage, much like medical school. This way there aren't a sea of law school graduates with massive student debt who can't pass the Bar exam. There is absolutely no benefit to the public to lower the passing score, which might be a reasonable consideration only if there was a critical shortage of attorneys, which there is certainly not.

Theodore Biagini

I am an inactive member of the State Bar of California.

I believe that the passing score should not be lowered. The bar exam is there to ensure the public that licensed attorneys have the skill and competence to adequately represent their clients and serve the public.
Lower passage rates are not the result of too high passage scores, but too low admission standards at the law schools. The dramatic drop in the number of applicants to law school in recent years.
California law schools are heavily dependent upon tuition income to meet expenses. A very large percentage of the schools' budget is salaries. Due to the universal tenure system, tenured law professors' salaries and benefits are fixed, resulting in little or no room for schools to reduce their cost. The result has been to lower admission standards to maintain tuition revenue, inexorable leading to less qualified students, graduates, and bar exam takers.

My views are not a revelation. The Los Angeles Times on April 20, 2017, wrote the following in connection with Whittier's decision to close its law school: "Applications to law schools nationwide are down nearly 50% since 2005, prompting less- prestigious campuses to accept students with lower GPAs and law school admission test scores. State bar passage rates have fallen — hitting a 32-year low in California last summer. Fewer full-time, long-term legal jobs are available. Meanwhile, tuition costs and student debt loads have soared."
It seems an inescapable conclusion that lower bar pass rates are directly the result of the failure/inability of law schools to maintain adequate admission standards. If the Bar Examiners lower the pass score to accommodate the needs of certain law schools to maintain their tuition income (often funded by burdensome student loans), the Examiners will perpetuate what amounts to a fraud on less qualified students and a huge disservice to the public.

River Sung - State of CA

The bar exam has already been cut down to two days instead of three. I don't think the public is being better served by lowering the standard for California attorney membership. California bar membership is prided partly on its difficulty. If you take that element away, how does it remain distinguished? When I took the bar (back when it took three days), those who were really disciplined and studied passed; those who underestimated it did not. If people have been passing it at its current level of difficulty, I don't think it should be changed to accommodate those who are too lazy or tired to study for it the way it deserves.

Anonymous

The problem is not the bar exam. It is the colleges and law schools that do not teach, and the colleges and law schools that have admission standards that are too easy. There is a public need to keep the bar exam standards high and admission difficult. And it goes without saying that there is a public need to teach students reading, writing, and arithmetic, not what is being offered in college and Law School programs.

Shaun Culbreath

Make the Bar harder.

Ingo Muller - concerned citizen

Dear State Bar,
Should you decide to lower the cut score for the Bar Exam, the profession and it's reputation would be irreparably damaged. Attorneys usually deal with matters that a common person isn't qualified to deal with. As such it is your obligation to ensure that the individuals that practice law are held to higher standards. It is bad enough that in our for profit education system everyone can graduate from law school as long as she/he is willing to pay a few hundred thousand dollars for tuition. Further facilitating the entry of those individuals into the practice of law by lowering the passing score for the Bar Exam is not helpful for anyone. Future clients of those individuals will be disappointed with their services they paid good money for, judges and clerks will have to deal with subpar briefs, motions etc and the reputation of attorneys among the general population will take another hit. Lowering the passing score for the BarExam leads directly to a lower quality attorney work product. This in turn will entice more and more people to represent themselves and simply hire a paralegal to make sure the formality requirements are met.

For the above reasons I pray that you will not yield to the pressure of law school deans and keep the passing score as it is.

Anonymous

I see no legitimate reason to lower the cut score. My understanding is that a key reason for the lower passage rates over the last several years is a direct result of lower
qualified applicants being admitted to law school to help make up for the lower overall application rates due to the recession, soft job market, etc.

My further recollection is that state bar examiners have repeatedly emphasized the bar exam hasn't gotten more difficult, but rather more test takers overall are less qualified than in previous years specifically because law schools are admitting less qualified candidates.

The bar passage rates for first time test takers from top tier ABA accredited law schools continue to be above the 80th percentile.

The solution is not to make the exam easier to pass - the solution is for the state bar and other relevant agencies to implement measures to close down non-ABA accredited law schools. ABA accredited law schools with abysmally low passage rates would be well advised to follow the example recently set by Whittier Law School and shut down operations.

The California State Bar does not need additional mediocre members at high risk of committing malpractice flooding the job market.

Given the proliferation of non-ABA accredited law schools in the state,the Bar Exam is essentially the last barrier to help weed out unqualified candidates to the State Bar.

We would be well advised the keep the cut score as-is for the sake of the integrity of the State Bar and the public at large.

Anonymous

California deserves and needs the highest quality lawyers possible. Cutting the pass bar exam rate simply is inconsistent with that. Many over the years have taken the bar examination multiple times until they finally pass or give up. A solid legal education from a good law school leads to higher passing rates and California needs to make sure that our attorneys are well qualified and, hopefully, the best there is! The question put forward would be like asking if the educational standards for heart surgeons and your own doctor should be lowered? The answer to that is obvious! The answer should be the same for lawyers. California citizens deserve that the State Bar Exam keeps the highest reasonable standards for both a legal education and the scoring on the bar examination. To lower the standard is to reward failure.

I am a retired California judge. When on the bench there were times when I wondered if some lawyers had even gone to law school. Fortunately that was the exception rather than the rule but, frankly, if the bar examination passing requirement is lowered it means more Californians being represented by lesser lawyers. Keep the bar examination passing level where it is or raise it if you wish but DON'T turn a group of lesser lawyers loose on the public! To me the Bar's responsibility is to make sure that our California lawyers are as good as they can be.

If we are short of lawyers in California then the answer to fixing that lies with law schools and/or bar preparation organizations. And how many times in the future might it be necessary to lower bad admission standards? Beware of the slippery slope!

Thomas Gourde - Ray & Gourde, LLP

Although law schools may desire a lower cut score to raise their bar passage rate statistics, that will not resolve issues with their efforts to fill seats with less qualified students--hence fewer graduates passing--and the limited number of jobs for those graduating. Some schools have reduced their class sizes due to the fewer highly qualified applicants, but there are still some that want to profit from the students. Also, the legal market cannot absorb all the graduates passing now and just lowering the cut score is not going to change that. It will only result in more lawyers with their licenses, but not work. The bigger problem in too many law school--and Whittier alone closing is not going to make that problem go away.

Fred Soeprono - Soeprono Law Firm

The standard of the bar exam has been the same through the years but the quality of law students is declining not because of an increase in difficulty of the bar exam but a decline in the quality of the graduate students. The "get rich quick" mentality permeates among the young generation who feels that a pursuit of a law carrier is more than what they are willing to commit to. There is no reason to lower the cut score and admit less competent attorneys when many licensees cannot even obtain good jobs upon graduation, assuming the bar exam is a good measure of attorney competency.

Matthew Eason - Eason & Tambornini, A Law Corporation

No need to lower the bar. Let free enterprise and the marketplace find better candidates. - Adam Smith paraphrased

Anonymous

To keep up the quality of practicing attorneys, the Bar should consider increase the passing score, not lowering it. If it ends up having less people passing the Bar, then that's the way it should be. If lowering the passing score is to collect enough Bar due, it is totally wrong. The Bar due should aim at serving the Bar members, not paying high compensation to executives.

Aaron Breeden

My name is Aaron Breeden. I decided to go to the Monterey College of Law at the ripe age of 37 years old. I had been a golf caddy for approximately fourteen years; I had no undergraduate degree; I had no associates degree; and I had little community college experience. I scored approximately 145 on the LSAT. Yet, through hard work, dedication, pain, and tears, I was able to pass the MPRE on the first attempt. I passed the First Year Law Student's Examination on my first attempt, and finally I was able to pass the February 2017 Bar Exam on my first attempt. Should the California Bar Examiners, in its wisdom, decide to lower the Bar score, I shall take pride in the fact that I passed the last Bar Exam that was both three days long, and required a score of 1440. However, I think that, if a golf caddy with no formal education prior to law school can pass the Bar Exam, anyone qualified and intelligent can.

Sincerely,

Aaron Breeden

Guy Du Bose

If I need legal aide and I'm spending money on licensed counsel, I want to know that they have learned the law in its entirety. They cannot become a lawyer based on anything other than their intellectual ability and knowledge of the law.

Giving license to someone who is not able to study and pass the bar is a disservice to potential customers. The legal profession needs to be apolitical. Our courts are over burdened due to irresponsible litigation. We need more ethical, responsible and knowledgeable lawyers and not more lawyers.

Susan Nine - Retired

There are plenty of attorneys in California who manage to pass the Bar Exam.
The fact that there has been a recent decline in pass rate, only serves to point out that prior to this the percentage was capable of being higher at the current standard, and that other factors might account for a lower pass rate.
My own experience was that the law school I attended took candidates with low LSAT scores and who did poorly in coursework, to maintain the necessary funding from these students to keep the school functioning profitably. It came as no surprise when these students could not pass the Bar Exam. I addition, while many practicing attorneys who teach law classes do an excellent job, some have no teaching skills leaving students to do their best to self educate in subjects with substandard professors. I personally attended law school while working full time in my late fourties and I managed to pass the bar the first time. It was rigorous, but doable for those willing and able to be arduous in their studies. Standards should be kept high both for the public good but also to maintain the outstanding reputation the profession generally. There is, to some degree, a danger that lowering standards to create a higher pass rate could be construed as a means of supplying the Bar with greater revenues, which hopefully is not a consideration. I know there are already measures in place that provide accommodations for those with even mild disabilities that could make test taking more challenging. One way to maintain rigorous standards and increase percentages might be to provide more time. I has handicapped myself by having been seated so far from the restrooms, I lost valuable time running back and forth, if you know the material well and are fully prepared, the time constraints still may interfere with ones ability to pass due to extreme pressure, stress, and generally not pacing oneself effectively.

I believe that the LSAT is indeed an excellent predictor of one's ability to learn and apply the material in a manner that correlates with eventual passage of the Bar Exam. Therefor, I believe all accredited law schools in California should have a minimum score for admission imposed on potential students. Too many students are admitted who waste valuable time and money attempting to enter a profession for which they show little aptitude.

Anonymous

There is a direct correlation between lower admission standards and lower bar passage rates. As median LSAT scores and GPAs went down, we saw a corresponding decrease in bar passage rates. The answer is not to lower the standards on the back end (i.e. the bar exam) but to raise the standards on the front end (i.e. requiring law schools to raise their median GPA and LSAT scores. Lowering the standards for the bar exam is a disservice to the public that relies on the state bar as a guardian of the legal profession.

There is also the issue of the fact that we have too many lawyers in California. Job prospects are not great for new law school graduates. Lowering the standards for admission will only make this situation worse. We must not lower the score to pass the bar exam. We must keep it as is. The bar exam is the last safeguard with law schools lowering admission standards. The passing score for the California Bar exam should remain the same.

Anonymous

I think the current cut score should be kept as is and not lowered. I took the California bar exam several years into my practice and after taking a difficult New York bar exam out of law school. Having failed by less than five points to pass the CA bar, with only minimal studying, I took the exam again with sufficient studying, and passed. I do not think lowering the cut score is tthe answer. I think bar-takers putting in more preparation is the solution.

Ronald Hartman - Semi reired

The Bar has gone from 3 days of essays to 2 days of essays and that which I do not think is appropriate - various multiple choice questions which are or may not be a true test. Does it become a guessing game? Now, there is more nonsense. Have the Bar stop the expenditure nonsense and have the exams graded as they were before.

Now, because less are applying to law schools (in a number of instances) the less qualified want a passing score because of irrelevant reasons. They blame any and everything. How about studying?

I have not seen the California Medical Board lower standards because some do not pass.

Apparently, this has been turned into a racial, ethnicity and related issue. It is not. Study and pass the Bar or don't. California's is difficult, but it should be. The practice of law is hard. If you lower the standards for admission do the clients obtain benefit ? NO.

Control the State Bar expenditures and keep a quite serious Bar Exam for California. Where is the leadership?

Anonymous

Please don't dumb down Calif lawyers any more than already done!!

Susan Wilson

We need competent and well educated attorneys.

Anonymous

The problem is this generation, not the test scores. This millennial generation doesn't want to work, has a short attention span, and is simply unhireable. We need to stop coddling to it. They need to work harder if they really want to practice law in California. Lowering the pass score does a disservice to those of us who had to take the exam more than once (I failed with a 1430, and a 1410, before passing).

Also, student loan debt is staggering and unreasonable. If prospective lawyers understand they have to work hard to pass, the ones that truly want to be attorneys will take on the debt and study harder for the bar. The next generation will get the message - don't become an attorney unless you really want to study hard. It's a noble profession to be earned, not a right.

I am done hiring millennials. They do average work as fast as they can so they can return to their cell phones and social media. Lowering the pass scores will only cater to this attitude, lower the standards of the profession, and erode public confidence.

Thomas Feledy - Solo Practitioner

There are too many lawyers in California already. Why make it easier for law school graduates to get licenses to practice when the job market for attorneys is steadily shrinking? We need less lawyers in California - not more.

Larry Acquistapace - solo Larry Acquistapace 133655

horrible idea to "dumb down" the exam passage score.

Patrick Scott - The law office of Patrick L Scott, Esq.

I am a retiring attorney who had a solo practice for nearly 30 years. The first time I took the bar I failed it by five points. That failure forced me to study harder and learn how to write better so that when I took it the second time I was more prepared academically and logistically.

It does the public no good to dumb down the people representing them in more complex legal problems conducted in more complex legal forums. The area of the bar we should focus on with greater detail and more scrutiny is the area of ethics. Attorneys in today's practice of law are less ethical than the attorneys with whom I started practicing back in the 1980s. Yes, it was a good old boys club but a person's word was his/her bond. In addition, when discovery was requested all of it was given fully. Your reputation as an attorney was known throughout the community. If you were an unethical person you were treated that way. In today's legal society we need more ethics enforced and before that, taught.

Instead of trying to make the bar more passable, make the ethical part of the bar more difficult to pass. Without truly understanding the meaning of being ethical in the practice of law a person should not be allowed to practice law in California. Make people who want to be attorneys realize that they not only are officers of the court, they are an example of ethical conduct within the legal system and community.

Anonymous

Even considering the lowering of the score reveals a potential dumbing down of the attorney pool. If you cannot make the existing limit, change the limit to make every one feel good. If you have no standards you are in trouble. Why not make the score "0" then everybody can feel good and no hurt feelings!!!

Anonymous

With the July 2017 exam being reduced to a two-day exam, lowering the cut score now is introducing another variable. We should hold off making multiple changes until there is more data on the two-day exam.

The current cut score has worked for the last 30 years. How does one compare the quality or competence of the new attorneys versus attorneys who passed the bar 30 years ago?

The Cal Bar should look at other factors first, such as exam graders, exam grading criteria, or the overall quality of the applicants.

Perhaps the system is working fine, with the exam graders doing their job in weeding out unsuitable applicants. Do we want to endanger the public with sub-par lawyers by lowering the cut score?

Robert Kelley - Law Offices of Robert L Kelley

This is, quite obviously, a backdoor attempt to allow more minorities to pass the bar exam. The problem is, in addition to it being an insult to any attorney who has studied hard and passed using the current score, that attorneys from everywhere will crowd into California and create a starving dog situation. The bar exam is supposed to be hard and everybody should not pass. What will we do next give the failed a participation trophy in the form of a free ticket to practice? The fact that this is even coming up demonstrates someone is fronting an agenda somewhere. Enough of the weak crap!

Anonymous

DON'T LOWER STANDARDS, IT'S AS SIMPLE AS THAT. KEEP POLITICS OUT OF THIS.

Anonymous

I need to ask you straight out, are you serious?

What we have are a new generation of young people not willing to put in the time and effort to get passed the rigors of a test which has been in place for 50 years, so they are failing at a higher rate, then have their school debt, and now looking for a bail-out.

It also sounds like the schools educating them are also looking for a bail-out as they probably already reduced there standards and hence these kids can't pass the test.

The pass cut line should not only NOT be lowered, it should be raised and these young people need to learn to step up to the plate like my generation and my parents generation did.

Bob Mccoy

The Bar Examiners need to:

1) finally acknowledge they have previously failed former applicants and apologize,
2) implement a bar question drafting policy that eliminates bias, is not politically motivated, and does not unfairly target applicants with religious or political views opposed to those drafting or choosing the questions, and
3) stop acting like they are above the law and the rules they are authorized to enforce.

On the summer 1992 exam, the Bar Examiners asked a performance question (worth a whopping 17% of the total score) that required the applicants to take a pro-homosexual stance. Questions like this are politically motivated, mean spirited, targeted at those applicants the Bar Examiners deem "unfavorable," and have no place whatsoever on a bar exam.

Even though this event along with several others eventually led to Gov. Duekmejian defunding the State Bar, The State Bar has never apologized or acknowledged its hateful and wrongful conduct. It is about time for the State Bar to admit its wrongdoing, apologize for its wrongful conduct and implement policies to prevent this type of conduct from occurring ever again.

Anonymous

Decrease the cut line score? No, No... you should increase the cut line score. Once again we have the liberals trying to dumb down America.

Anonymous

WHAT? Decrease the cut score pass rate?

It needs to be increased!!!

Have you any idea how many lawyers, that did not know what they were doing, I had to go through before I finally got a lawyer who did and then resolved my problem.

You folks are obviously looking at this lowering the pass line thing in a micro-environment and with rose colored glasses.

We the people are affected by this sort of thing.

Increase your standards so that there are more reliable attorneys available.

But for God sakes, please do not reduce the standards

Bruce Rorty - Law Office B Rorty

The expanding student debt load for those attending 2 and 4-year universities, graduate school, and professional schools is going to negatively impact our national economy for decades unless that debt is easier to discharge in bankruptcy, or lenders voluntarily reduce interest rates substantially. I often use the Whittier School of Law Library as it's most convenient - Whittier Law School is closing down because the school isn't placing enough graduates in legal jobs, nor [probably - I don't know exact pass rates] are enough graduates passing the CBX. Closing is commendable vs. continuing to rake in $45-50,000 in tuition per year from students with poor future job prospects and little realistic chance of being able to pay off the student debt within 15 years or so.

I went to a top 50 law school beginning in 1982, where the acceptance into the night program for Year 1 came in late June 1982. I graduated in 3 years taking summer school classes. Had I only been accepted by a bottom 1/3 law school, I would have either (1) reapplied [my transcripts got delayed big time from my college, which used narrative evaluations rather than letter grades] or (2) chosen another career path. I'd hedged my bets and scored top 8% in both GMAT and GRE, and top 14% in LSAT.

My late girlfriend went to a top 20 law school and passed away in December 2010 from breast cancer. Her advice from 2004 - 2010 [our time together] was to skip law school if one couldn't get into a Top 30 school - her reasoning was that the job prospects were too uncertain for most law school graduates from schools below the Top 30, given the exploding cost and student debt loads.

My opinion on the pass score has much to do with protecting people in the first year of law school or considering law school from the horrific student debt loads and poor to nonexistent job prospects if they aren't attending at the least a Top 1/3 tier school. If more schools other than Whittier have to close, or if others shrink very substantially, thousands of would-be law students will be eternally grateful even if they don't realize it now.

Lowering the passing score and increasing the pass rate sends the wrong message until such time as the middle to lower ranked CA ABA schools, or perhaps all CA ABA schools, CA accredited, and unaccredited law schools very substantially downsize. When I read about CA bar passers lucking into jobs doing contract work reviewing documents at $25/hour, and with other basic legal work being shipped overseas to India, for example, passing people whose careers will be marginalized for decades is unfair at the least and a vicious hoax at worst. The law schools which won't downsize or close are the root of the problem, and class action lawsuits by students against schools which grossly misrepresented their job/career prospects are the natural evolution of the problem of excess capacity.

Keeping the pass score higher may restrict diversity in the short-term, but on the other hand will encourage prospective students to choose a career path that enables their abilities to be better explored, versus dead-end law jobs with horrible working conditions where the "attorney" (sic) also plays copy-boy/girl, messenger, paralegal, and legal secretary, and may be forced to bill non-attorney functions at attorney billing rates.

Thank you for taking my views into consideration, or at least reading them.

Anonymous

I understand why the State Bar may wish to lower the current cut score -- but I think the solution to the problem of declining pass rates is to better prepare attorneys for the bar exam and legal practice, not to lower the bar (no pun intended) for passage.

Anonymous

You have to be kidding me. Poor Johnny and Sally don't want to crack the books enough to pass the test and because they have school debt, you want to thrust a bunch of entitled, lazy good for nothings on us (the public) by reducing the pass cut line? Yikes! This has got to be the most stupid idea ever!

If these young people do not want to put in the time and effort to pass a rigorous test, they do not deserve to even take the test!

I say increase the cut score!

Anonymous

I am sorry to say, this proposal of making the test so easy Trump could pass it, really feels like government serving government and forgetting about the people. Your job is not to make more fees for yourself so you can get higher salaries. Your job is to serve the public and see to it that competent people become lawyers.

Anonymous

Let me see if I have this correct. The Bar Pass rate is decreasing among recent graduates of law schools. The decreasing rate has been consistent over many years, so the decreased rate is not due to some random outside issues, but can only be the direct result of the law schools not preparing the students for the exam as well as they have in the past.

The lower Bar Pass rate means there are less people being given law licenses, and therefore the Sate Bar main revenue stream is decreasing. So the State Bar has an idea, let us lower the cut score to raise the rate. To justify this, the State Bar commissions a couple of studies to be conducted to "evaluate" reducing the cut score, and the people they hire to do the studies are the same people who caused the lower pass rate in the first place, law school deans and law professors.

You not only have the wolf guarding the hen house, but you also have conflict of interests. Neither the State Bar or law schools should be involved in the evaluation process at all. The State Bar was established to protect the public. How is lowering the cut score to increase the pass rate and the State Bar revenue protecting the public? We need more competent attorneys, not just more attorneys. If anything, the exam should be made more difficult, the cut score raised and it brought back to being a three day exam.

As it is, if a person fails, they can take it over and over again until they pass. In Germany, that is not the case. After 7 years of study and internship, they get one bite at the apple, and if they fail, they lost 7 years of their life. That is a very strong incentive to study hard to assure you pass.

Stop watering down the educational standards!

Stephanie Scher

The ONLY legitimate purpose of the State Bar is to protect the public. Lowering the cut score is equivalent to lowering the standard for suspension or disbarment. In the former case, the public is hurt by a lack of competency, in the latter, by unethical or even illegal practices. There is no issue of an inadequate number of attorneys in the state. The problem of providing legal representation to everyone is one of economics only, that is, the cost of hiring an attorney - particularly for a "small" case - is beyond the means of most people. That will remain true even if less competent people are allowed to practice law since court costs are high and even incompetent attorneys will charge rates placing their services outside of the affordable range. Eliminating filing fees would go a lot further towards providing poor people with access to the courts than lowering the cut score.

Frank Nunes - Law Offices of Frank M. Nunes, Inc.

I understand the State of California has one of the highest rates of lawyers per capita of all the states. The high rate of lawyers is based on the current cut score and obviously has not diminished people from going into the profession.

Lowering the cut score would stigmatize candidates admitted when the score was lowered in the eyes of other lawyers.It also panders to the "dumbing down of America" when other countries are placing more rigorous education standards in place to compete for jobs in the United States, which includes California.

All across the public education system I see school administrators and elected officials calling for increased standards, higher high school graduation rates, etc. so our young people can complete in what is becoming a global job market. I see no reason why higher learning should not follow this trend, especially in the legal profession which is an adversarial system.

If some of California's law schools are concerned about the financial impact of declining enrollment, then they should examine the cause for the lower bar pass rates and make corrections in their admission standards, curriculum, and or teaching methods, perhaps returning to what had worked in the past..

As for the current cut rate being a barrier to minorities entering the practice of law, I am a minority, and I would constantly be offended knowing that I was allowed to join the profession not based on my intellect, but because others felt I was not capable of meeting the same standard. This could impact how the clients view minority lawyers, which I have seen first hand.

Passing the bar exam is like passing the drivers license test: once one passes it, people rarely ask how many times one took the test. On the other hand, when people witness someone driving badly or recklessly, they question how that driver got a license. I have know very successful lawyers who had taken the bar exam multiple times. I recall being shocked when I learned that some of my law school classmates, who did well in their classes, did not pass the bar exam.

The cut rate is not being lowered in the practice of law; if anything it is being raised with today's digital world of instant communication. Lowering the cut rate would be a disservice to new attorneys when they begin practicing law.

Moni Mccoy - Allen & Overy

Lowering the overall bar score will only serve to lower the standards of practice in the CA bar. Modification: If a person sits for the bar exam more than three times, without passing, than there should be a waiting period of three years before that person can re-apply to sit for the exam again. After the three year period, they should be allowed to sit for an exam
with the cut score of 1414.

Martin Lax - The Law Office of Martin Lax

The score is the score and a standard for which test takers are to strive to succeed.

It is a minimum benchmark not to be lowered to bring in lower than minimally required.

Continuing to lower pass rates are a disincentive to succeeding test takers and counter productive.

I say study harder.

Anonymous

The Bar Exam is meant to not only evaluate applicant's legal knowledge and ability to use legal reasoning, but also as a public protection mechanism. How would lowing the passing score further public confidence in the legal profession as well as ensure applicant's are truly ready to receive a license to practice law.

Anonymous

Even considering reducing the cut score is just wrong on so many levels that I could write a long composition on the subject.

But instead of getting into the details, and the fact that the reduction would do a dis-service to both the public (needing the best attorneys) and the students (to have the highest standards of education), think of the macro sense of it.

First, you have already made the test much easier this year by reducing it from a 3 day exam to a 2 day exam. If that were not bad enough, right on its heals you want to reduce the academic standards and reward bad work by also reducing the pass cut line.

So the question is: Is the California State Bar attempting to make itself out to be the laughing stock among the other state bars?

People passing the more rigorous exam always took pride in passing the hardest exam in the country, now they will have nothing to take pride in, because the test has now become a joke.

Anonymous

As a CA. taxpayer whose taxes support public law schools in the state and as a consumer who may at some point need to seek out and pay for legal services in the future, I want to be assured of the highest standards possible for any attorney allowed to practice in CA.

One law school Dean in the Bay Area - new to California, I might add - who has taken a high profile in promoting a reduction in bar exam standards frets about the sad feelings law school students might encounter if they fail the bar exam the first time round. But he expresses no concerns about consumers/taxpayers being subjected to sub par legal counsel. Nor does he worry about the long term negative effects on the legal profession.

He referenced California as an "extreme outlier" as though having high standards of academic achievement is something to be ashamed of, something to be eliminated. And an increased rate of bar exam failure as being a result of too high academic standards. Academic standards are never too high - that's why they're called standards and not participation trophies. I'd suggest there may be other factors in play eg. some law schools may have diminished the need for academic merit in screening law school candidates and/or some new hire law school professors may not be ready for the intellectual rigors of teaching content and providing scholastic guidance that is necessary for helping students to pass the bar exam. There may be a number of other reasons but to blame high standards is rather facile and insulting to all the practicing attorneys in CA. who have met those high academic standards in the past.

With all due respect to any law school students with self-esteem issues and to new law school Deans bent on change for change sake, I don’t want Officers of the Court who practice in CA. to be mediocre legal minds. Let other states do what they want to do. Since when does CA. follow what other states do? CA. is a leader, not a follower. Furthermore, CA. has the highest personal income tax rate and taxpayers in this state should expect top quality academic achievement for their investment in public law schools.

Thank you for your consideration of my personal layman opinions on this very important issue.

Anonymous

What happened to State Bar ethics?
Law schools publish their bar pass rates with pride and they use it as a recruitment tool to attract students. When a school's Bar pass rate goes down it reflects badly on the school and its enrollment (thus tuition income).
So now the overall Bar pass rate has been trending down. As a result the State Bar contracts with the Deans of law schools to study whether the State Bar should lower the cut score line in order to raise the Bar pass rate, which will be reflected on these schools' bottom lines? Obviously these Deans have a vested interest in seeing the cut line score lowered to have their Bar pass rates rise. This is a classic example of a conflict of interest. State Bar ethics rules would prevent an attorney from getting entangled in a conflict of interest of this type. Don't those rules also apply to the State Bar. Or is the case of do what I say and not what I do?

Anonymous

Why must we "dumb down" the bar exam AGAIN? There was a time when the exam was a 3 day, all essay, exam which tested knowledge as well as the ability to organize thoughts and write them well (what much of the law practice consisted of). Then came multiple choice which had the feel of a high school exam. Do we really need less qualified lawyers who poorly serve both their clients and the public generally? No, we do not. The current bar exam is quite frankly too easy for anyone who has paid attention in law school and the passing grade should NOT be lowered.

Anonymous

I understand that this is "public" comment and I am an attorney located here in California, but from what I have read in your Agenda Item and then going to the Studies referenced there and reading them, I believe there is an important factor not even addressed in the Studies and not even being considered by the Bar Commissions concerning the proposed reduction of the exam cut score.

That factor involves the negative affect upon current competent attorneys practicing. Obviously the State Bar employees are not out here on the front line practicing law and representing clients. Thus, they are mostly insulated from what is really happening.

Frankly, there are too many attorneys that are not competent to take on the types of cases they take on (they take them for economic reasons). Because of this, the clients suffer and get mad.

That is a problem for all of us competent attorneys (a subject we talk about all the time). This is because these attorneys not qualified to take on these cases, usually fail the clients. The clients not only get mad, but they come to the conclusion that all attorneys are only out for themselves and money.

Hence, that bad reputation is imputed upon us who are good, and thus, we are always walking up-hill to defend against this perception. This has been born out with studies over the years with attorneys ranking equally with used car salesmen.

Frankly, I do not have a blanket solution for this problem, but I do know one thing, the proposal of reducing the Bar pass cut line score will make the problem MUCH worse.

I retain faith in the Bar Commissioners to recognize this and reject the proposal of reducing the Bar Exam cut score and then contract a study to look at resolutions for the problem discussed above.

John Kirkham - John Kirkham Law

The problem lies upstream. Law schools are admitting candidates who are marginally qualified for the rigors of practicing law, especially in California's hypercompetitive market. A better approach would be to set higher admissions qualifications, e.g., a LSAT minimum of X. This would cut down on the number of un and marginally-qualified Bar takers, thus increasing the passage rate. It would also prove beneficial for consumers, the administration of justice, and, frankly, working conditions for those attorneys who do make the cut.

Anonymous

We need to keep the current cut score to protect the public by ensuring that we have highly qualified attorneys representing clients.

Anonymous

I hear from an attorney in his 60s at an elite private practice firm that recent young hires cannot focus, cannot concentrate, on reading statutes and cases as was normal in the past 30 years. One reads constantly that college grads cannot write as competently as their degrees and honors signify.

If you allow people to "pass" the Exam at a lowered standard - people who can't function well enough to pass the Bar Exam now at the current standard - you will make California lawyers the national laughing-stock of the law profession. You will also alarm potential clients henceforth, who will always wonder, will I get, did I get, one of those who couldn't pass the actual Bar Exam, but only the degraded Bar Exam?

What could possibly be the reason the degrade the standard? Not enough lawyers?

Anonymous

This is crazy. Letting more unqualified people practice law is just going to lead to more attorney disciplinary actions, lower wages for existing attorneys, and an even further reduction in respect for the profession. If the Bar wants to increase the pass rate they should get rid of garbage law schools and take niche subjects like community property off the exam. I get that access for under-served communities is a potential problem, but are those communities really being helped if we flood them with more unethical, unqualified, and incompetant lawyers?

Anonymous

I have been reading appellate briefs written by practicing attorneys every day for nearly 30 years. I am not impressed by the quality of the writing or the analytical skill reflected in many, if not most, of these briefs. The standards of the California bar exam should be maintained.

Anonymous

There is no need to lower standards for attorneys in California. Why would this even be considered? Those who prevailed and passed the exam earned their status as attorney. Please keep it that way.
Thank you

Anonymous

I feel it is unnecessary to cut the the pass score for the bar exam as there are already so many lawyers in the state of California. Additionally, I have met a number of lawyers who quite frankly do not seem qualified to even be lawyers. Lowering the pass rate could potentially exacerbate this problem. If an individual cannot pass the bar exam at the score it has been at for many years then perhaps they should seek out other career options.

- Bowman and Brooke LLP

If anything, I think the bar score should be raised. There are too many lawyers in California who are not qualified to practice. A lower bar pass score invites further malpractice.

Anonymous

The State bar should not allow the score to be lowered and must maintain a high quality of bar passers. The Bar exam is supposed to be a "exclusionary" exam and is designed to exclude exam takers.

Anonymous

I couldn't disagree more with lowering the cut score line for a whole bunch of reasons.

The person who came up with the idea to lower it is a lame-brained knuckle-head.

Anonymous

The California Bar exam needs to remain tough particularly because CA has far more lenient requirements ad to whom can even sut for the bar. I went back to law school at 46 years old dolely to reoresent children with special needs. I had a daughter with cerebral palsy, a mother in a wherlchair with a debilitating disease snd a bi polar brother for whom I had power of attorney. I was responsible for all 3 individuals. I still made it through law school in 3 years with a 3.88 GPA. I passed the CA bar when finally had chance to take it 6 months later. . I studied and prepared. I was committed. It takes work and dedication, not a lowerscore to slip through. Thsts what it takes. And CA gets a better group of sttorneys

Erin Hesse - U.S. Department of Labor

Absent evidence that the actual exam itself has become more difficult, I cannot see any rational justification for lowering a minimum competency passing score. This, in effect, would be identical to the grade inflation phenomena that has occurred across the country.

If the goal is to bring passage rates back up while ensuring Bar Exam applicants are well prepared and qualified, then the State Bar should take additional efforts to inform and educate their applicants so that the applicants can appropriately prepare for the exam in an environment of lower and lower pass rates.

The problem, is that if more "unqualified" applicants are taking the exam than before, it will skew the pass rate percentage accordingly. The best thing the State Bar can and should do, both now and on a continuing basis, is ensure the difficulty of the exam stays consistent. With that accomplished, holding the pass score consistent will always produce the proper result: minimally qualified attorneys.

If, however, there is some other goal with respect to pass rates (e.g., filling the law school pipeline with tuition money by promises of an easier bar exam), then the State Bar should do what they want and set the cut score at whichever point furthers that goal.

Deanna Muckle - Los Angeles Superior Court

Dear State Bar,

Please do not lower the current cut score of 1440 in order to increase the percentage of Bar passers in California. This should not be a contest with other states, and we should not be catering to those who did not properly prepare themselves for entry into the practice of law. Does the medical profession do this just to increase the number of doctors? I would not want the doctor who was allowed to practice based upon a lower score, and I certainly wouldn't want the attorney who was allowed to practice under such terms.

As a current member of the Bar, I studied hard to pass the Bar Exam and did so on my first attempt. I took it seriously, and put my total focus and concentration into my studies. I do not see newer members of the Bar exhibiting the dedication and commitment that the practice of law requires. I see no need to reward that kind of behavior. Our public deserves and should demand better for the price they are paying for our services.

I have worked as a Research Attorney for the Los Angeles Superior Court for the past 17 years. During my time at the court, I have worked in the civil, criminal, appellate, family law and probate divisions. I have had the opportunity to watch some of the best and brightest our profession has to offer with regard to law and motion and litigation practice in all areas of law. I have also had the opportunity to cringe at what some members of our profession bring to the courtroom, either by way of a written motion or oral argument. I have checked whether an individual was an active member of the Bar on more than one occasion due to the lack of competency exhibited. I am embarrassed for these individuals who cannot complete the most basic of legal tasks on behalf of a client who is paying them several hundreds of dollars an hour for legal representation.

When we have members of the Bar who cannot file even the simplest of motions correctly (a motion to be relieved as counsel), who cannot spell the most basic of words used in the legal profession or who cannot convey basic legal concepts and rules of law in a thoughtful and coherent manner. And these are the ones PASSING the Bar Exam! With so many incompetent Bar Passers, we most certainly do not need to let those who are unable to pass the Exam pass with an even lower score than is already required simply because our passing percentage numbers are low or we feel bad for those who have not passed on their first attempt. Our profession should demand the highest of expectations and we should have qualified members who can deliver according to the highest of standards. After all, it's not like we have a shortage of attorney's here in California. I think it's time that we raise our standards, not lower our scores.

Joan Medeiros - Law Office of Joan Medeiros

First, the legal job market is flooded. There is no unmet need for new attorneys in the market.

Second, if the Bar Association is primarily about consumer protection, then why would you make it easier to become an attorney. If someone cannot pass the bar exam, it's because they can't think and analyze like an attorney.

A better question to pose for a study is WHY graduates from law schools are not able to pass the bar. What skills were not taught? What critical thinking skills were missing?

Compared to my law school experience, I found the Bar Exam to be easier.

John Romaker - John Romaker

The report establishes that the testing is valid. The report does not directly address other factors which may cause the lower percentage bar passage rate. Perhaps law schools accept too many students. Perhaps legal education produces benefits for people who will never practice law. I know many people in that category, who sat for the examination without great preparation. Perhaps the lower bar passage rate correlates to an overall decline in the quality of education--particularly in critical analysis. Many unstudied factors may contribute to the lower bar passage rate.

However, the report indicates that the test validly measures among minimally competent and the incompetent. With that information the Bar, as a matter of policy must err (if distinguishing marginal competency is error) to eliminate the false positives.

The Bar must assure itself and the public that the exam is not merely an arbitrary barrier to entering the professional market. This study establishes the validity of the examination. Therefore, the examination is not arbitrary.

One can sympathize with those who invested great sums in their education, yet suffer from the false negative problem. However, the Bar's mandate requires it to protect the public from incompetence. The Bar has no mandate to protect the interests of candidates who might be marginally competent. The marginally competent and marginally incompetent may improve their performance with diligent study. Consumers of legal services have no protection except the Bar's determination of at least minimal competence.

Anonymous

I am a member of the Bar, and was out of the office (returning today) and unable to respond to the California Attorney Survey (sent out on August 10 via email) which expired on August 18. I strongly disagree with the options to lower the exam cut score, and would point to Hon. William F. Fahey's comments in the recent Daily Journal article. "Dumbing down" the test will not help the clients who require legal services; our law schools need to do a better job of preparing qualified candidates to sit for the exam and understand the law.

Patrick M. Donnici
Member #99615

Dan Casas - Casas Riley Simonian LLP

In 1984 the passage rate for the July exam was 41%, historically low. I do not recall a push to lower the passing score as a result of the low bar passage rate. Lowering the standards at the risk of future clients is not the answer. Given the excessive tuition rates, perhaps the burden should fall upon accredited law schools.

Anonymous

In my opinion, the standard is set in an attempt to ensure competency.

Anonymous

Appendix D indicates that the panelists were rushed and/or not sufficiently competent themselves to grade answers without having been provided model answers.

Arthur Silen - Retired

My name is Arthur Silen, Calbar #47147 (Retired); Massachusetts BBO # 544336 (Retired). I was admitted to practice in California June 26, 1970. I have both a JD and an LLM degree, the former from UC Davis School of Law (UCD), and the latter from Washington University, in St. Louis, School of Law (WaU). Over a career expanding 45 years, I practiced law in Sacramento and Davis, California; Washington DC, and Boston, Massachusetts.

Over the course of my career I have had numerous occasions to reflect on the legal education I received the several law schools I have attended in either their degree-granting or Continuing Legal Education (CLE) capacities, and on the Bar Examination itself as society's benchmark indicator of intellectual and educational attainment and professional competency. The respective legal education programs at UCD and WaU simply assumed that their students were already well-versed in the art and practice of rhetoric and debate, perhaps simply because the students were smart enough, and accomplished enough to be admitted into their respective law school programs. From my standpoint now, a half-century later, I have strong reason to doubt that original supposition. Introductory courses on Anglo-American legal history, and legal method might have addressed those issues, but not that I recall specifically. My library still includes my well-thumbed copies of Edward H. Levi's "An Introduction to Legal Reasoning", along with my equally worn F. W. Maitland's "The Forms of Action at Common Law". By the time a law student has an opportunity to take an elective course in Trial Preparation, his or her study habits are unlikely to include time-pressured exam preparation that is the apotheosis of the Bar Exam. And, that is regrettable, because unlike practices engage primarily in commercial transactions, bankruptcies, intellectual property, real estate, and the like, a substantial majority of law school graduates do not prepare themselves to be primarily trial advocates. Even those whose law practices include substantial involvement in law and motion work do not prepare themselves to 'lay it all on the line' within the space of an hour or so. Recalling my experience as an appellate advocate, my most salient experiences were not those arguing before a panel of judges; rather, it was the days I spent compressing, honing, and polishing my oral argument to fit within the 15 minute (and typically much less) time allotted to me to argue on behalf of my client.

I was nonplussed to read the background material provided with the Calbar requester public comment. What I found most disturbing was the absence of any mention of the substance that Bar Examiners found to be lacking in marginal Bar Exam examinees, regardless of whether the individual candidates were either minimally passing or minimally failing with respect to the essay questions or performance tasks on which those examinees were judged.

What struck me over the years has been the scant amount of time, effort, and resources that law schools devote to teaching students how to reason and present legal cases effectively. Of all the places in the world where forensic and rhetorical skills should be looked upon as the foundational substrata upon which a legal education can be built, what I have experienced, all too often, has been that students are encouraged to argue a point of view, rather than learning how to assemble, polish, and present coaching, well reasoned evidence-based argument in the shortest timeframe necessary to accomplish the task at hand. Those skills are of crucial importance in exercises such as the Bar Examination, which are time-limited.

Focusing on the methodology of statistical analysis in order to decide whether the cut-off point for passing or failing is simply rearranging the deck chairs on the Titanic. In the end, it would appear to me that the Board of Bar Examiners has simply not done its job to advise prospective applicants for Bar admission that the analytic and rhetorical skills they will need to need to successfully take and pass the Bar Exam need to be rehearsed and practiced in order that examinees make the most efficient use of their limited time.

I would be the first to concede that the Practice portion of the Bar Exam came decades after I was admitted to the Bar. That said, however, it occurs to me that the so-called 'Issue Spotting' techniques used by successful Bar

applicants in the past may not be sufficient in today's examination environment where an examinee Is tasked with charting out a course of action that includes issue identification, legal analysis, exposition, and recommendation for further action.

I would also say that the traditional law school course on Evidence, at least the way I experienced it, did not, and indeed, may still not prepare students to handle evidentiary area issues that are both subtle and which are likely to present themselves across the entire spectrum of law practice, and entirely apart from contested trials. These issues are fundamental, and extend far beyond the usual rubric of personal knowledge, admissibility of certain types of business records, chain-of-custody issues, and the like. The following examples will suffice –

– What does it mean to have the burden of proof that a party must carry in order to prevail in either a litigation or in a negotiation. We that the weight of evidence must preponderate towards one side or another, but the way it comes out will have one of the parties in a contested case arguing that 'Black Swan Events', i.e., outliers that are highly unlikely to occur are live possibilities. Someone answering a Bar Exam question may not be able to give a definitive answer, but the issues who would certainly be raised as a red flag, as it would in actual practice.

– What are the effects of evidentiary presumptions, and how did they affect the burden of proof. These presumptions are often overlooked, and lawyers typically find out about them when they lose a motion for summary judgment.

– How is the relevancy of proffered evidence to be determined, and on what basis should a determination be made by the trier of fact. Conversely, what probative, relevant evidence would be needed to provide additional information that would establish the asserted fact in dispute, and for what purpose.

– How are inferentially-found facts to be validated based upon human reasoning and logical relationships between other facts, when no other evidence exists beyond the argument that a constellation of other facts supports the existence of the inferentially found fact. In other words, how far can an inference be stretch before it falls of its own weight.

– How does privilege affect the burden of proof; and here, privilege goes beyond the typical evidentiary privileges such as confidentiality, to include contractual rights and obligations stemming from the legal right to do something or to restrain another from acting. In sum, how far can the penumbra of a contractual right or duty be stretched to include something not otherwise within the four corners of a written agreement that is now in dispute.

– How risk aversive is the hypothetical client or potential adversary. Here, the emerging school of Behavioral Economics is rapidly coming to the fore, because aversion to risk is what law practice to a very great extent is all about.

To reiterate, moving the statistical breakpoint for passing the California Bar Examination a point or two either way based upon a statistical analysis tells us nothing about the underlying assumptions upon which the examination is grounded. Without understanding those assumptions, and how they are reflected in the questions and tasks fairly delineated within the examination itself, that statistical analysis is meaningless.

Olman Valverde - Law Office of Olman Valverde

Lowering the cut score will have a negative effect on the perceived quality, and possible actual quality, of California lawyers.

California already has enough lawyers. According to a RAND study for the University of California, California's lawyer-to-population ratio has been higher than that of the United States as a whole.

Peter Kunstler - Self

I DON'T BELIEVE THAT THE SCORE IS THE PROBLEM. FIRST OF ALL, AFTER NEARLY THIRTY-THREE YEARS OF EXPERIENCE, I CAN SAFELY SAY THAT BELIEVE THAT THE BAR EXAM TESTS ONLY ONE THING--THE APPLICANT'S ABILITY TO TAKE THE BAR EXAM. CHANGING THE SCORE WON'T MAKE A DIFFERENCE IN THE PASSAGE RATE.

INSTEAD, I BELIEVE THAT THE TEST NEEDS TO BE REDESIGNED TO REFLECT LAWYERING SKILLS BEYOND MERE KNOWLEDGE OF STATUTORY AND CASE LAW--OR PERHAPS ABOLISHED ALTOGETHER. THIS IS NOT SOUR GRAPES--I PASSED ON MY FIRST ATTEMPT, BUT SOME OF MY WORTHY CLASSMATES NEEDED TO MAKE TWO OR MORE TRIES. AT THE SAME TIME, THERE ARE MANY CLEVER BAR PASSERS THAT SHOULD NOT BE PRACTICING LAW.

DISCLOSURE--I AM A CERTIFIED SPECIALIST IN LEGAL MALPRACTICE LAW. NONETHELESS, I WOULD HAVE NO OBJECTION TO SEEING MY CASELOAD DISAPPEAR!

i UNDERSTAND THAT LEGAL EDUCATION HAS IMPROVED AT MANY LAW SCHOOLS, IN THE AREA OF TEACHING STUDENTS THE NUTS AND BOLTSOF PRACTICE. AN EXAM, EVEN A THREE-DAY EXAM, CANNOT SUBSTITUTE FOR HANDS-ON EXPERIENCE DURING LEGAL STUDIES, RIGOROUS ETHICS TRAINING AND IN-PERSON EVALUATION BY EXPERIENCED PRACTITIONERS.

MY ENGLISH BROTHER-IN-LAW HAD TO SERVE THREE YEARS AS AN "ARTICLED CLERK" BEFORE BEING ADMITTED TO PRACTICE. WHILE I'M NOT A BIG FAN OF THE INDENTURED SERVITUDE MY BROTHER-IN-LAW ENDURED, SOME VERSION OF THAT SYSTEM MAY SERVE BETTER TO EVALUATE CANDIDATES FOR ADMISSION TO OUR STATE BAR.

Keri Ogden - The Rice Partnership

The current cut score is achievable with adequate knowledge of the material required to become a reasonably informed attorney. Lowering of the cut score would allow persons without adequate knowledge to practice law, to practice law legally in California. This would in turn lower the standard and competence of California attorneys.

Tho

The cut score should remain where it is. The State Bar should not submit to pressure from law schools that cannot properly select and educate.

Sunjay Bhatia - StepOne Law Firm, P.C.

I disagree with the proposal to lower the cut score to 1414. For a number of decades, the California State Bar ("Bar") has held a strong reputation of administering the nation's most difficult bar exam. However, what many people fail to realize is that this level of difficulty ensures that attorneys in the state of California are highly competent to practice law and capable to provide legal advice/ representation to the public at large. The recent phenomenon of lowering the cut score to increase the pass rates primarily stems from the pressure of law schools who are admitting a high number of students who are incapable of practicing law and are less likely to pass the Bar Exam. As a result, to increase the number of students at their schools and generate additional revenue, these law schools want to extend this same pressure to the Bar by forcing the Bar to lower the Bar exam cut score.

The proposal to lower the cut score will not favor the public at large but rather the law schools themselves who are concerned about their own annual revenues. Lowering the cut score will only put the public at greater risk for allowing incapable candidates to practice law in California. The Bar should not be concerned about the pressure from law schools but rather the risks involved for admitting a greater number of people who may not be qualified to practice law. Allowing for the cut in the Bar exam score will only make the legal profession in California less valuable and allow the law schools to continue accepting incapable candidates into their schools to primarily benefit the school and not the public at large. For this reason, I strongly oppose the option to lower the cut score to 1414. The Bar's primary concern should be to protect the public and not the law schools that lack concern for the public and primarily motivated to sustain their high revenues.

Anonymous

Keep score. No evidence that lowering will improve legal system or delivery.

Anonymous

Wow!

Are you folks kidding about this? If I didn't see it for my own eyes, I thought that someone was trying to "punk" me.

Mark Zlocki - Zlocki & Zlocki

I am an attorney passing the bar in 1981 with the passage rate that I think was lower then than it is now. I don't like the "dumming down" in any type of education especially in my profession that I am very proud of. This is in addition to the challenging nature of the California Bar Exam and its reputation, keep it that way. I will never forget "looking at the window" and seeing my passing of the exam. Keep the current cut score at 1440.

Anonymous

Unless the State Bar believes it has been making the test even more difficult over the years (I took it in 1992), I don't see why we should be concerned with the score. Perhaps the students could study more and be more familiar with all the material prior to taking the exam. And the last time I looked, there was no shortage of lawyers in California.

Anonymous

There is no shortage of competent attorneys. It is already very difficult for existing attorneys to make a living. Lowering standards will lower the level of legal practice in the State of California to the disadvantage of the public. Law schools need to tailor their wares in consideration of the market and the decline in employment opportunities for attorneys rather than continue to pump out incompetent attorneys who cannot pass the bar. Lowering standards is the worst solution.

Anonymous

The cut score should not be lowered. There was only a 33% passage rate when I took the exam in December 2005. Instead of adjusting the cut score, the State Bar should focus on the problem related to schools admitting students who are not qualified or capable of passing the exam in the first place. I believe there are too many private law schools out there trying to make money off the students. There are also too many student loans given out to law students without any real disclosure about the likelihood of those students having gainful employment after law school. Being a minority woman, I know a large amount of other minority women who were taken advantage of by this strategic system. After 12 years of graduating from law school, I am only now getting on my feet and earning enough money to pay back my loans. Going to a 4th tier law school, I was never offered an interview, let alone a job, at any big firms. The principal balance only grew for 10 years due to the high interest rates. The last thing California needs is more underemployed attorneys, like myself.

Paul Lerandeau - Lerandeau & Lerandeau, LLP

Ladies & Gentlemen,

I have been a practicing attorney for almost 28 years and have reviewed the discipline report of the California State Bar each month for many years. It always amazes me how little skill and competence a large portion of the attorneys in our community possess. If you drop the level of knowledge necessary to become an attorney in this state even further, I am afraid that practitioners will be even less competent to represent the citizens of our state. If the goal of this inquiry is to provide more reasonably priced representation for the public then the appropriate action would be to adopt the same quasi-legal professionals as authorized in other states such as Washington. Dropping the level of knowledge necessary to become an attorney will do nothing more than add to the ranks of poorly educated attorneys. A better solution to overcoming a low pass rate would be to hold the law schools of this state to providing better education for their students. We shouldn't let the tail wag the dog.

Sincerely,

Paul E. Lerandeau

Anonymous

I read on your website that the State Bar has a hand in regulating law schools in California.

So let me guess, some government employee within the State Bar involved with the regulation of law schools in California came up with this idea to lower the academic standards of passing the Bar Exam, rather than doing his//her job and making sure the schools the Bar regulates are doing their job.

Another fine example of government at work.

Morris Bird - Law Office of Morris Bird

Protect the public by keeping the bar exam standards where they are. Discourage the existence of non-ABA law schools.

Don't make it easier to be licensed in California. Lowering the bar will only encourage the continued existence of the non-ABA law schools in the state. Our state would be better off without 90% of these law schools, if not all of them.

Thank you,

Morris Bird

Nawar Richard Shreiba

Following the modification of the exam to the two day format, there is no need to lower the cut score. A three day exam truly tested a candidate's stamina and ability to handle adversity through a grueling process. While it is true a two day exam offers fewer chances to make up for a mistake, on the flip side the two day exam offers fewer chances to make a mistake. However, the re-read process should go through modification. It is fair to count the applicant's higher of 2 scores rather than an average. In theory an applicant could receive 1430 and 1445, and yet still fail because the average score is still lower than 1440. In the preceding scenario a bar grader though the applicant did well enough to pass, but applicant still failed. If a bar grader thinks an applicant's paper is good enough to pass, then that should be good enough. Overall, I certainly don't support lowering the cut score as our state does not have a shortage of attorneys, and California should always strive to maintain higher standards.

Anonymous

The existing cut score of 1440 has been validated. Therefore, there is no compelling reason to alter it, other than to give law schools a free pass on their decisions to admit less qualified applicants for financial gain.

Stephen Grimm

I don't understand the "dumbing down" of the State Bar requirements. This does not help our citizens in any way. For those who would not meet the current standards, there should be an alternative vocational track similar to what is done in the State of Washington (Limited License Legal Technician).

Matthew Day - State Compensation Insurance Fund

The State Bar should be striving to make better lawyers, not simply to make more lawyers. I do not believe that California is hurting for attorneys. Further, lowering the standards for Bar passage to merely raise the passage rate is a disservice to the public that depend on lawyers for quality legal assistance. By no means do I believe that keeping the passage score the same will eliminate bad lawyers, as there are many that have already passed the Bar and will continue to pass at the higher score. And maybe lowering the score would allow some that would not have passed under the old score to become excellent lawyers. And I understand for those students that have massive debt after three years of law school (and potentially debt from undergraduate as well) to have a strong desire to begin their career practicing law and repaying the debt. However, the issue of debt or the passage rate of the school should play no role in determining if the pass score should be lowered.

I went to law school at one of the schools that has historically had one of the lowest passage rates. In July 2016 it was 31% for first time takers; in February 2017 it was 24%. I am about to complete 10 years of practicing law in California, I passed the Bar on my first attempt. Rather than lowering the passing score, the Bar should be looking at ways to increase the educational standards and requirements of the schools. The State Bar should be trying to increase the passage rate not by lowering the expectations on the exam, but by raising the requirements in the classroom.

Paula Schaefer

I think that the pass rate of the CA Bar could be improved if there were not so many poor-quality law schools. Looking carefully at the data, the pass rate for the CA only or non-accredited schools is abysmal. These schools passage rates are what bring down the average passage rate. The State Bar should stop allowing, at a minimum, the non-accredited schools from operating.

Ruperto Domingo - THE LAW OFFICES OF RUPERTO D. DOMINGO

Quite a number of current attorneys at this time are being disbarred or suspended due to incompetence. I reasonably don't believe that this problem of incompetence will be resolved by lowering the passing score. in fact, i believe that it would worsen the situation and therefore, a disservice to the public. In my honest opinion, increasing the passing rate score would be a more feasible solution to this issue of attorney incompetence. thanks!

Anonymous

Assuming that part of the mission of the State Bar is to serve the people of California, I do not understand the purpose of lowering the cut line score.

The result is obvious... more people will pass the Bar Exam and become lawyers.

But the problem is that we have too many lawyers per capita in California already. I know this because we have two lawyers in my family and they complain of this all of the time. So if the market is already flooded, I get back to my original question, what positive purpose could lowering the score have on the people of California?

Michael Saydah - Saydah Mediation

The Bar Exam was recently 'dumbed-down' to 2 days from 3 days. Why not wait for sufficient data to be collected regarding pass rates before 'dumbing' it down again.

Susan Horst - Susan Horst Attorney at Law

Law schools need to raise their admissions standards, not lobby to have the Bar pass score lowered.

Anonymous

The current trend of lower bar passage rate seems to show the lower quality of legal education many exam takers have received in law school. There are more than enough low quality law schools in this state that cannot produce quality bar exam takers, who may eventually become under-qualified attorneys. By lowering the cut score to 1414, the Bar Association is producing more under-qualified attorneys practicing law who are more likely be disservice to the public. There are enough under-qualified attorneys who do anything, including unethical acts, to earn their fees from the public. If anything, the Bar Association should consider raising the cut score in order to produce more qualified attorneys.

Anonymous

You are approaching the problem you wish to solve from the wrong end.

Also, I read the material you published concerning the July agenda item and the discussion about the studies you commissioned, and not only are you approaching the issue from the wrong end, the people you commissioned to do the studies all have a vested interest is seeing the cut score reduced.

That is a direct conflict of interest, plain and simple. I am assuming an employee of the State Bar was responsible for commissioning these studies. If that happened in the company I work for, the employee would immediately be shown the door.

Because of the conflict of interest, the studies are completely worthless. Moreover, from a legal standpoint, if you reduce the cut line based upon the studies, those who are harmed by the influx of less qualified attorneys would be able to sue the Board of Commissions of the Bar.

The whole thing and the way it was put together is pretty bad.

Anonymous

Why is there any consideration of lowering the cut score? The test has been shortened to two days which essentially has made the test 33% easier.
Regardless of what is tested in the two day exam six hours of reduced testing has unequivocally lessened the physical and mental stress for anyone taking the exam. Why also lessen the grading cut score. This seems like some "millenial" excuse. Make e
excuse. Make everything easier. NO.

Susan Mcelhinney - McElhinney & McElhinney

As a practicing attorney, I am strongly opposed to the literal lowering of the Bar. Competency is a huge issue for everyone. Lack of competency increases the burdens on opposing counsel, which raises the costs to the clients, sometimes substantially. In addition, the public has little recourse for poor representation that does not amount to malpractice. If anything, the bar needs to be raised.

Dan Weber - Goria, Weber & Jarvis

Per public records available to me there are currently 189,750 active attorneys in California (CalBar) and through 2016 California's population was approx. 39,250,000 (US Census Bureau). That means there is 1 lawyer per every 206.85 man, woman and child in California.This is more than adequate. More lawyers are not needed. Better lawyers are needed. Please do not dumb down the qualifications for becoming a lawyer in California. Currently they are the best trained attorneys in the Nation.

Anonymous

Why is this even being considered? The test hasn't changed in decades, so if the young people today are not passing the exam at the same rate, the problem is not with the test; the problem is with the teachers.

Milagro Ruiz Lansing - Retired

We should never try to save money by giving up quality; especially when it comes to education and justice!

Noam Katz

I am a lawyer licensed in California. I just received my new State Bar membership card in the mail. On the very front of the card is printed the sentence, in all capital letters, "PROTECTION OF THE PUBLIC IS THE HIGHEST PRIORITY OF THE STATE BAR OF CALIFORNIA."

I fail to see how lowering our standards of admission will help advance this most important function of the State Bar. Accordingly, I strongly urge that the State Bar to preserve the high standards to which all existing California lawyers have been held and leave the "cut score" unchanged.

Jane Luckhardt - Northern California Power Agency

I find it absolutely crazy that the Bar is considering reducing the passing score on the exam to accommodate lower achieving students. The underlying study confirmed the existing passing score, and it is only for the purposes of social engineering that the score is to be reduced. This is crazy. We should continue to hold our profession to a high standard or there is no reason to have a bar card. We only reduce the value and perception of lawyers when we reduce the score required to pass the exam. Having a high standard is very important to maintaining the value, competence and perception of lawyers. Please do not reduce the passing score.

Anonymous

Personally, I think the people of California would be better served by raising the cut score.

Anonymous

The fact that a new attorney passed a difficult bar exam is often the only thing that gives a new lawyer standing and credence in the legal community and with clients.

The idea that some unsuccessful students will have issues with debt should not be a factor in deciding whether or not to lower the cut score. Law students know that passing the California bar is difficult. Furthermore, they can still find jobs in the legal field or other fields with their JD degree.

Aaron Jansen

I don't think a reduced bar passage rate is sufficient reason to lower the score. Candidates and law schools must step up their game.

Anonymous

As a practicing attorney in this State for over 30 years I disagree with lowering the cut score now, and do not think you are approaching this correctly. We should not be looking for ways to simply increase the pass rate because it has declined, but for ways to admit the most competent people. Your studies and recommendations seem to support that 1440 is an appropriate figure. Rather than focusing on the declining pass rate as a potential "problem," the question you should be asking is "Why is the pass rate declining?" Is it because there is a higher percentage of less competent people taking the bar exam? Is it because the exam is in some way flawed, and is systematically keeping out competent people? Is it because law schools are not turning out people with the skills necessary to pass the exam, or practice law? Or is it something else? You do not answer any of these questions in a meaningful way, although at least one opinion in your reports is that law schools are on the whole admitting less qualified applicants. Until you answer these questions, fiddling with the cut score is potentially damaging because you risk admitting more people who you should not admit. Lowering the cut score without understanding these issues simply presumes that score is systematically keeping out qualified people. That other states have a lower cut score is a meaningless comparison, because you do not provide any information on the difficulty of those exams--a tougher exam might warrant a lower cut score. That other states have higher pass rates is also meaningless without comparative information about the relative quality of the applicants. A higher pass rate may simply be due to an on average more qualified group taking the test. This seems to be a manufactured "problem" that I fear is being driven by an agenda that has nothing to do with ensuring the qualifications of people admitted to practice law.

Dwight Nelasen

There are too many licensed attorneys in California already. Too many attorneys are underemployed while engaging in private practice. An overwhelming percentage of the State Bar's discipline actions are against these attorneys, often for misusing their client's funds in the trust account. Lowering the passing score (akin to moving the goal posts) may well very add to the numbers of discipline actions sought by the State Bar. Lowering the admission standards most probably will not increase the overall quality of the bar; most likely, the quality would be significantly diminished. I have heard that many attorneys in the Los Angeles area use personal injury cases as a loss leader. If more attorneys having lessor qualifications are added to the bar numbers, this will just further aggravate a negative economic living of many attorneys experiencing a marginal existence. The problem noted by the Bar should be addressed prior to an applicant's admission to the bar.

The logical source of the failure of more students passing the admission test would seem to be the education they are receiving from their law school or the quality of the students admitted to the law school or a combination of both. I suggest that the schools should take the responsibility to better educate their students and properly prepare them for the taking of the bar exam. Law schools need to have professors like those instructors employed by bar review courses. Law schools should consider giving exams more frequently that once in a semester course or once in a course that lasts eight or nine months. There is a lot of material that a student simply fails to remember in these courses because the students do not work with the subject materials long or often enough so that the various elements of the subject matter is not retrievable from their brains. Also, students need to learn how to write and how to develop written arguments using what they should be learning. The Socratic method may have its good features, but the students who are failing the bar exam in such great numbers need something in addition to equip them with the ability to pass the exam..

I sympathize with the astounding amount of debt that students will incur over the three or four year period of going to a law school, in addition to debt incurred during the student's undergrad education; but, incurring a debt is a very poor reason to lower the standards on the bar exam. To make it easier that an applicant be admitted by reason of the applicant having a hight student debit is akin to excusing the applicant for not having the foresight that this was the real risk in the first place. Having this type judgement may not bode well in the practice of law.

The State Bar needs to deal with the admission failures at the beginning of and during the student's law school career, not through an overly simplified solution applied at the end of the process (the bar exam). I recommend that the current passing score be maintained and the emphasis be placed on schools and students themselves to do what is necessary to be better prepare for and be equipped to take the bar exam. Emphasis should be on why some percentage of students from a school can pass the exam and what is necessary to provide more of the other students with the same skills and not to excuse the fact that these students have not yet developed the necessary skills. Just lowering the standard for admission does not really help the students who would otherwise fail or their future clients.

Roberta Robinson - Robinson & Wilson

Why would you lower the standards to become an attorney? Would you lower the standards to become a surgeon? Would you allow the lesser surgeon to operate on you?

Anonymous

Lets try to keep our profession at a high level. Reducing the score will not help. Focus on how the schools are training and/or how the Bar Exam training is being carried out.

Heather Motta

We shouldn't dumb down the requirements to become attorneys just because people want to practice law. If they can't pass the test, then it proves they shouldn't be lawyers. Their feelings are irrelevant, they need to study harder or pick another career. Would you want a surgeon that is licensed to perform open heart surgery because the test was made easier, not because they are an expert in their field?

Anonymous

Ever hear of the bridge to nowhere in Alaska?

This is just the same type of dumb idea a government employee would come up with.

Anonymous

Please, please, do not do this! We do not need more lawyers, we need more able bodied lawyers who can help us!

Jeffrey Larkin

As if California doesn't already have enough lawyers, the bar is seeking public comment about whether to lower the score of the bar exam because of a low pass rate. The sad thing is that no matter how many attorneys disagree, the decision has already been made. The cut score will be reduced in order to accommodate those who have not demonstrated an ability to meet the minimum standards of our profession. This is a bad move regardless of the rationale.

A license to practice law is not supposed to be easily obtained, and it's not for everyone. Most of us had to grind it out for 3-4 years in law school to prepare for rigors of the exam. Many had to take it more than once. There is a reason why it is difficult to pass. People seek the guidance of attorneys for issues of critical importance, be it their life, liberty, finances, etc.. A watered down version of the bar exam would result in a flood of unqualified attorneys into the marketplace and do more harm than good. What's the point of additional access to legal representation when that representation is substandard? The privilege to practice law and the right of passage every other attorney in the state had to overcome should not be compromised.

Anonymous

I apologize for being so cynical, but declining revenue from annual Bar fees is no justification for lowering the cut line score to put more ill-equipped lawyers on the street to increase that revenue.

Kenneth Lipton - The Law Offices of Kenneth M. Lipton

I am highly against lowering the bar passage standards, simply because not enough applicants have been passing as of late.

When I took the bar exam in 1978, I believe we had a 38% bar passage rate. I do not believe there is any shortage of attorneys that would necessitate lowering the standard.

In addition, lowering the standard may result in less professional attorneys and higher incidents of malpractice.

I would strongly advise against changing the bar exam in any way.

Anonymous

I am a single Mom. During my divorce I had a very hard time with lawyers. This one would say this and I would go with her. That turned out to be wrong, so I switched and thought I hired a good one and this guy turns out he didn't know what he was doing. It was a nightmare that lasted two years and took a very hard toll on my two children.

Here is what I learned. Many of the lawyers you are allowing to pass the test in the margins (at your higher cut line) are not being hired by law firms and go out on their own without knowing what they are doing. They mostly end up attempting to do divorces.

I and others suffer because of it!

If you raised your standards (not lowered them), less of these "bottom feeders" would be able to get a license to practice law and that would help people like me!

Please do not lower your standards any further, they are already too low.

Anonymous

I do not think lowering the standard is the answer. Why would we want to do that? I do believe looking at the content of the exam as well as how the exam is being scored would be more beneficial.

My concern is that the overall pass rate is declining because of those applicants who are coming from non-ABA approved law schools. Since the applicants who do not attend an ABA approved law school have such a low chance of passing, it should be looked at whether those applicants scores should be removed from the overall pass rate, whether those applicants should need a minimum GPA to even take the exam, etc.

Anonymous

This is like trying to evaluate a horse by looking at the wrong end.

Wendeline De Zan - Polycentrum Solutions

Keeping the bar high accrues far more benefits to existing lawyers and society at large than the self-defeating idea of lowering the bar. Without writing a whole brief on how misguided this idea is, here are a few questions.

1). What are we trying to achieve? More mediocre lawyers?
2). Won't that lower score open up a whole can of worms?
3). What is our intent in lowering the score? Making the bar more money through fees? That can't be right. The legal profession is one where differentiation based on intellect is a must if we are to truly serve our clients well.
4). Who came up with this irresponsible idea and what short-term interests does it serve?

I cannot believe this has even come up. It seems like a way of saying, "Society is getting dumber. We must adapt."

Keep the bar high!

Wendeline De Zan
213580

Anonymous

I thought your job was to protect the public from bad lawyers. Has your mandate changed to protecting the interests of the law schools?

Douglas Poston - San Bernardino District Attorney

The exam was previously made easier when it was reduced in duration from three days to two. If there is no appreciable increase in the required knowledge to pass, why lower the standard? Wouldn't that result in less competent applicants are now admitted? Keep the status quo at least until the additional information relevant to the issue is developed, including the Content Validation and Law School Performance studies.

- District Attorney

We already have plenty of poorly qualified attorneys who passed the bar's requirements. Why would we lower our standards further? This makes our state seem desperate for attorneys irrespective of quality, which defies logic, especially given the unemployment rate. Lowering the passing score will undermine our profession's already suffering reputation with the public. It calls the State Bar's motives into question, further undermining public opinion. Let's raise the passing score if any change is to be made.

Anonymous

California needs to keep lawyer standards high. The medical profession is already degraded (and not trusted the way it used to be) but doctors are still held in higher regard than lawyers.

Unless there is an unfair reason why bar scores are declining -- or we are short on lawyers -- newer grads should be held to the same standards as older lawyers (some of whom, by the way, can't get a job even with a great reputation and a Harvard Law Degree due to age discrimination).

Anonymous

Does Gov. Brown have any control over this? If so, I am writing him a letter.

Anonymous

Keeping the current cut score at 1440 will hold law schools accountable and protect the citizens of California from ill-prepared lawyers.

It is no coincidence that as the number of law school applications declines, the money-hungry law schools start accepting more lower-caliber candidates. Instead of lowering the exam's cut score, why not hold the law schools to a higher standard? Law schools should be held accountable and should provide tools and resources to assist their students in passing the exam. Deans and professors with bloated salaries at law schools with ridiculous tuition rates should ensure that their students are prepared to sit for the California exam.

When law school applications start to increase again, will the State Bar then lower the cut score? That would not make sense. The law schools need to rise to the occasion and so do the bar examinees.

In a time where there are so many free study resources, bar exam preparation courses, books, tutors, the internet, etc., why would it be appropriate to lower the cut score?

These examinees need to man up, study for the test, and earn the 1440 points like the thousands of attorneys that sat for the exam before them.

Gregory Reeve-Wilson - REEVE-WILSON LAW OFFICE

I have practiced law for over 30 years and met many lawyers. Based on my evaluation of the lawyers I have met, I do not believe the public would benefit from lowering the passing score for the Bar exam.

Anonymous

It is a privilege and not a right to practice law in California. California also has no reciprocity with any other state, so no need exists to lower the bar passage standards other than to increase the passage rate. While the bar exam is not necessarily indicative of the quality of an attorney's actual practice, it is the only uniform measure to assess the minimum standard to earn the right to practice law -- why compromise the standard? Most importantly, clients of California attorneys deserve a quality attorney not just any attorney, and the State should pride itself in the quality of its attorneys vice the sheer number of them. The consequences of substandard legal representation can be catastrophic in terms of the deprivation of one's liberty (or life), financial ruin, or lifelong, irreparable damage. Why would our State forfeit these high stakes consequences simply to allow more people to practice, and have a better "appearance" with a higher passage rate? Keep the standards high!

Anonymous

The public will not be served if the standards for becoming an attorney are lowered.

Peter Handy

Attorneys in California have a duty to protect the public. This duty extends to protecting the public from incompetent and/or less than knowledgeable attorneys. Bar passage should be about having the minimum amount of legal competency to advocate for a client in any type of case in which an attorney may be appointed by a court. Reducing the cut score signifies that the State Bar is willing to admit attorneys to represent people when they have less than what was previously acceptable capabilities. This is irresponsible. While many law schools would like the cut score to drop so that their statistics would improve, it is far more important that the public believe that future attorneys weren't given a pass on their lack of knowledge by reducing the cut score.

Anonymous

What was wrong with the old score? It has been considered one of the toughest tests to pass in America and now you want to ruin it so you can be easy on little "Johnny & Sally."

Anonymous

So you are considering increasing the population of stupid lawyers?.... Really??? I am beside myself for words beyond this!

Anonymous

The current cut score should be increased, not lowered.

Wayne Spindler - fir

The test was already dumbed down to 2 days and the performance part eliminated. The mcle is the key test nationally. Its there and we have written too. The test is too hard for today's type of attorney. Most use cut and paste forms and drafting a pleading isn't really done anymore like the old timers who had theTALENT to do that. The QLTT for England and Canada (qualified Lawyer Transfer Test) has an oral and written part in 4 "Heads " as I recall it. I've recently been doing writs and summary judgements. 99% of recent graduates would quit if they had to do some of that stuff. People don't read and study--they they cut through and skid by. The test is too hard. So what do we do? I say ELIMINATE it and put these kids in a 3 year tutorial so they get courtroom and pleading experience under the leadership of other counsel. If they won't do it then take the test back to 3 days. If you fail can't take it for a year! But I don't See a perfect solution. You have done a fantastic job both addressing the issue and being transparent. But a radical change to the test and who gets in will happen...

Rhesa Rubin - Rubin Mediation

Hello,
Thank you for seeking input from the Bar membership on this very important topic.

I believe that the number of lawyers in CA, and the US, do not match up with the number of clients that are seeking their services. This has caused a glut of attorneys looking for jobs and as a result many attorneys are out of work or under-employed in positions that are temporary and/or low-paying. As a result, I do not think it would be wise for the CA Bar Examiners to lower their testing standards with the result of having significantly more lawyers available.

I do think that new lawyers would benefit from a required training program similar to the one used in Canada where new lawyers have to "article" (which is similar to interning) with an experienced attorney who would provide guidance and instruction on how to provide quality legal services to clients for two years. This is being done at big firms (and it could be more formalized there) but is generally not available to graduates of law schools who do not qualify for big firm employment. This could be a program that all law firms would be required by the State Bar to establish in order to provide this training in connection with licensing of the new attorneys.

Thank you,
Rhesa C. Rubin, JD

Heather Pollock

As a licensed California Attorney, I find the reasoning behind lowering the standard concerning, and am of the firm belief that California is not suffering from a lack of attorney's. Furthermore, lowering the standard to allow more individual's to become members of the bar does not seem in the best interest of prospective clients. If the California bar wants to make a positive impact on potential clients, changing the standards required of attorney's licensed outside the state who move to California and wish to practice seems like a more reasonable approach.

Anonymous

Do not lower the cut score. If anything we need BETTER attorneys in California. Lowering the score just allows more people to join the Bar that aren't very well versed in the law.

Anonymous

The purpose of having a Bar Examination is to ensure that all attorneys licensed in the State of California possess the necessary written abilities, analytical skills, legal knowledge, and case procedure comprehension to adequately represent a client (both paid and pro per) from the date they are sworn into practice law. California has historically been known to have the hardest bar exam in the United States. Our standard of requiring great attorneys helps to minimize the number of 'bad apples' which end up being disciplined and disbarred from practice. Many millennials grew up in a time of participation trophies and helicopter parents that cried to the teacher if their slacking child did not obtain an A; even though that grade had not been studied for and deserved. While I sympathize that many people obtain $100k+ in student loans to attend an ABA law school with absolutely no guarantee of passing the bar exam and/or no guarantee of a job prospect to pay said loan, I do NOT believe that we should lower the standard by which the California State Bar has historically maintained. After the 2009 crash, less law firms are hiring newly minted attorneys. This has resulted in a majority of new attorneys hanging up their own shingle. Thus, we can not presume that legal skills will be obtained through their entrance into the practice of law at a law firm - lawyers need to be proficient from the date that they are sworn into practice. Without adequate skills, we will more likely than not begin to see more malpractice lawsuits and more bar discipline from poorly skilled attorneys entering the field. Let us recall that a majority of the attorneys disbarred for committing foreclosure fraud were solo practitioners. Therefore, I firmly disagree with the score being lowered.

Anonymous

I thought it is the job of the Bar to regulate and control who gets admitted, not make it so easy that every Tom, Dick and Harry can get in?

Anonymous

What sense is there to reducing the competency of lawyers?
For someone to pass the bar means something. It means that person is competent to practice law and represent people.
There are already enough dumb people in leadership roles in this country.
Thank you.

Shelby Brown - 3BLACKDOT

Lowering the cut score would only increase the number of people struggling to find legal work in California; a problem that is becoming too common. A better approach would be to lower the acceptance rate for law schools in general and to strictly monitor the admission and recruiting policies of the non-accredited schools. Lowering the cut score is treating the symptom rather than the cause.

Anonymous

The issue with the pass rate seems more on the front-end; the state bar is supposed to ensure a minimum competency to practice law and lowering the score doesn't seem like it would accomplish that goal.

Anonymous

The legal profession continues to be seen as a scourge on society.
Even with a "higher education" attorneys continue to make poor decisions, hurt their clients, and generally diminish the profession. Instead of lowering the cut score, colleges need to bring up their instruction. Everyone who has passed the bar has done so by hard work, critical thinking, and persistence. These are the folks we want in the profession - not slackers who want an easier ride. Given that there are so many people trying to become attorneys, oh so many current attorneys in the profession, it seems foolish to lower the cut score. Apparently the bar can be passed and we as members of the profession should expect those taking the bar to meet the same standards. Why would we want attorneys who couldn't pass the bar to be given a license to practice? It should be a badge of honor that one passed the California Bar Exam - one of the hardest in the nation. That really says something about a person.

In California today our schools are constantly being dumbed down and downgraded and for good reason. Quite frankly kids today are not as motivated and seemingly not as smart as kids previously. Not sure if that is due to common core or internet, but that definitely shouldn't be reflected in lowering the standards of our profession. And, once the bar starts going down that path it will be lowered again and again until the profession becomes a bigger joke than it already is.

Anonymous

You should actually be thinking about raising the cut line and improving academic standards to produce better lawyers, instead someone has the bright idea to allow this learned profession slip into mediocrity.

Anonymous

Have the law making people reviewed this proposal yet?

This needs to be rejected. Nothing good can come of this proposal.

Anonymous

We do not need more marginally qualified lawyers

Robert Armstrong - Not Applicable

Maintaining the rigor of the California Bar Exam is an important part of the overall goal of protecting the public from harm caused by admitting people to the Bar whose professional competence is below a reasonably high level. In this case, public safety outweighs the arguments for lowering the Bar exam passing score.

Anonymous

Reasons not to lower the score:

1.The level of incompetence among many attorneys currently in California is astounding. There is no reason to make it easier for even more incompetent individuals to become attorneys; it would be a great disservice to the people of California.

2.There is no demand for additional attorneys in California; there is no reason to artificially increase the number of attorneys (especially if they will be less competent).

3.Many attorneys cannot speak or write clearly, do not understand basic procedural requirements, cannot write with correct grammar, write in complete sentences, or craft a rational argument. Lowering the pass score would increase the number of people with these skill levels.

4.Many attorneys do not understand basic law and cannot keep track of deadlines. Increasing the number of people with these skill levels would be a disservice to the people of California.

5.People only turn to attorneys when they have serious problems. They deserve to have competent representation and a fair day in court. Lowering the pass score would decrease their chances of obtaining fair representation.

6.Only law schools want to drop the pass scores, because they are under pressure to increase their own passing rates. This does not serve the people of California.

7.Lowering the pass score is akin to solving a high blood pressure problem by re-calibrating the machine to read lower.

Anonymous

You cannot claim excellence, when you make the goals too easy.

James Askew - Central Coast Criminal Def

Lower the standards? As if we don't have enough unskilled green attorneys already. The California Bar should take a page out of the CPA handbook. The first time pass rate for the CPA Exam is approx 12 percent. AND they have post-exam requirements such as a two year long apprenticeship. Yet you do not have the same sense of entitlement as you do these kids coming out of law school expecting everything to be given to them on a silver platter with a self-aggrandized sense of entitlement.

And the State Bar of California is acquiescing to their demands? Are they having their mommies and daddies call the Bar for them as well demanding that their Johnny or Suzie be given an easier test? How are they going to pay back the student loans?

Please do NOT lower the standards.

Steven Vien - Law Offices of Mark R. Leeds

There are far too many attorneys practicing today who have passed on the current cut score who can't write, can't analyze facts and arrive at anything close to what a case may be worth, or evaluate their client's chances of prevailing at trial to lower the passing score and admit more unqualified applicants.

It appears that those who endorse lowering the cut line are primarily concerned with political correctness and the results that will occur when the passing score is lowered, which is the admission of new attorneys whose understanding of basic English and it's complicated grammatical rules cause no harm when violated in common discourse, but when violated in the drafting of legal agreements court submissions can lead to devastating results.

Misstatements and errors regarding a verb's tense, misuse of pronouns, the misplacement of an object in a sentence can all result in malpractice of a level that is incomprehensible. It is oft said that attorneys can't be found liable for failing to stead clear of the prohibitions inherent in the Rule against Perpetuities, which may or may not be true, but do we now extend forgiveness of errors to members who can't write a specific and cogent sentence, or understand one well enough to properly advise a client as to its ramifications?

This slope is far too slippery to continue our profession's current downward slide, incompetence is already a huge problem with newly minted lawyers, and to Increase the number of fools with nice suits I'll serving the public is insane considering the number of bozos practicing law these days.

Leave the passing score where it is or raise it, we need to protect what's left of our reputation among the public, and letting more unqualified applicants into the State Bar At Is not the answer.to any current problem suffered by our profession, it is merely an invitation to its further degradation.

Steven Vien, SBN 89690

Anonymous

As an attorney, the thought of more poorly trained attorneys in California is terrible. Having to work with attorneys who are poorly trained increases MY client's bills. There is no shortage of attorneys in California. So, why should the bar exam be changed?

Anonymous

With this proposal, I cannot tell you just how disappointed I am in the time honored tradition of the Bar. It was once held up in the highest esteem, and now it looks like a "sell-out."

Scott Yundt - Tri-Valley CAREs

If anything the bar exam should be getting more difficult to keep the unqualified, underprepared law students from gaining access to the profession before they are ready.

Donald Nunn - Sole Practitioner

Perhaps the problem is not the 1440 cut score level, but the overall dumbing-down of students at all levels, even those with higher degrees, as a result of misplaced emphasis of our educational institutions on topics other than simply studying and learning. Perhaps you should pull out of moth balls the bar exam essays of test-takers from 40 years ago (or oldest available) and compare their content and analysis with those of the most recent round of bar exam candidates. Then you would have a frame of reference for evaluating whether the problem is the score cut-off, or the bar exam candidates themselves.

Anonymous

Looks like the State Bar employees are now in cahoots with the money making law schools.

Maureen Clark - Clinkenbeard Ramsey et al

There is no shortage of attorneys in California. The standards for passing should be the same for everyone. If you lower the score needed to pass, is that fair to prior examinees who failed the CBX but would have passed under the lower score? I don't think so.

Pui Yee Yu

I don't actually think the cut score needs to be modified.

Instead, similar to how the State Bar is now requiring a (weak, in my opinion) pro bono hours requirement in the states' law school curriculums, there needs to be more preparation for the bar exam factored in to law school education.

I was the first in my family to attend graduate/law school. If I had not taken a course at UCLA Law titled "Legal Analysis," taught by Professor Gerald Lopez, I would not have passed the bar on the first try. On the second night of the bar exam, prior to the final third day, I found out my mother had a stroke and was in a coma in Hong Kong. Despite that emotional set-back, I was able to show up on the third day and rely on the training I had undergone in my "Legal Analysis" course to absolutely kill the exam. I passed, and never had any doubt that I did, despite having to take the red-eye to Hong Kong on that final exam day to see my mom in a coma.

The fault lies not in the exam, but in the fact that a law school education simply does not prepare you for the bar exam. That disconnect is what needs to be addressed, not the pass score.

Brian Byun - City Attorney's Office, City of Vernon

Lowering the bar exam cut score will immediately result in higher passage rates. For law schools in California, that is an unequivocal good, as it allows them to attract more applicants (by touting higher passage rates) and make more tuition money. What is less clear is whether California needs / can handle more law school applicants, more law students, more lawyers - and perhaps most importantly, more law schools. A lower exam cut score (and higher passage rate among law school graduates) could incentivize the growth of both existing law schools and perhaps the establishment of even more *new* law schools in California. Anecdotally, I have heard of large numbers of graduates being unemployed or underemployed -- especially among those graduates from unaccredited / online / or so-called "Tier 3" law schools. California should not deliberately contribute to this problem. And more law schools in California (as well as more robust recruitment by existing unaccredited or failing law schools) should be seen as an unequivocal bad for the state and for society in general.

The bar exam itself should be re-examined and substantively revised to more accurately test a person's ability and competence to be an attorney. Lowering the cut score only addresses a symptom of this larger problem.

Anonymous

I am in total disagreement with lowering the standards for licensing attorneys. The test isn't really all that difficult for someone who has attended law school and done any level of studying before taking the exam. I believe lowering the standards will eventually lead to more malpractice and disciplinary issues.

Anonymous

In no way should the state bar exam passage rate be increased solely to allow law schools to report higher passage rates. California has far too many law schools that accept sub par students for profit. This sadly is at the expense of the students who are left in debt and incapable of passing a rigorous test .

Linda Hammacher

Why lower the cut score? We are not experiencing a shortage of qualified attorneys who have successfully passed the bar.

Anonymous

Sorry to be flippant, but you are not suppose to be doing the "limbo rock."

Anonymous

Please do not do this, it is not the right thing to do.

Anonymous

We do not need more lawyers paying you dues. What we need are less lawyers, with those of the highest quality in the Nation.

Anonymous

This is a bad idea from many angles. The main one being it exposes the public to more bad lawyers while protecting the law schools.

Anonymous

Seriously? Really? Just Stupid!

Anonymous

California cannot afford to lower the cut score, most law school graduates come to California to take the bar exam so we must have HIGHER STANDARDS than the majority of other states.

One thing I would do is ELIMINATE the PERFORMANCE EXAM from the test entirely! That component has NO BUSINESS being on a TIMED EXAM! It is INHERENTLY WRONG to test this component and makes NO SENSE! This component is the reason why most people fail the California Bar Exam!

I agree with California making the MBE worth 50%, the other 50% should consist of essays. In order to balance the effect of eliminating the performance exam, California should increase the amount of essays to 8, just as Nevada has done with their bar exam.

There is no problem with the quality of students taking the bar exam! It has to do with the make up of the exam itself. I've taken bar exams in several states and studied all of them thoroughly content wise. One component, the performance exam, sticks out like a sore thumb! GET RID OF IT! It has no place on a time test!

Peter Schmied

I strongly oppose any consideration of changing the cut score. To do so would be a great disservice and patently unfair to all previous test-takers who achieved this nationally high standard in this universally desirable state. Furthermore, there is no scarcity of lawyers in California. Law school deans need to adjust their enrollment requirements if less qualified students are increasing the failure rate - an assertion already made by the NCLB regarding recent low MBE scores.

I urge you to retain the historic high standards that the California State Bar has so dutifully maintained.

Anonymous

I thought you folks were suppose to put up a "bar" for which only most intelligent and brightest could get past?

Charles Mayr - Office of the City Attorney

A declining pass rate does not justify a decrease in the cut score, particularly since the exam has been simplified into two days. Rather, law schools must do more to emphasize the skills necessary to pass, particularly legal writing, so that bar takers can be successful. At no point should a minimum competency exam be made easier because less people are passing. The potential risk of harm to the general public created by a system willing to lower its standards and accept candidates it previously deemed unfit, unready, or unprepared to practice law far outweighs any arguments that may be offered in support. A qualified but unsuccessful candidate, if truly qualified, is likely to pass on a re-exam.

Anonymous

Someone told me that you are proposing this cut score because the pass rate is down. If what I heard is true, then what we used to say back east, you are looking at this thing "ass-backwards."

Anonymous

Instead of lowering the cut score, why don't you demand the law schools do a better job of educating their students!

J. Alan Warfield

To remedy the declining bar passage rate, steps should be taken to better prepare prospective attorneys for the exam rather than lowering the score required to pass it. The integrity of the judicial system is too important to begin eroding the rigorous standard that serves the important gate-keeping function of admitting at least minimally competent members.

Elizabeth Priestley - Currently inactive status

The answer to failing scores is NOT to make things easier! How does that reflect on what your - our - goals are? Are you looking for pretty statistics, and glowing reviews or are you looking for well-educated, intelligent lawyers who can competently represent their clients. I for one studied hard, put in the effort and passed the California Bar. Even in the late 80s the California Bar was known to be one of the hardest. Yet, it was not impossible and many people have passed, year after year. And many people who do not pass on the first try, know they need to better prepared, get more education and try again. We should not reduce the "bar" of our esteemed practice just so the numbers look better. Rather than artificially increase your pass rate by requiring LESS - maybe the focus should be on how to improve education, both during lawschool and in preparation for the exam. Both from the educator side and the student side. Please do not do a disservice to the public by "dumbing down" the qualifications of the attorneys in the state.

Thank you for the opportunity to voice my opinion.
Sincerely,

Anonymous

Sounds like the special interest lobby groups have infiltrated your ranks now. I expect that from those in DC. Take a leadership role and raise the cut score.

Anonymous

There are tens of thousands of lawyers in the State of California. It is my understanding that California already has one of the highest number of lawyers in the United States. Why on earth would anyone want to make it easier for California to have even more attorneys? If there is an ulterior motive for lowering the cut score for the bar exam to allow access to more underrepresented groups, then that does those groups a disservice also because it presumes they are unable to score at the existing level. That in and of itself is an insult to their humanity. If there are law schools who cannot raise their bar pass rate then perhaps those schools should cease to exist.

Please. Take it from a California lawyer who has been practicing law for more than 15 years. We do not need even more lawyers. In my local area there are lawyers who cannot find work. Lowering the cut score will do a disservice to the profession. It will also do a disservice to the judiciary because some of the lawyers who made it under the lower standards will become judges. It will do a disservice to the people of the State of California. And then it will ultimately do a disservice to the profession of law itself. Leave the cut score alone!

Anonymous

The California Supreme Court is suppose to be part of the Bar, do those judges know what you smucks are trying to do to the profession? You should be ashamed of your collective selves.

Anonymous

Sounds as if some government bureaucrat in the State Bar sold out to someone. I'm thinking about writing Governor Brown about this.

Anonymous

I try to think positive, and I cannot think of a single reason how or why this could benefit the public. I can see how it could benefit special interests, but not the public.

Anonymous

Bad idea. Really, really bad idea!

Anonymous

I am a legal research attorney at a large superior court in California. My job duties primarily consist of reviewing contested law and motion matters and advising bench officers on the proper disposition of such matters. Put simply and succinctly: encountering a well-written brief (one that includes cogent analysis, citation to relevant authority, and other hallmarks of quality lawyering) is the exception, not the rule.

The State Bar should not license individuals who are either unwilling to invest the time and intellectual energy necessary to pass the bar exam, or who are unable to acquire the skills and knowledge necessary to pass the bar exam, or both. Doing so will result in more substandard and wholly unqualified lawyers practicing in this state. Such an outcome will harm the public, it will harm the public's perception of the profession, and it will harm the Court system by depriving it of quality advocacy.

I urge the State Bar to keep (or increase!) the cut score for this and future bar exams.

Anonymous

Please stay with me here for a few sentences as the issue will be come clear. Question: Are any of you people baseball fans? I hope so, because you might remember the greats and their records like Roger Maris 61 homers in 1961. That record (and other records) were finally beat. But, they were beat under the cloud of steroids. All of baseball since has this cloud hanging over them, despite their denouncement of steroids.

For fear of being too obvious, cutting the cut score line is the California Bar's steroid cloud. Think carefully before you vote.

Anonymous

Lowering the cut score to the Bar exam does not enhance consumer protection, but rather diminishes it by lowering the minimum qualifications for an attorney. Why is the Bar considering this drastic step? Did the Bar come across any study that shows definitively that, in other states, a lower cut score (around 70%) does lead to the licensing of more competent attorneys (or less incompetent ones)? If there are studies that do support that notion, then why did the Bar have such a high cut score in the first place during all these years? Does that mean that the Bar is admitting that it arbitrarily had excluded individuals from licensure? (since it is admitting that its exam is not psychometrically valid and thus requires a lower passing score) If the Bar does lower the cut score, it would only be fair that it also should consider granting a pass score to all individuals who scored 1414-1439 in all of the previous Bar exams since the inception of the 1440 score requirement.

In my humble opinion, an alternative to lowering the cut score would be to do a better job at screening unfair test questions that appear on the Bar exam.

It is imperative that the Bar remain strong in the face of demands for lowering cut scores because some feel entitled to a bar license. Consumer protection should be the only relevant factor in deciding whether to consider lowering any cut scores or shortening the bar exam. If lowering the cut score does not increase consumer protection, then the Bar should not lower the cut score. The Bar should not sacrifice consumer protection at the altar of political correctness and student hysteria.

Anonymous

The public confidence in the BAR would be lowered if the standard for attorneys was also lowered. There is no reason to lower standards for our profession including admitting persons who are unqualified to be members of the BAR. If you cannot pass the BAR as it is then you are unqualified. Lowering the standard is not a solution to law schools' admitting students who should not be admitted just to make more money.
The last thing lawyers need is another reason for the public to become distrustful and upset at the quality of their attorneys.

Anonymous

Yikes! Do you have any idea how many lawyers that don't know their nose from their elbow are already out here roaming around California right now? And you want to put more of these bozos on the street? Come-on and get real.

Anonymous

This is just wrong

Jocelyn Olander - J. C. Olander, Attorney at Law

I am an attorney and I have been in practice for over 30 years. I see more and more young and/or new lawyers who seem to lack the necessary writing and communication skills and who seem unprepared for the practice of law. Lowering the bar standards is not in the best interest of the public nor of the profession.

Anonymous

It’s counterintuitive to lower the test score standards just because fewer people are passing. Test takers need to properly prepare, not have the bar lowered to make it easier for them to pass.

Anonymous

I am an attorney who has practiced for over 40 years. Just as with high schools and colleges, the constant grade creep and reducing of standards m is creating a large group of people who are not competent. When I went through UCLA Law School, the requirement to stay after the first year was lowered to help certain students remain in school. Unfortunately, these students couldn't pass the Bar exam because they didn't have the proper knowledge and ability to use it. This was a disservice to them and didn't ultimately help anyone. Please don't dumb down the standards .

Austin Baumgarten

There are currently not enough jobs for all attorneys in California. Lowering the bar exam score would only increased the number of new attorneys who will not be able to find work.

Vincent - The Hartford

I do not believe the bar score should be changed.

Roseann Frazee - Frazee Law Group

I have an attorney for eight years now and passed the California Bar in 2008 on the first try. I attended a non-ABA school. I liked the school, but I could not help but notice that many students were not qualified to be in law school. I loved law school and found many students very qualified so I do not want to exclude all students who attend non-ABA schools. I found that I was well-qualified and just desired to attend school at night because of the need to work during the day: I was a graduate of UCLA and had been in the legal field for over 30 years at the time of taking the Bar examination. I found the California Bar easy for me.

I have found over my many years of being in the legal field that the attorneys who do not pass the California Bar should not pass in any regard. They are just not qualified in the English language. California is a melting pot of languages which can be good and bad. In the legal field, most citizens do not realize that most of attorneys' work is reading and writing in the English language. I have had clients and others say that they want to go to law school, and I ask them, "do you like to read and write English." I don't remember getting a "yes" answer. Of course, in addition, the attorney needs the ability to speak in English which is a major requirement.

Therefore, I do not find the necessity to lower the standards to pass the California Bar. There is no shortage of attorneys in California.

Anonymous

Keep the caliber of California lawyers high. DO NOT LOWER THE CUT SCORE!!!!!!!!

Benjamin Kuo

I have been a member of the California Bar since 2008. I am writing to express my support for Option 1 to not change the passage standard for the CA bar exam.

I understand that the steadily falling bar passage rates is a concern for public policy. However, I believe that such a phenomenon is a consequence of the environment of the practice of law. It is increasingly well-known that law practice is one of the least satisfying jobs available today, and that many are unable to find jobs after incurring massive student loan debt and even with a bar license. In addition, the Great Recession put many out of work and many jobs are not coming back. Word of this has percolated to people aspiring to enter the field, which corresponds with the sharp decline after 2013. It could be entirely likely that there are less people entering law school, and those who enter are less qualified for the rigors of the profession.

It seems logical that the way to address a shortfall of attorneys is to allow the free market to take its course - by having employers pay fair compensation, to improve working conditions, or to provide incentives to recruit qualified applicants as opposed to lowering the barrier for entry, which would effectuate a race to the bottom and jeopardize the livelihoods of current members of the bar. Given the already poor perception of the profession, lowering the standard would provide more ammunition to those who view attorneys in low esteem.

It is clear from the Standard Setting Study that current CA attorneys agree with the testing standard. Changing the standard would be to lower the bar in the most literal sense.

Anonymous

Given that the exam was recently cut to 2-days as opposed to 3-days, modifying the exam further by changing the scoring process at this time seems irresponsible.

As someone who has sat for the exam in the last few years and passed, I am familiar with the exam as it existed in a 3-day format. While I can only speak from my experience, it seems plausible that the issue is with the MBE portion of the exam and not the test-takers or the current scoring system.

Passage rates across the nation have trended downward. I suspect the issue is with the MBE--ask practicing lawyers some of the challenging questions on the MBE and I can almost guarantee statistics will show that these questions do not accurately reflect one's ability to practice law. I am not suggesting getting rid of the MBE--indeed, it exists in my opinion because one must learn test-taking strategies to pass it. Further analysis should be directed towards the MBE and the creators of the MBE before California should modify its cut-off score as this would send the wrong message to all those who sat for the exam in previous years.

Anonymous

It would be a disservice to the California legal profession as a whole to lower the cut score to appease the deans of law schools that have been consistently lowering admissions standards to combat declining enrollment (which is a separate issue, indicative of the poor state of the current legal job market). Understandably, these schools are now in the unfortunate position of having a large number of recent graduates that are unable to pass the bar exam in its current form. The people of California should not be subjected to an influx of unqualified legal professionals because law school admissions offices are making poor admissions decisions (which will undoubtedly continue to be made for purely financial reasons).

Has the bar exam become more difficult over the past several years? Although I have not had the pleasure of sitting for the exam in the last 10 years, I have a sneaking suspicion the answer is no. As evidenced by the July 2016 passage rates (ignoring the February 2017 rates for the moment, as February test scores have historically been lower than July scores), there are several law schools that have been able to maintain admirable passing percentages. This information demonstrates the issue is with the education process and applicant qualification at the schools struggling with low passage rates, not the test.

As it stands now, there are many more qualified attorneys than there are open legal positions. Lowering the passing score to ensure more, arguably less qualified, individuals enter the pool does not benefit anyone except those law school deans who are wringing their hands over low passage rates and fear of losing accreditation. The argument that this move would assist legal aid centers, and is therefore necessary on at least those grounds, is flawed for 2 reasons: 1. There is no guarantee that any of these individuals currently failing the bar exam will go into legal aid public service; and 2. It is insulting to those in receipt of legal aid to infer that they should be receiving assistance from individuals who would not be eligible to practice law absent a lowering of bar admissions standards.

Also flawed is the argument that the passing score should be lowered in consideration of recent graduates with high student loan balances who would otherwise be unemployable as attorneys. Anyone interested in entering into the legal profession should be familiar with the principle of assumption of risk, and the bar exam is a known risk going into law school.

Keeping the current cut score will hopefully encourage the schools with underperforming students to do better, in both admitting and educating. Lowering the bar, so to speak, should never be the answer.

Anonymous

Reducing the cut score isn't a good idea.

It dilutes the meaning and significance of a California bar licensure, something that is currently well regarded, given the difficulty of the exam. This dilution unfairly penalizes those of us who took the bar exam under the current scoring mechanism. That is particularly true for any attorneys who had to retake the exam because they were below the current cut score but above the (lower) proposed one.

Reducing the cut score also would stigmatize the attorneys who passed under that framework.

It's also not clear to me why lowering the cut score is a reasonable response to what may or may not be a problem with the test itself. Why are we not looking to the law schools, or to Barbri, to address this situation? Why are we looking instead to something that affects ALL California attorneys? And why are we looking to implement a solution that will lower our standards? That doesn't serve the public, or currently licensed attorneys, at all.

Anonymous

Keep the status quo. Should Bar lower cut score, will we see more names of attorneys being disciplined? Alternatively, should cut score be lowered, something should "give." By "give," how about requiring articling (which is required to be called to bar in Canada) or apprenticeship before someone can be admitted to Bar so that new attorneys have the practical skills to be one? In any event, what is the rush in deciding whether or not to lower the cut score? Why not consult the attorney licensing authorities in Canada for ideas? Do higher barriers to entry lead to fewer attorneys being disciplined in Canada? As I understand, in Canada, it is a lot harder to become an attorney. (In fact, unlike here, there is a shortage of attorneys.) Unlike here which is a two day bar exam, in Canada, exams are a series of exams over a longer period of time. In addition, even if one obtains a law degree in Canada, if one cannot find anyone or any firm to do articling, one cannot become a lawyer.....

Anonymous

There is no shortage of attorneys in California necessitating a lower pass rate. While an update to the bar exam topics may be necessary to ensure the bar exam is testing the skills and knowledge necessary to actually practice law, merely lowering the standard so as to admit more attorneys is not an answer which benefits practicing attorneys (who would be disserved by increased competition driving down salaries), potential admittees (the unqualified of which would be disserved by a bar exam passage rate which falsely promises the hope of a career as an attorney), or the public (who would be disserved by the potential for an increasingly disqualified pool of attorneys). If there is a bar to the public obtaining justice, that bar is not found in a lack of attorneys. Rather, that bar is found in a glut of attorneys who are unethical and/or incompetent in their practice; and in an overburdened court system where some cases can't have a motion heard for 6-9 months (if not longer) and whose overburdened nature exponentially explodes the cost of litigation.

Anonymous

And lowering the passing grade helps me how?

Anonymous

Actually considering changing the cut score is a good idea, but you should raise it, not lower it

Anonymous

I see no reason to lower standards. There are plenty of unemployed and underemployed attorneys. There's no public benefit to adding more.

Sean Mccoy - CA DOJ, Ofc of the Attorney General

I am a past chair and former member of the Committee of Bar Examiners. During my time on the committee, we approved in principle reducing the length of the exam from three days to a two day format. The evaluation of converting to a two day exam took many years to develop before the committee was confident it was the right decision.

We also saw the emergence of a push for practical experience in connection with admissions. There is always something new to consider or some change being proposed, and some changes are not vetted as thoroughly as others.

With every exam, there is some outcry over the pass rate. For years, we see various ABA schools struggle with pass rates that rise and fall. Last year, following the abysmal performance of graduates from Hastings, there was a tremendous expression of anger over the high cut score. I recall no such outrage in 2011 when the University of La Verne law school lost its ABA accreditation due to its pass rate. I wish to second the recent editorial in the Los Angeles Daily Journal by Los Angeles Superior Court Judge Fahey [see https://www.dailyjournal.com/articles/342590].

If the goal is to lower the passing score to make it easier for applicants to be admitted into the profession, just admit that is the case and admit that you will accept a lower measure of "minimum competence" as measured by the exam. But do so knowing that the present score has not had any negative impact on the growth of the profession.

Change can be a good thing. But the admissions process is not like a fashion choice or color of paint. We have a system of evaluating and testing persons admitted to practice that has worked quite well for several decades. The present complaints about the pass rate are not new and do not justify modifying the present system.

Cynthia Harris - Superior Court, Contra Costa County

In my view, the public views lawyers as people who have specialized skills -- that not just any "Joe Blow." When someone pays to hire a lawyer, they are paying for talent; for someone who knows that area of the law and can get the job done well and quickly. I am a staff attorney for a court and can tell you that there are already too few lawyers with these performance skills. The bar is a gateway, and it already is set at a level too low for the quality the public (and the courts) expect.

Matthew Blado - Law Office of Nancy J. Bickford, APC

I see absolutely no reason to adjust the cut score for passage of the CA Bar Exam. If anything is done, I propose the cut score be increased by 25-40 points

Matt Valenti

The State Bar deserves an "F" in ethics for proposing this change to the Bar Exam. There is a glaring omission in this proposal, a 500 pound gorilla which we are supposed to pretend isn't breathing down our neck with its fetid banana breath.

The truth which is completely being withheld from the public is that this proposed form of grade inflation, this needless dumbing-down of one of the most important licensing tests in the country, is being done entirely at the behest and for the benefit of law schools. It's not about helping students. And it's certainly not about protecting the public from unqualified lawyers.

Plain and simple, it's about doing a nice favor for law school deans who are admitting unqualified students they know can't pass the Bar in the first place.

For the last decade, law schools have been admitting unqualified, unprepared students in droves--not for altruistic reasons, but simply to keep the lucrative student loan money flowing. The Bar has buried its head in the sand and pretended not to see the abuse and fraud the law schools have committed in their never ending thirst for government-backed, non-dischargeable student debt. They are happy to enroll students who they know, based on reliable LSAT statistics, have little chance of passing the Bar, much less getting a decent-paying legal job if they do.

Don't believe me? Look on their websites for all their revolting puffery about all the phantom "JD Advantage" non-legal jobs out there. Doesn't that say it all? This is their not so subtle admission that their students may never get to work as a lawyer, even if they can somehow pass the Bar.

Why on earth would the State Bar want to help enable this kind of education fraud?

The answer to the crisis of heavily indebted, underemployed young law grads is not to dumb down the Bar exam. That will only exacerbate the problem, as the law schools will merrily lower their admissions standards even further in response--just as they gleefully raise tuition every time the US Dept. of Education increases the amount of student loans available.

The answer to this crisis is to hold law schools accountable for enrolling far too many students, many of them blatantly unqualified to pass the Bar or practice law. The answer is to simply take away the accreditation of law schools with high numbers of grads who can't pass the bar, can't get a decent job, and can't pay back their crushing student loan debt.

The ABA has shirked its duty, and bent over backwards to help law schools continue to bend the students over forwards. But the State Bar of California shouldn't contribute to this travesty.

And now, let's really get down to business, and start facing painful realities. What is the dirtiest of dirty secrets that's being exposed by this attempt to dumb down the Bar? Are you ready?

We don't need law schools at all.

This deceptive and manipulative attempt to dumb down the Bar is the clearest evidence of this dirty secret. This should be self-evident, to those with the eyes to see. The law schools obviously can't manage to prepare their students to pass the Bar--otherwise their deans wouldn't have pushed so hard for this change.

Stated another way: there'd be no need to dumb down the test if the schools were properly preparing students for it. They have three years to get them ready, after all!

But they can't. And it's not because law schools can't transform themselves into an extremely expensive, glorified bar prep course--they've tried that. It's because the true demand for legal education by students well-qualified to become lawyers is simply nowhere near the oversupply provided by the hundreds of law schools across the country, 20 in California alone.

A far better proposal would be for the Bar to forego the requirement of a JD altogether. We don't need to dumb down the Bar exam, we need to eliminate law schools.

Simply open the Bar Exam up to everyone willing to plunk down the fee. Anyone truly qualified to become a lawyer--that is, able to read, write, analyse, and argue effectively--could spend a few months (or less) studying and practicing for the Bar, and would pass it on the first attempt. There is no magic being performed in law schools. To pass the Bar, simply read the black letter law, practice applying it to different fact patterns, then rinse and repeat. It's not rocket science, it need not take three years, and it certainly need not cost $200,000 and a lifetime of debt.

But of course, the law deans and professors--not to mention the student loan servicers--want to keep the student debt flowing into their pockets, without any regard for the effect of their overpriced, under-performing product on the grads, on the job market for lawyers, or on the Bar as a whole.

This dirty, backroom plan to dumb down the Bar is the clearest sign yet that law schools can no longer be trusted as gatekeepers for this critical profession.

The practice of law must be based on honesty, respect for the law, and scrupulous ethics. The process of educating new lawyers should be held to no lesser standard, which is precisely what this proposal would do. The Bar Exam is the only backstop left, the only institution which the law schools have yet to corrupt in their ruthless quest to sign up and indenture thousands of new students every year. The State Bar of California should hold itself to a higher standard, and not let them get away with this.

Law schools have become parasites on the legal community. This proposed change simply gives them more blood to suck on.

Matt Valenti
Sate Bar No. 253978
mattvalenti@outlook.com

Richard Avila - Richard G. Avila, Attorney at Law

For the sake of public protection and judicial effectiveness, I believe it essential to keep setting High Standards for Bar Admission. Weeding out weakly prepared Advocates prior to Admission to the Bar is much easier and more effective than taking Disciplinary Action against them later in their Careers. It is also actually fairer to them, too.

Holly Moore - Moore Law Group

This is typical Millenial Stuff! They cannot pass muster in the real world because they have been caudled and catered to their whole lives. As an employer who has hired and fired multiple millennials it is unbelievable how they just truly cannot do anything up to par and they don't even understand how established rules and standards apply to them. The cut score needs to be maintained at the current standard. Anyone who cannot pass it must work harder. It will be a good lesson those taking the bar exam now and in the future that law practice is HARD. Sometimes you have to work harder then you want to. Sometimes you fail and learn from it and try again. These are lessons that are necessary for the practice of law but that the majority of bar exam takers right now have never learned. Its about time that they learn them otherwise the State Bar will need to beef up their malpractice division and the division that helps lawyers who get themselves into trouble by mismanaging their practice or turning to substances etc.

Anonymous

The problem is not with the cut score. The problem is with the plethora of unaccredited law schools and California permitting graduates of those schools to take the bar exam. The very large proportion of such students who then fail to pass the exam drag the overall rates down. There is also an overall problem with access to legal services. While some sectors of our society lack meaningful access to legal representation, that is not because there are not enough lawyers in California/not enough people passing the bar exam. We need to work on the underlying factors that contribute to these problems rather than simply lowering our standards.

Anonymous

I do not agree with lowering our standards below what all previous attorneys had to meet. Always took pride in the fact that it was not easy to become an attorney as in other states that had much lower standards or only required one to pass the multi-state multiple choice exam with no essays required. Trials and legal work are not multiple choice questions.

Anonymous

Reducing the standard score will admit persons to the Bar that do not meet the minimum level of competency currently required. This will promote harm to the public and diminish the Bar as an effective agency in administrating professional competence.

Patrick Gorman

Responsibility for the bar exam pass rate lies entirely with the law schools. The law schools should be required to better prepare their students to pass the bar exam. Lowering the bar exam simply allows the law schools to avoid responsibility for failing to adequately educate their students. The law schools fail the students who pay tuition and devote years of their lives with the expectation that the law school will prepare them for a career in law. This is a scandal. When a student graduates from a law school but is so ill-prepared that they can not pass the bar exam, then that reflects on the quality of the education that the student received. The law students are defrauded when the law schools do not do their job. The general public would be disserved by lowering the passing bar exam score and allowing more underqualified attorneys to practice law.

Ruth Brissenden

Lowering the score required to pass the bar just perpetuates the "dumbing down of America." We should continue to to require graduates seeking to take the exam to excel to their highest capacity and not encourage the current trend of mediocrity that has become so prevalent in today's society.

Claudia Rivera

I agree that the score should be kept at 1440. The July 2017 exam was the first 2 day exam for CA. We should wait and see the scores. If students are still not performing well, then we can make changes to the July 2018 exam.

Alicia Brown

As a 14 year member of the California State Bar, I read with disappoint of plans to lower the bar exam cut score. After receiving the member survey, my disappointment grew. The tenor of the survey indicates the state bar believes (or wants its members to believe) that lowering the cut score for the bar exam will solve issues plaguing the state bar: lack of diversity in the state bar, lack of access to attorneys in certain geographic areas of the state, and practice areas that lack qualified lawyers. These problems occurred before the bar pass rate dropped, and there is no proof lowering the cut score would address these problems. The drop in the pass rate is almost certainly attributable to decreased applications to law schools, resulting in less qualified applicants being admitted to law schools. The less qualified students then have a harder time passing the bar once they have graduated from law school. Rather than lower the cut score the State Bar should probably look deeper into why the profession as a whole is turning off so many young people to the extent that they are not applying to law school.

In a recent Daily Journal article, Judge William Fahey of the Los Angeles County Superior Court outlined a variety of reasons the cut score should not be lowered, and I urge the State Bar to consider his arguments: https://www.dailyjournal.com/articles/342590

The California State Bar has a proud history of requiring its members to pass a stringent and fair exam. I cannot think of any reason that the cut score should be lowered.

Anonymous

The public and the profession will both suffer if the scores are lowered.

Colin Mccarthy - Lanak & Hanna. P.C.

Before even considering "dumbing-down" the Bar examination by lowering the cut-off score, please evaluate whether there is a critical need for lawyers in California. My guess is the answer is no.

In Orange County, this year was historic as we saw the closing of Whittier Law School. Law school is not the same as when I attended. It is more business-oriented and less academic-oriented, due in large part to the rise in cost. Schools need students to support the exorbitant tuition they are charging. Do we need to increase the number of attorneys in California? Is there a critical shortage? If not, then why are we having this discussion.

The quality of attorneys in this State is always an issue. If you lower the cut-off score, you will feed the lower-tier law schools who are simply trying to make a profit. This will lead to more unqualified attorneys joining the field and thus, threatening the public. Stanford or Cal don't benefit by lowering the score, the for-profit programs that advertise regularly on my Facebook page will. This is not good for the public.

Leave the score as it is. Find other ways to address the issue. Change the subject matter, or the format, not the cut-off score. Protect the public. That is part of the Bar's mission statement.

Damian Castaneda - Castaneda & Co.

California should have a greater policy that protects against Type 1 errors. A Type 1 error is an individual who passes an examination, but whose true abilities are below the cut score.

The score should be increased two standard errors above the recommendation—i.e., 148 to 150. The reason it should be increased is that under the current scoring system, a person can fail the written portion and still pass with an above average MBE. And now, the MBE will weighted even higher because there is one only PT than two. And worse yet, that PT is only 1.5 hours and no longer 3 hours. This is disappointing because the Performance exam is the best test we have to measure the skillset of comprehension and written analysis. These are the

skillsets that make good lawyers, not multiple choice questions. Unlike the MBE where you can have excellent test takers at standardized tests and the essays which requires memorization of issues and elements, the PT is entirely skillset oriented. You cannot do well on the PT just because you are a good test taker.

We should worry about people who pass the bar exam with high MBE scores, but fail the written portion. But we don't have to worry about people passing the written portion and failing the MBE. The latter almost never happens. Because the bar does not publicly publish that much information on the bar exam, we have to go way back to 1983 to a report that publishes the information we are looking for. On July 25, 1983, psychometrician Stephen P. Klein, Ph.D. conducted a study of the possible reasons for the generally declining passing rate in California. (Klein, Sources of Variation in Passing Rates on California Bar Examinations, July 25, 1983.) Klein's paper can be downloaded here:

https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwik3pWCsfPVAhUh2oMKHZ30DPIQFggmMAA&url=http%3A%2F%2Fwww.seaphe.org%2Fpdf%2Fpast-bar-research%2FSources_of_Variation_in_Passing_Rates_on_California_Bar_Examinations.pdf&usg=AFQjCNG1KRnYnhPqASBHzlDwuLjj09KioQ.)

That study was 34 years ago. So this idea about a declining pass rate is not new.

In his study, Klein gives two very interesting tables. In Table 5, the data shows that for the July 1982 exam, 3.5 percent passed the essay portion but failed the MBE. (Klein, supra, p. 5.) Yet 25.9 passed the MBE but failed the written portion. The overall pass rate for the exam was 47.5 percent. The study does not state how many of those 25.9 percent passed the bar exam. But it must be significant. This is concerning because one notable bar prep course encouraged students to only study for the MBE because a high MBE could result in a pass even if all of the essays are given a failing score.

For February 1983, 3.5 percent passed the essay portion, but failed the MBE. Remarkably, this was the same percentage as the July 1982 exam. And 24.5 passed the MBE, but failed the written portion. (Klein, supra, p. 5.)

In his July 28, 2017 study, Conducting a Standard Setting Study for the California Bar Exam, Backpedal warns of the danger of a Type 1 Error. A Type I error represents an individual who passes an examination, but whose true abilities are below the cut score. That exactly describes a candidate who has a high enough MBE score to pass even though they failed the written portion.

As a matter of policy, California should not tolerate Type 1 Errors. Interestingly, Buckendahl states in his report "Both types of errors are theoretical in nature because we cannot know which test takers in the distribution around the passing score may be false positives or false negatives." But this is not entirely true because we know which test takers passed the MBE and yet failed the written portion. We have enough information to make a policy decision to eliminate the false positives (Type 1 errors) by raising the cut score to the highest recommended value of 1500.

Nobody should be a California attorney who fails the written portion of the exam. Even further, nobody should be a California attorney unless they have a passing score on the essay portion and a separate passing score on the PT portion. In other words, if a candidate fails the PT, they shouldn't pass the exam. Increasing the passing score to 150 will lessen the advantage that someone would get from a high MBE. Why should a high MBE score matter in California? The written portion makes the exam hard to pass, not the MBE. Our high standards don't come from the MBE, a standardized test. Instead, they come from the skills that matter most to being an effective lawyer. And that's the written portion. Unless California insists that an individual pass the written portion in order to pass the bar exam, there is nothing to be proud of because all we have done is pass someone who is good at multiple choice but who failed the skillset that matters most---written analysis.

Anthony Lai - THE LAW OFFICES OF STEPHEN CHEN

I took and failed the bar exam three times before finally passing in February 2017, which was the last administration of the three-day exam. The reasons I failed previously was not due to the difficulty of the exam or the cut score, but rather due to lack of adequate preparation, as well as a misunderstanding of what the bar exam actually tests. The bar exam is much less a test of legal knowledge or rules, but really a test of preparation. Does a candidate have the ability to adequately and sufficiently prepare for the exam? Any reputable bar preparation company will tell students that preparing for the exam is a marathon, not a sprint, and that mere rote memorization will do little advance a student's likelihood of success on the test. It is a test about presenting ideas and concepts in a clear, concise and efficient manner, skills that any attorney requires in practice.

I believe the legal profession is so closely tied with the notion of adequate preparation and performance that to lower the cut score would be a disservice to the people who will need need to seek competent and skilled legal assistance. I sympathize with those who have lost job opportunities and are facing significant amounts student loan debt, I have been in that position. However, I knew going into law school that there was a possibility and even likelihood that I would not pass.

Anonymous

There are far too many incompetent attorneys already, the California Bar Exam needs to stay at 1440 to keep the standards of attorneys relatively high.

Anonymous

I am not sure the CA Bar exam correlates with a person's ability to actually competently practice law in Ca. However, there shouldn't be a higher tolerance for a false positive than a false negative. The report was very technical and since we are not statisticians it took several readings and I am still not clear as to the correlation between passing the bar and actual day to day competence of an attorney.

Bridget Ausman-Mckinley - Enrollease

Excepting this summer when the exam changed to two days, the bar exam has remained the same for the past 30 years. The exam essay questions and passing sample answers are on the bar website and available for all to see and review.

There are no surprises on the bar exam, other than which subjects will be asked. Students who pass the exam are prepared. Students who do not pass are not as prepared. There is a format in answering the questions to the bar exam, some students get it the first time, many do not. The bar exam is a barrier to entry in the legal profession. Lowering the bar score would let more into the profession, but at what cost? With a lower score, those who are less prepared, less studied, and less able to write good answers to standard questions will enter into a profession that relies heavily on writing.

Writing is the lawyers craft.

Nerissa Shklov Skillman - The Skillman Method(tm) LLC

When I was first brought in by the Massachusetts Committee of Bar Examiners in the 80's to address the issue of how to increase the performance of minority applicants on the bar exam, one of the first questions asked was whether the Committee should consider lowering the passing score in order to increase diversity. Perhaps because I am a woman of color, members of the Committee appeared to be surprised when I responded emphatically, "No, not unless you can change the profession!" My position remains unchanged.

The solution to reversing the trend of declining bar passage rates is to identify the real issue(s). Simply put, the reason why bar candidates are performing poorly on bar exams nationwide is because they are not being taught the strategies for achieving academic success while they are in law school. As a result, too many students are graduating from law school without understanding the substantive law and how to apply relevant concepts.

Based upon almost forty years' experience as a law teacher providing professional academic support to law students and bar candidates, my observation is that the decline in the bar passage rates represents the collision of assumptions. Those assumptions include 1) "either a student has IT or not," 2) a student will understand the substantive law by the end of each of his/her courses, and 3) the strategies for achieving academic success cannot, and possibly should not, be taught in a straightforward manner.

There is a communication gap between law professors and many students that is not being addressed. The solution to bar failure is to teach students how to excel while they are in law school. Special emphasis should be placed upon the first year students. If first year students are taught the strategies for success beginning in the first semester, they can build and reinforce their skills while in law school. As a result, passing the bar exam should be a non-issue for the super-majority of applicants.

Law students need to understand the operative value system. They need to be taught in plain English how to use the table of contents and syllabus for each of their courses, how to impose structure upon their course materials, how to outline subjects effectively, and how to apply their knowledge on essays and multiple-choice exams.

Although law professors are well qualified to teach the substantive materials, ordinarily they are not teaching their students structured approaches for learning and applying the law successfully. As a result, many students are not learning the substantive law well because they are overwhelmed by the sheer volume of material they are expected to learn. Further, given the subjective application of the Socratic Method, many students have great difficulty understanding what standards are applied to their work and how to meet them.

Numerous ABA accredited law schools, the Oregon State Bar, the Massachusetts Committee of Bar Examiners, and the Legal Aid Society of New York City, among others, have invited their students and bar candidates to attend my presentations on study methods and bar preparation. Students have gone on to become tenured law professors, judges, top attorneys, and in at least two cases, Appellate Court justices. One of the graduates of Golden Gate University School of Law called a few years ago to say that he has been admitted in eight jurisdictions.

Rather than lowering the cut score, it is upon faculty to teach students how to be academically successful while they are in law school. Doing so will produce the best results and ultimately protect consumers.

Stephen Lambert - Lambert & Rogers, APLC

Why do we want to encourage incompetence?

Clients are hurt by drunk, dishonest and dumb lawyers. It's tougher to screen out the drunks/drug addicts and the dishonest ones at the inception, but we can certainly keep the standards high enough to weed out the dullards.

I encourage the bar to consider raising the cut score.

Joel Chodos - Joel Chodos, MD

Lowering passing scores is a VERY bad idea. The schools and students need to do better. The Calif public deserves better, not just minimally competent lawyers. Law school deans need to look to their own house to clean up their act, get better students and have better and more rigorous teaching techniques. One does not have to be a genius to pass the Cal Bar. I did so as a correspondence student studying part time while being a full time professional working over 40 hrs a week. Do not succumb to pressure to lower scores. The schools and students need to shape up or go to other more lax states. Don't penalize the Calif pub

ONLINE PUBLIC COMMENTS SELECTING OPTIONS IN FAVOR OF LOWERING THE CUT SCORE

ORGANIZED IN CHRONOLOGICAL ORDER FROM THE EARLIEST FIRST.

David Dickey I think the score should be lower as the majority of the states have it.
Anonymous Please cut the score should be like the national amount average of 1330
Anonymous It should be lowered to the same as New York's cut score, 1330.
Davis Cost benefit analysis: Harm the public safety = de minimis Benefit to legal profession = substantially great
Anonymous Smalls needs to pass
Arman Boyadjian I believe the cut score should be lowered to what ever it needs to be lowered to in order to allow more people to pursue their dream of becoming attorneys. A 70% fail rate is not acceptable. If a person spends well over a $100,000 to attend law school then thousands on Bar Prep they should not be denied the opportunity to not become attorneys if they are simply bad test takers. I personally am horrible at MBE type questions and always have been. Now that the MBE is 50% of the score that makes it nearly impossible for me to pass and basically wasted the last 4 years I was in law school. I can't do anything with that degree, that is worth my time, and I can't spend another $6,000 on any more bar prep courses to maybe pass the second time. Please drop the score help people accomplish their dreams. Thank You
Joe Dalia The bar passage rate is unreasonably low and the bar examination is a poor metric for lawyering skill. Lowering the cut score is the only sensible thing to do short of fundamentally redesigning the exam.
Anita Abedi It's more fare for hardworking law students for successfully pass the bar exam at the first try
Anonymous Please consider applying the 1414 cut score to the February 2017 Bar Exam also since it was given in the same year. Thank you.
Anonymous Use the nation's average cut score for the California Bar Exam..

Anonymous

The cut score needs to be lower than 1414. It is still much higher than that of other states. Between 1330 and 1380 must be reasonable cut score. In addition, the point allocation to the Performance Test needs to be less than the current allocation. The test does not reflect necessary ability in the real legal practice.

Glaucia Milanez - Dell Inc

What measure a good lawyer is his/her development and experience during his career; it cannot be measured by how difficult is to pass the bar exam. He/she can pass the exam and work in a field that was not asked in the test and be a disaster or very good attorney. A high score is not helpful.

Linda Schilling - none

I live in an area of California far-removed from the large cities of California. For example, it is 110 miles one-way from my house to the nearest freeway. The economic resources of my community's residents are very limited due to the lack of employment in my area. Earning $12.50 per hour in my community is considered a well-paying job.

As a result, the need for an attorney in my community is far removed from the need for an attorney in say, Los Angeles, or San Francisco. My community's residents need attorneys to handle simple divorces where there are no assets in the marriage, or to defend a resident who has been charged with a simple crime. The residents do not need Harvard-educated attorneys, nor could they afford to pay for such an attorney, even if one resided here. Which, quite frankly, is not likely due to our remoteness and disadvantaged economic status. But my community is not unique! It is typical of California's communities found outside the "privileged" areas of the State.

I believe that denying the admission of attorneys who score lower than 1440 on their state bar exams basically penalizes communities such as mine. Our citizens are being denied equal access to justice because they cannot afford a high-priced attorney, and the bar exam requirements tend to favor the students of expensive American Bar Association (ABA) approved schools. The ABA schools produce good attorneys, but those same attorneys will not locate to areas such as mine, due to their need to re-pay education costs.

The typical California citizen does not need a corporate attorney or an impressive educational background from an elite law school. The typical citizen needs equal access to justice through attorneys that can practice, and reside, in their communities, and at the same time, charge a fee that is reasonable. That scenario is more likely to occur where the attorney is able to receive a reasonably priced legal education, so that recovering education costs does not become a decisive factor when making a decision about where to reside and practice.

The state-accredited law schools serve a vital function for the majority of California residents. It appears that the graduates from those state-accredited law schools are somewhat treated with disdain by the California State Bar. It also appears that those graduates are held to a standard that is only acquired by one who was fortunate enough to afford to attend a "privileged" law school. Or who was fortunate enough to reside near enough to an impressive law school in order to actually attend classes. Few, if any, in my community have ever had either of those options.

A state-accredited school's educated graduate serves a much needed purpose in remote communities in California. I believe this fact has been overlooked in the attempt to keep the legal profession "elite." There is no room for "elite" when ensuring that all citizens have equal access to justice. The lowering of the bar exam pass score would be an advantage to the citizens in communities such as mine, because there would be more attorneys available to those citizens for their simple and uncomplicated legal needs.

Thank you.

S. Alfonso Smith

Option 2 should be the cut score required for all further CBX and not just limited to July 2017.

Matthew Matejcek - Tully & Weiss Attorneys at Law

I believe that the Bar Exam pass score should be lowered but even lower than the proposed 1414. I think that the current standard to get an examinee to re-read (1390) would be a more fitting passing score. It is a minimum competency exam for practicing law - and if an exam taker gets to at least 1390, to the point where they are at least worthy of a second grader under the current standard, they should be considered competent enough to practice law in California.

The problem with the Bar Exam is that it is so subjective to the grader. What is a 65 or 70 essay answer to one grader is a 60 to another. Yes, switching to the two-day format does help lessen this problem, I think that the 1390 "re-read" mark would be an appropriate way to determine whether an exam-taker would make for a competent attorney. Which is to say, in other words, that if the exam-taker has performed well enough that he or she is worthy of having another exam grader step in to also read and grade his or her essay questions, that exam-grader has performed well enough to pass the minimum competency goals of the Bar Exam.

Anonymous

I agree with lowering the cut score, but strongly believe it should be even lower than 1414, and should be closer to the cut scores used by most other states (in the 1300 range). If the State Bar of CA's interest in setting the cut score so high in CA is really a matter of protecting the public and ensuring that there are competent attorneys practicing, I think the State Bar of CA needs to get real here and consider the scores that other states use to determine the minimum level of competency. Is CA saying that lawyers who pass the bar in these other states with a lower cut score are incompetent? I also think that any new cut score the California Supreme Court decides on should be applied retroactively to people who have taken the CA bar in recent years and would have passed using the new cut score. I am not sure how far we should go back, but think the State of CA needs to consider this as an option, and going 10 years back might be a good cut off point. As a single mom of two who works full time, who graduated law school 11 years ago, and is close to passing the CA bar exam, but is not quite there yet, I would really appreciate it if some more realistic expectations for passing this test were set in CA and the CA bar examiners had a little bit more compassion for those like me who are struggling with passing this test. Using my score from when I last took the CA bar exam 3 years ago, a 1407, it looks like I would have passed the bar using the cut score of most other states. This is just super frustrating and unfair. Just because an individual memorizes enough material to pass this test under CA's high standards, it doesn't make them a better lawyer, or more competent. There should be a minimum level of competency, but 1440 is too high. Please fix this problem.

William Campisi - Campisi Law

The cut score should be lower beyond 1414 by about 100 points to be in line with the majority of states in the Nation. There is no evidence that California has better attorneys or less discipline issues as a result of maintaining a higher passing score. Thank you

Iouri Levitski - NWCU

Please consider cutting the score to 135, similar to the majority of the states. Thamk you!

Anonymous

It is understood that lowering the score may appear to be allowing individuals who should not be admitted, admitted, because passing at a lower score may show their "inability" to be a competent lawyer. However, the passing score will only be lowered to be in conformity with almost all other states, which is fair. It is absurd to force bar takers in California to have a higher passing score just because they are in California. Uniformity makes the most logical sense.

Anonymous

I failed last year by less than 1.5 points and can't overemphasize the need for getting the score down. The barriers to eat admitted are too high and unfair. To make it worse there is no appeals process. No timelines to respond to applicants who make plea for reconsideration.

I got a National 94% rank in the NCBE and was still failed for 1.5 marks. Is this fair or even remotely feasible.

It's demoralizing and depressing to have to wait for months to retake the exam and then wait for the results for another 4 months. I urge for reconsideration of the passing score!

Tiwana Boatwright

I agree with Option 2 if the rule is modified to apply to all future California State Bar examinees as well.

Anonymous

I understand the California Bar Association's desire to make sure the standard of practice in the state is maintained at a certain level. But the 1440 cut score is the wrong instrument for the task - both too exclusive (as attested to by our abysmal pass rate in February, and the letter written by deans of the major California law schools) and too underinclusive. And by the latter, what I mean is, the ability to speedily rattle off very specific rules about 15 different subjects (many of which will not necessarily appear in day-to-day legal practice) is not a good indicator of one's ability to practice law.

In sum - please lower the cut score! 1414 is at least more reasonable than the current cut score.

Anonymous

The cut score should reasonably be set at 1388.

Ravneet Sandhu - Student

I think, after personally having taken the bar exam July 2017 even 1414 score should reduced. While an exam is undoubtedly neeessary to decipher between students that are/ are not prepared to be attorneys, the actual bar exam that is offered has little relevance to actual practice of the law. The topics that are studied are not at all relevant to actual law in practice, nor is it indicative of ones success (or lack thereof) as an attorney. Frankly, while the bar as it currently stands is incredibly hard and filters between students who have/ have not sufficiently been prepared by their law schools many people also have the ability to simply memorize their exam. Consequently, though the exam is intended to be a reflection of ones preparation, it often times is simply a matter of how well you can memorize the patterns and standard answer choices. Thus, while I support a lower cut score, I also propose that the exam be modified to be an exam that is in fact relevant to our careers as attorneys and also, to our ability to successfully practice law.

Anonymous

It is unnecessary to continue to push for a higher cut score without any evidence that this is a direct indication of a better attorney. If anything, the consensus has been that the Bar exam itself does not relate to the practical practice of law. These students have gone through law school, financial burdens, months and years of studying and still cannot obtain what they set out to do because of an unfounded score sheet. Please consider lowering the score so that those who have desperately tried to finally obtain a license can finally practice law.

Marisol Gonzalez

The score for the CA Bar Exam should be cut to below 1414. The CA Bar Exam itself is not reflective of an individual's ability to practice law. As seen, an individual may pass the exam at any given time based on the subjects tested in that examination session. Still, CA requires bar candidates to meet the highest passing score in the country. This creates higher costs, delays, anxiety, and uncertainty in thousands of students who have successfully completed all the other steps to become licensed and the only requirement left is to pass the CA Bar Exam. I recommend, accordingly, that the passing score for the bar be lowered below 1414. This will enhance mobility for law graduates and maximizes employment opportunities for law students. In effect, the exam will still test the skills of legal analysis and reasoning, factual analysis and communication skills of the bar candidate but, with a lower score, more candidates will be able to prove their fundamental knowledge and lawyering skills to begin the practice of law.

Ravneet Sandhu - Uc davis school of law

After personally having taken the bar exam in July 2017, it is my opinion that even proposed 1414 score should be modified. While an exam is undoubtedly necessary to decipher between students that are/ are not prepared to be attorneys, I firmly believe that the bar exam as it is currently offered has little, if any, bearing towards a prospective attorneys ability to practice the law.

The areas that are tested--for example, property, criminal law, and other common law based subjects--are not at all relevant to the actual practice of the law, nor are these subjects indicative of ones success (or lack thereof) as an attorney. While the bar as it currently stands allows the state of California to filter between students who have or have not been adequately prepared by their law schools, a 34% passage rate is clearly not demonstrative number, especially when the 66% of first time test takers includes graduates of some of the most prestigious and accredited law schools.

Lastly, though the exam is intended to be a reflection of ones preparation, it often times is simply a matter of how well a student is able to memorize the patterns on the mbes and provided sample answers for the essays.

In conclusion, though I support a lower cut score, I also firmly believe that the exam be modified to be an exam that is in fact indicative of the law in practice, as well as an accurate reflection of our ability to practice the law.

Anonymous

The way that California regulates bar admissions makes very little sense. The pass rate is too low, which indicates problems with the test. Moreover, with a pass rate of even 65%, what exactly is achieved by failing that many people. I would suggest a second change because the admission process makes little sense.

The current test is designed to test law student in a broad area of subjects. The test appears to be almost entirely inappropriate for lawyers who have been practicing for a number of years and seek admissions to the California bar. Those lawyers have practiced in a set area of law for the duration of their practice. No lawyer is attempting to enter this state to practice in every area. For that reason, it makes little sense that a lawyer admitted to practice waive in. If the exam is designed to keep individuals out of the professions who do not have the skills to be a lawyer any information in that regard would and could be obtained by reviewing the practicing lawyer's history, references, and moral character. A test on a multitude of subjects in no way tests a practicing lawyer's ability to practice law in this state. It only tests that lawyer's ability to stop working and study for a test.

The exam makes no sense for another reason. A lawyer who is practicing law in another state, and seeks to practice in California, would not need to know every single area of law. The person will undoubtedly practice in a limited area and seek to practice in this state in that limited area.

I would add that the cost to take the bar exam is incredible and the difference between a passing score and a failing score appears to be slight, subjective, and have little bearing on whether the person can actually practice as a lawyer. The test does not test for minimal competence.

I would have a lower cut rate for practicing lawyers or have NO exam requirement for lawyers seeking to waive in and practice here. I am surprised that there is an exam requirement for lawyers to practice here and it makes no sense.

The cut score should be lowered to 1388.

Anonymous

The score should be lower. If there is a concern about under qualified applicant don't allow people with no law degree to apply.

Anonymous

As a practicing attorney with bar cards in two other jurisdictions, I believe that at this point there is no justification for California to keep their scores as high as they have. In full and fair disclosure, I just sat for the July 2017 CBX so my biases are out for all to see here. That being said, I took my first bar exam in a UBE state (Idaho) that required a 280 score to pass. This was the highest score required by any UBE jurisdiction at the time, including New York. I passed with a 303 score. It took just as much time, effort, and preparation to pass that exam as it did this one. The subjects on the other test may have been different, but no less challenging. To say that we need to keep the score in California higher is a disservice to the public. There is no justification for keeping the cut score higher in this state other then to keep competition out. It does not bear on competency or ability, because other jurisdictions have lower scores and they have higher pass rates. This includes New York, Illinois, Texas, Florida, New Jersey, and Pennsylvania. Would we dare say those who practice in these states are sub-par attorneys because they would not have passed the CBX? That is presumptuous as well as asinine. We should be in line with New York and other major jurisdictions and lower our score. Even 1414 is much to high still and there is no justification for why there is only a 3 point drop just as much as there was none for keeping the cut score 1440 before. Fix this issue before we ruin our profession.

Nathan Rien - Columbia College

Dear State Bar of California,
I am a Professor and Athletic Director at Columbia College. For almost 20 years, I have been teaching and coaching at the high school and community college level, and have witnessed a substantial pedagogical range in the way students have been educated. Initially, students were taught via course objectives and through rote memorization and constant drilling and testing. Then just over a decade ago, there was a shift in higher education to increase critical-thinking and analysis in students via student learning outcomes, with the goal of identifying what a student should be able to achieve upon the exit of each college course. Almost all accredited universities that I know, have adopted this model in order to attain their institutional accreditation.

For the lecture and activity courses I teach at Columbia College, I have witnessed a vast array of personality and intellectual curiosity types that have achieved the student learning outcomes in different ways that my students met the objectives of my courses almost 20 years ago. One of the key differences that I have personally witnessed in most of my students over the past 20 years, is there ability to research and readily obtain data in a much easier fashion. This ultimately leads to short-cuts that neither I, nor my students of yesteryear had the ability to take. For me, in order to do research in the 1990s, it entailed visiting several different libraries to find the necessary resources to accommodate my research as a student at UC Davis. It seemed as though those tasks lasted weekends upon weekends, along with long late-nights in libraries.

With that said, I think that we have entered an era where students have become accustomed to expediency and can experience instant gratification by conducting research at the touch of an internet-search on their cell devices or laptops. I do not feel that students commit to rote memorization all of the information that was so vital 20 years ago, because they can so easily access information by a google search and prep for a test instantly. In the world of academia, this is not the preferred method of educating our citizenry and I more than most understand this strongly. But think it is important to note the shift in the way we have begun educating all students.
The vast amount of information that is readily available and that is learned and retained by today's students vastly surpasses that of almost any other generation in my opinion. Students are extremely smart, skilled and have attained more knowledge at a younger age than so many earlier generations, that I am inclined to argue that we expect even more from our students.

Case in point: How many additional subjects have been added to the California Bar Exam in the past 40 years? (Ca Civ Pro? Civ Pro MBE?, etc?) Often times, I see the comparisons between bar exams over the past 40 years, but has it been taken into account all the new rules/laws/distinctions that today's law students must commit to rote memorization? Does the bar exam acknowledge how much has actually been tacked on to the exam over the past 40 years?

It is a changing society and we need ethical and honest lawyers. We need to set the bar high. And we need critical thinkers that can articulate an argument, as well as make persuasive arguments in writing But we also need to be fair to those that sacrifice time, money, and efforts, into pursuing one of the most noble professions I have ever known.

For the past seven years, I have worked diligently to complete law school and study for the bar exam (twice), while also raising a family of four young boys and being the best husband I can be to my wife. At the same time, I was the head basketball coach of a community college basketball team, full-time professor, Faculty Co-Chair for Accreditation and Academic Senate President-Elect at Columbia College in California. It has not been an easy ride and I have worked harder than I ever have in my entire life. I have endured late nights, early mornings, long-road trips, and just about every other detriment that a law student and father might experience in similar circumstances. It has been extremely hard, and my family and I have made sacrifices that only we will know. And I am grateful everyday for this experience, because I know one day I will demonstrate that I am worthy of this profession.

My father was sworn almost 40 years ago, as he and my mom were poor and had nothing. He attended Western State in Fullerton, and he always told me that "it is not where you go to school that matters... it matters what you do with the education that you receive." I firmly believe in this philosophy. He took the July 1977 California Bar

Exam and passed the test the year I was born. He always told me he did not know what he and my mother would have done had he not passed the exam, because they were completely broke.

Fortunately, for my wife and I, along with our four boys, we both have good paying jobs and can provide for our family. But I think of all of those students that have missed the cut and have scored in the 90th+ percentile on the MBE (which is objective), but were subjectively graded down on their essays and performance tests. I had a very dear friend that literally scored between the 90th-97th percentile on the MBE in the February 2017 exam, and did not pass the exam despite being in re-read. My heart was broken for him, because he worked so hard. He demonstrated that his law knowledge and critical thinking-analysis skills were better than more that 95% of every test-taker in the nation... yet, he was denied admission to the California Bar. I truly felt this was unwarranted and sad, because he would be an incredible advocate.

I believe in the State Bar and its admission requirements.

I did not write this letter for sympathy or an adjustment of major proportions of the requirements to change. But merely to point out that California's requirements are leaving a lot of people in debt and sacrificing years upon years of dedication and deliberative efforts to pass this exam, in exchange for an almost 33%-40% chance of passing the bar exam. This seems very stringent.

For me, I know that I would be an incredible attorney in the state of California and have an academic background and dedication to research that proves this. Unfortunately, I have not met the standards of the state bar yet. I will not stop and will continue to work at this craft because it is important to me that I can effectively advocate for those that need a knowledgeable, and critical-thinking attorney.

I hope that you have the time to read this, and know that I appreciate your time.

Sincerely,
Nathan Rien
Columbia College
Professor of Health and Human Performance
Faculty Co-Chair of Accreditation
Academic Senate President-Elect
Office: 209-588-5182

David Doria

I would consider a tiered pass score system, wherein lower scorers may still be admitted to practice law, but may be subject to additional requirements in assuring the State that the applicant is qualified to practice. This could consist of a form of probation, or perhaps additional testing, or an interview process. At first gaze, I can see why this feels inappropriate. However, I don't see it as much different than forcing law students from non-ABA accredited law schools to take a first year test that ABA accredited schools' students don't have to take. The overall point of the additional testing is to (1) acknowledge that these non-ABA schools are relatively underperforming schools with underperforming students, but (2) that these schools serve the very important purpose of making the legal profession accessible to more minorities and the financially underprivileged. This is the same reasoning that I would apply to a tiered Bar pass scoring system. The State should acknowledge that lower scores need to be subjected to higher scrutiny, and implement that scrutiny. But also acknowledge that a tiered system ultimate opens the legal profession to larger groups of the underprivileged, who will often make fine attorneys and judges someday.

Anonymous

The CA bar cut score should be very similar to the rest of the states. While I understand that the competition in CA is higher, all graduates and foreign attorneies who reside in CA should be given an equal opportunity, as the individuals of the rest of the states. 1414 is still considerably high and in my opinion will not effectively assist CA bar takers to pass.

Francisco Uribe

It is unnecessary to continue to push for a higher cut score without any evidence that this is a direct indication of a better attorney. If anything, the consensus has been that the Bar exam itself does not relate to the practical practice of law. These students have gone through law school, financial burdens, months and years of studying and still cannot obtain what they set out to do because of an unfounded score sheet. Please consider lowering the score so that those who have desperately tried to finally obtain a license can finally practice law.

Vida Ahmadi

I believe it should be lowered to match the cut score of other states. If it is only lowered to 1414 it will still be unfair compared to the cut score in other states. If the entire plan for this modification is to provide justice then it should be lowered to match the cut score used by other states. Thanks!

Anonymous

The pass score should be lowered beyond 1414 .The fact that it is reduced by a difference of 26 points doesn't mean more students are going to pass. Some of the students devote their time, energy and resources to sit for this exam and reducing the score by only 26 points is a mockery to their effort and hard work. Some students have sat for this particular exam 3 years in a row and haven't still made it, so reducing the cut score by 26 points isn't a guarantee they will still pass. What about lowering the pass score to the same level as that of New York ? Maybe there could be an increase in pass rate. Suffice it to say, keeping the pass score at 1440 or reducing it by 26 points is of no consequence if the pass rates are going to continue dropping . These are students careers on the line, and they can't be solved by methodology or statistics. Times have changed and the state bar needs to evolve alongside with those changes, not sticking with old and archaic rules . Students graduate from law school with hundreds of thousands in student loan debt, yet they can't pass the bar exam to start making money to pay off those loans, and yet you guys think reducing the score by 26 points is going to make the situation any better. In my honest opinion, it won't. But reducing the score the same threshold level as New York or even lesser is a good head start .

Anonymous

California already has a low bar passage rate overall, and with the new 2 day bar a cut score of 1414 would be a better fit to allow for an increased number of those who pass the bar.

Anonymous

The cut score should be lowered to 1414.

Anonymous

As a student who took the most recent July 2017 bar exam, I am largely in favor of lowering the cut score. I think California's bar exam is extremely difficult, and places unnecessary strain on law students who wish to enter the legal profession and provide meaningful assistance to clients. Lowering the cut score would enable those who are competent and able, but who were unable to pass by a mere 26 points, to enter the legal profession without the added stress of preparing for, sitting through, and awaiting results for another bar exam. I believe changing the cut score is a necessary step for the CA bar.

Mary Gerson - N/a

People who have passed two other state bar should only need to take specific to CA topics.

CA seems to be facing a need for looming large problems

Anonymous

The cut score should be lowered to allow for at least 50% passage rate. If a 1414 cut score allows for this, then I agree with Option 2.

Mimi Elmer

I was pleased to learn that the California Bar was soliciting input from the public as you consider adjusting the passing score on the bar exam. I understand that California's passing threshold is set well above the national average, with the resulting pass rate being well below the national average. I appreciate that it is challenging to hit the 'sweet spot', balancing the risk of too many false negatives (failing those who would be qualified attorneys) versus that of too many false positives (admitting into practice those who would not be qualified).

It seems, however, that the California passing score is overly skewed in the direction of eliminating false positives.

As a result, too many qualified candidates are currently unfairly being denied admission to the California bar despite performing well at rigorous law schools, passing the national ethics exam, and achieving a score on the bar exam that would allow them admission to the bar in over 95% of the other states.

I urge you to lower the score required to pass the California bar and in so doing, bringing the pass rate significantly closer to that of the national average. I would urge you to make this adjustment to the July 2017 exam. I agree with Option 2 as a minimum remedy. I agree that the pass score should be be lowered at least that much, and preferably even more to match other rigorous states such as New York and Massachusetts.

I would also strongly urge the California bar to enact reciprocity with other states with similarly rigorous standards.

Anonymous

I agree that the cut score should be lowered. I believe that the cut score should be lowered to match similar jurisdictions like NY and thus should be lowered even more than what has been proposed.

Darla Williams - Law Office of Darla Y. Williams & Associates, PC

The score should be lower, more in line with other states.

Anonymous

I don't necessarily believe that lowering the score to 1414 goes far enough. This should be considered the absolute minimum decrease.

Anonymous

Dear the State Bar of California,

I try to express my idea in a very simple way. I read the current study which I believe is not helpful at all. The whole process was about competency. Everyone already knew that CA requires minimum competency in order to issue a license to practice law. However, the concept of minimum competency and it's definition is so vague and every "Grader" has his/her own interpretation. I can defend my statement with an example.

I couldn't pass the February 2017 Bar Exam because State Bar recognized me as an incompetent. My written Scale score was 1365 and my MBE scale score was 1500. For me this means that I am highly competent on MBE but not competent in Writing (means California). When I looked closely to my essays percentage I found out that if the second group of graders were originally reviewed my essays I could pass the Bar. What does that mean? it means different Californian panel of graders found me competent but the other group has a different idea. For example, in the first review a grader gave me 55 in the Remedy question but the second grader gave me 70. It was still me who wrote that answer, same rules, exceptions, analysis, and conclusion.

This is very clear that the graders in California has a huge power to mark you as a competent or incompetent. This shouldn't be like this because even with this huge disparity on grading I am still competent on almost every state in our country but not in California. I can understand that the State Bar wants to protect the society from incompetency but in the eyes of CA State Bar almost all the attorneys in other states are incompetent because they passed the Bar exam with less than 1440 or 1414.

I believe if CA joins the other states and sets a reasonable scale score. The recommended scale score of 1414 does not really change anything. We should put all the studies aside and think who is a reasonable attorney. If a reasonable attorney in all states passed the bar exam above the scale score of 1340 and saved lives from death sentence or helped a family to overcome a serious financial matter, or saved a company and thousands of employee from frivolous law suit, then why I cannot practice law in my home state with scale score of 1413.

Cindy Chafin

Lower the score cut to 1320

Anonymous

Has any consideration been giving to allowing applicants to take the Bar Exam in specific areas? There are currently specializations, but what about the overall Bar exam being geared towards specific topics.

I'm sure there are many lawyers who have no desire to practice in Wills or Trusts and it's not their strength, but lo and behold it's on their administration of the exam. As a result, they fail in this area and do not pass, but their goal was to work in Criminal Law, which was not even tested, though the applicant was well versed in that topic.

Perhaps this is not feasible, but it could open the eyes of what areas of law are more favorable and which are becoming more neglected.

I think, of course, certain areas should always be tested, such as professional responsibility, but perhaps applicants can be a bit more targeted in their initial pursuit, and if they change their minds later, they can retest in their newly desired area for a certain fee.

While the California Bar is notoriously difficult, I don't know how much changing the overall score will have an effect on the outcome as much as the way the exam is administered in general. Presumably, if the score is lowered, then the exam would be reworked in a way that would likely generate the same results. It's not as if the Bar is going to suddenly allow folks with 1438s to be passing simply because the cut score was lowered to 1414 (i/e issue the same exam types.) So I think a lot more thought needs to be given to the entire exam and not just the score.

It is well known that the Bar exam is a lucrative commodity, but I think there would be a lot more applicants if there were a way to allow applicants to be a lot more targeted in their testing and play to their strengths, which would benefit not only them but their clients as well. On the other hand, they may be limited in the type of law they can practice, and they would later have to pay to test again to pass a Bar exam for that topic.

Just a thought.

Anonymous

The cut score should be lowered to 130.

Shaghayegh Aboutalebi

CA is the second state with the highest cut score, which has been a burden on current law students and the passage rate continues to decline. Hence, many students are shying away from law school as a whole because of this. It is important that there are healthy balances and a happy medium between the two and lowering the cut score is the first step to this. It is vital for the future of legal education that the state bar lowers this cut score so legal education can continue to survive and CA students have a fighting chance.

Brian Derby - Disney Technology Solutions & Services (Consultant)

The cut score should be lowered to make pass rates consistent with the other states. Also, the subjectivity in grading must be reduced!

We must minimize the amount of subjectivity allowed in grading bar exams. As subjectivity is inherent to the grading of essays, I realize this is difficult. I propose that best way to accomplish this seems to be to make the grading cut-off more consistent with other states. (There appears an abuse of discretion if a CA bar-taker would have passed in 45 other states!)

If 1414 is consistent with other states, then I would say that is okay.

The "behind the scenes" chatter of the bar is that the CA-bar keeps the cut score so high to drive profits from re-takers. I will not comment as to whether this appears true or false, as many bar-takers would have passed in New York, Delaware, and Texas (but failed the CA bar) it does suggests the CA bar is needlessly more difficult than other states.

P. Melanie Vliet - Legal Aid Society of Orange County

The score recommended as Option 2 may still be too high. As far back as i can remember, the California Bar Exam has been the most difficult in the country. In recent years (since I passed it in 2013), the pass rate has become ridiculously low. I don't believe that this reflects the competency of the applicants but a conscious decision on the part of the graders to keep prospective attorneys from being licensed. This practice runs contrary to the profession's goal of providing equal justice to all and must be stopped.

Troy Brown

i vote that the cut score be lowered because it is important for the passage rate to increase and for the students to have a fair chance.

Anonymous

I believe Option 2 does not go far enough. If the Bar wants to provide a cut score of "minimum competency," this still removes a disproportionate number of minorities from admittance. No company or organization can legitimately claim reason to a decision based on the mantra of "because it's how it is." To maintain the score at either of these levels fails to account for serious ramifications. Any contrary opinion to this ("it will admit too many incompetent attorneys") simply points to the issue of continuing education oversight and failing to appreciate the dire consequences being felt throughout the non-Bar real world. Many of my non-attorney friends see this as an elitist and non-sensical stance by the CA Bar, particularly in light of the movement in recent years from the NY Bar (using a cut score of 133 and joins the use of the UBE). A cut score closer to NY coincides with reason and is sensible to the protection of a diverse Bar.

Anonymous

The state bar should calibrate its cut score with comparable large jurisdictions, such as New York. It is difficult to justify the almost 10 point higher cut score than that of New York on the nationally uniform test MBE.

Dave Groth

As a recent graduate of an ABA law school it creates mixed feelings of lowering the cut score. Recent failed attempts at the California bar exam have caused my deeper conviction and study of the law, but frustration of not being able to practice a trade already learned an test in school caused pause and concern. While California allows a wide array of educational experiences in obtaining a law degree, hard work and mental acuity required for admittance to an ABA school are overshadowed by a dismal bar passage rate. With law schools blaming the bar exam and the bar exam blaming the schools, the only real losses are being suffered by the students faced with enormous debt and a meager employment prospects. In all reality, lowering the cut score one deviation (1.8%) will likely have very little impact upon the overall performance. It seems to me a much better situation might include greater transparency into the process of the bar. The alarming rate of repeat taker across all spectrum of education might be reduced if the failing students were given more specific information as to their weaknesses to build upon their strengths, instead the process gives very little information creating a tautology of habitual behavior less likely to produce positive results. The process should be a check on the practice of law not a insurmountable feat. The market of supply and demand will take care of incompetence. As most bar prep companies tell their student's, when you are worried about passing the bar go to court and watch the less than qualified attorney's who were able to pass the bar.

Lowering the cut score of 1440 to 1414 really comes down to a difference of (3) three MBE questions, which only will slightly pacify the critics. A true measure might include lowering the cut score to the equivalency of other states, such as those requiring a minimum of 135 (200 point scale) or 1350 (2,000 point scale). If this committee looks into the effects of the proposed change it would makes sense given the declining rate to look at possibly moving the cut score two deviations (1385 cut score), which keeps the score above other jurisdictions but raising the passage rate to a more reasonable standard. The bar exam is a difficult test which requires many hour of rigorous study and luck to pass, from the hardest jurisdiction to the least demanding. No matter the grading standard, attorneys practicing law are held to a high standard. I know the opinions of a test taker will have very little influence when compared to your "experts" on the subject, but the ones experiencing the test with the most to loose are more likely to have the valuable insights into the processes and results. At the end of the day, I studied for the 1440 cut score because that is what is required.

Erika Kozak

There is no justification in keeping an excessive score when the scoring procedure for 50% of the grade is based on a completely subjective standard depending on what the attorney reading your response feels is appropriate. Therefore, it should be modified to a more obtainable number, such as 1414

Anonymous

The cut score should be lowered to 1400 or to the equivalent of another large UBE state, like New York.

Mariam Massih - individual

hello state bar of CA
the passing score of 1440 for thirty years were based on 2 performance test equal to 4 essay which is 400 point plus 6 essays total 1000 points .on 2 days exam the state bar cut off the performance test to 1 which is equal to 2 essay and 5 essays the total is equal 7 essays which is 700 points therefore the writing exam cut off 300 points .you tried to recover it by increase the MBE by 15%.what happened the writing exam reduced by 30% and mbe increased by only 15% thus stay the score on 1440 is unfair. to give the public opportunity to write comment is absolute an attempt from California state bar to sit the justice , i understand that you are seeking the justice for Californian examinees so establish your justice and cut off the score to 1414.thank you for your time and for seeking justice.

Philp Mauriello - N/A

If the goal of the Bar exam is to test "minimum competency" then it should truly strive to be in line with that goal. The test is not to see if you are a specialist or an expert in 18 areas of law, but rather can you take what you've learned and then apply it in a lawyer-like manner. Further, the goal of the Bar is not a determinative predictor of your future legal success, but rather your past success in your legal studies.

To my first point, the California Bar does not fall in line with this goal and instead expects its applicants to be semi-experts in all areas of law by the time they take the exam. At a cut score of 1390, the score is more in line with the current national standards that ensure those admitted to the Bar are at minimum minimally competent to understand and practice law.

Many current attorneys worry that such a change will create an onslaught of unqualified attorneys in California. I believe this cannot be further from the truth. I fail to see the difference in competence between and an applicant who passes the Bar at 1440, and one who fails by 3-4 questions. The product is substantially the same, but the score is the arbitrary dispositive factor. There is still a great amount of work and dedication that goes into passing the California Bar, and lowering the score will not make it substantially easier. Requiring someone to retake the Bar for missing a few questions seems unfair, and unethical to students who are already entering a competitive market with likely burden of student debt looming.

Second, the standard for what is "competent" in our profession is not judged solely on one's Bar results. Passing the Bar is only the first step to becoming a successful and competent attorney. After passing, an attorney is still required to obtain CLE credits, maintain professional responsibility, and compete with other competent attorneys. The competitive nature of the legal market itself acts as an invisible hand that punishes incompetent attorneys through loss of clientele, and ultimately an inability to practice in the field. Requiring such a high score does not ensure that any attorney is "competent" to practice law for the rest of their life. It merely shows that the applicant has the mental fortitude and stamina minimally required to be a practicing attorney.

The Bar is merely the first step in an attorney's professional life. It is not the only determinative factor in whether they are competent. I for one believe that the score should be lowered to reflect the notion that applicants are "minimally competent" to understand, retain, and analyze the law. The Bar more than anything is a skills test, and it should test those skills. Lowering the score does not negatively impact the profession, but has the potential to enhance it. There are probably a great many candidates who were prevented from joining the profession and thus helping those in our community. The high score only prevents the access to these ambitious candidates to provide the legal access that the public requires.

Let the market determine whether someone is truly "competent" after they have passed the Bar. If it allows those in who exceed expectations and help the community, wonderful. Worst case scenario is that candidates are admitted who might not have been great attorneys to begin with. I don't believe the high score prevented even this worst case scenario.

Lower the score to fall more in line with the true definition of "minimum competency", and let the legal market with its rules and regulations determine whether an attorney is fit to practice. It will not denigrate or lower the profession but instead, have the chance to open it to many more qualified candidates.

Jonathan Goldstein

The cut score should be changed to be more in line with other states. There is no good reason why being a practicing attorney in California requires scoring higher on the Ca bar than is required on other states' bars. If the CA bar wants to protect consumers because of Ca law's many differences (e.g. community property, and specific codes of civil procedure and evidence) then the bar should test on those subjects on the essays, rather than on the multi-state subjects. This past bar exam tested very little on California specific subjects. In addition, most recent law school graduates who fails the first time pass the second, so they are fit to practice but have to spend extra time and money and may lose jobs as a result.

Ryan Malloy

I beleive the score should be lowered. After the hearing in March, the Committee of Bar Examiners failed to identify why the score was set so high. The study, while useful, was still done internally which could potentially lead to an unintentional bias. 1414 is a good start but we are still left with the question of why is this still higher than the national average, which is a 135. This exam should be necessary, but the high standard is not based on any evidence that it is actually helping the profession. I respectfully ask the Board of Trustees and Supreme Court to ignore the fear and irrational beliefs and stick to the facts and keep in mind where the information is coming from. I am confident they will make a decision that will benefit future attorneys and the people of California.

Anonymous

Considering that a cut score of 1414 was found to be an acceptable score of minimal competency, it should be implemented.

I urge the California State Bar Examiners to consider the devastating financial consequences suffered by bar exam takers who come very close to passing. Especially considering the great discrepancies in how the essays are graded.

As an example, I took the UBE bar exam in July 2016, and passed it with a score high enough to practice in 25 states. However, when I took the February 2017 California bar exam, my total scaled score was 1432.8 (missed by 7.2 points). One of my essays received a score of 75 by the first grader, and a subsequent grader gave me 60 points for the same essay. That is a 15 point discrepancy, when just 5 points would have given me the weighed score needed to pass. Additionally, only two of my essay scores did NOT vary more than 5 points from first grader to the second grader, and the variations went up and down 5 to 15 points. Furthermore, my MBE scores were higher than 70% of the California bar takers and higher than 78.9% of the bar takers across the nation.

Considering the great variation between essay scores from one grader to the next, and the fact that I achieved a high enough UBE score to practice law in half of the states in this country, I fail to see how the the current cut score is truly a reflection of minimal competence. Such great essay grading discrepancies should be considered in determining an appropriate cut score.

Anonymous

The recommended modification is to make the cut score equal to 135.

Anonymous

The CA bar should set a minimum standard for the Bar, the recommended cut score 130 should be the cut score.

Allan Salinas

I believe that the cut score should be lower because the bar exam standards are not holistic and are not an accurate indicator of an attorney's performance. Furthermore, the recent seems to lack any significant data but merely based on arbitrary mathematical standards. Given that other states such as NY have lower standards, and similar standard of professional service, and that there has only be one study on this matter, the CA Board of Bar Examiners should experiment with setting the cut score to be 1414, so law school graduates can prove their ability to practice law and not their ability to take a standardized test.

Dana Mones - Simon Wiesenthal Center

The lower cut score of 1414 is more just considering what the cut score is in other states.

Christopher Smith

While it is not at issue here, California should join the multi-state system.

David Frankel

California has the lowest bar passage rates in the country. The current cut score is burdening potential attorneys with undue financial and psychological burdens and limiting the number of attorneys available to take on public-interest work. Furthermore, the current cut score is warping legal education to emphasize passing the bar exam, rather than promoting practical knowledge and legal skills, and that it disproportionately disadvantages lower-income and minority law students.

The bar exam is meant to ensure a certain minimum level of competency of those admitted to practice law in California. The current pass rates clearly reflect that the current cut score is causing many competent potential attorneys to be rejected. There is no evidence that the state's higher minimum score produces better lawyers.

Keia Atkinson - Paul Hastings (Class of 2017)

Restraints on trade are illegal in the State of California as a matter of policy, thus the Bar exam ought not act as a restraint on trade but rather as a measure of minimum competency. Having a 35% pass rate does not evince a "minimum competency" standard.

Andrew Engebretsen

After looking at the results from the previous years and the decline in passing test takers, it is clear that a change needs to be made in the high cut score of the California Bar exam. I am in agreement with lowering the cut score but I am not sure that 1414 is enough. The national average of cut scores appears to be about 1350, which is much lower than the current California cut score. Why does California so strongly desire to have a score well beyond the national average? I understand that there is a need to weed out those that would be unfit to practice law, but I do not think that excluding those between 1350 and 1440 that are actually fit to practice. 1440 is an arbitrary number and the vast majority of states agree. California, though clearly different from other states, is not different enough to require a number so far afield from the rest of the country. Looking at the most comparable state to California, New York, it uses a cut score of 1360, I believe. They are a respectable state that has a notoriously difficult Bar exam, like California.

I suggest we use the same cut score as our east coast rival, New York. Let's put the score at 1360.

Thank you!

Anonymous

I believe the cut score should be lowered to a 1330

It seems the Bars major reasoning for a lowered pass rate seems to be blaming law schools for admitting under qualified students. However, this does not take into consideration that the lower amount of people applying for law school is also caused by lower pass rates. Both go hand in hand. I graduated with a gpa of 3.4 and had an LSAT of 165. I was top 20% in my Accredited Law School class, yet have not been able to pass the California Bar Exam. I took the July 2017 Exam with hopes that third times the charm. I worked really hard on each of these exams and was utterly devastated after finding out I did not pass. Upon receiving my essay answers and having them evaluated by third party uninterested graders I was even more heartbroken to be informed that some of my answers that I scored low on, should have been scored higher. I hit all the points, got all the useful facts, yet did not get a passing score. I was bewildered. It turns out that I was just unlucky. My exam grader on the essays I did not get a passing score on, probably did not happen to glance at the right words, so I did not get full credit. It seems pretty crazy to me that I went through years of education, months of grueling studying (while working 45 hour weeks to pay student loans) only to take an exam that is to be quickly read through by a grader. All that hard work and it all hangs on if the grader can read fast enough and can see enough of my adequate answer to give me a passing grade. I get it, life is not fair, but this is just devastating for people in my situation. I have been working in a law firm for over a year now, I help our clients and make their lives better on a daily basis. I have learned from an incredible attorney, and it crushes me to know I can be a great attorney as well. I can help even more people, and expand the firm I work at. I worked extremely hard all my life to get to this point, I know I am smart enough, qualified enough, and capable of being an exceptional attorney. All that stands in my way is the California Bar Exam, which I believe is too heavily dependent on luck of which grader you get. I have gotten a grade of 75 on one of my exams and a 55 on another, I know I am capable of passing this exam if it was graded fairly and not designed for the people taking it to fail.

I believe a lot should be changed about the exam, such as the fact that there is no need for a student to memorize 13 subjects worth of law. Attorneys practice in their chosen area of law and they know that area very well. If they do not, then they study the statute or case law to better familiarize themselves. Therefore, I love the PTs. I believe they are a true indication of how an Attorney should work. To have to memorize 13 subjects of which a majority you are never going to touch again in your life is just a waste of time that shows nothing.

The bar's Baseline Minimum Competence Definition is absolutely laughable and a slap in the face of applicants who work hard and study hard for this exam. There is no way me or most of my friends, who can not seem to pass either, do not meet this standard. If this standard was true then the cut score would be even lower then a 133, not one of the highest in the nation at 144 or even the 141 the bar is asking about in this proposal. Any law school graduate who was serious in law school and serious about becoming an attorney could easily meet this "Baseline Minimum Competence Definition" if they just studied for a week or two, so stop insulting your applicants with this false standard that is just there for show but does not exist in reality.

Thanks for reading, understand that this might just be a cut score, a exam, or tradition to the California Bar, but these are peoples lives we are talking about. Many of which have chosen this profession to help others, many of which are in crippling debt that they are unable to get out of because they just cant catch a break with this exam that is designed for them to fail.

Anonymous

I agree the score should be lowered and applied retroactively, but the reduction should be lower than 1414.

Michael Pogrebinsky

Given how far above the median cut score California is, it would be reasonable to lower it, even a bit.

Anonymous A cut score of 138-140, a score still above the majority of the other jurisdictions, is fair. Far too many dedicated and hard working students careers are ruined through these arbitrary high cut scores.
Anonymous The score needs to be cut more than proposed. It should match the NY cut score.
Stephen Yeh - Mayer Brown LLP Cut score should be in line with other, comparable states such as New York, and be around the ballpark of 1350. It should apply retroactively (up to a certain number of years).
Anonymous Bringing the pass score down to 1414 will make the pass rates in California more in line with the rest of states. It also shows that the State Bar of California is taking the voices of the public seriously and is willing to take action.
Anonymous I think it should be lowered even more. 1400 would be a nice even number. This test is arbitrarily difficult and financially burdens those who fail. Many who take the test and pass the second time only got better at guessing. Further, this should be applied to the July 2017 bar. There is no point in waiting while applicants suffer financially for no reason.
Anonymous The score in California should be lowered from the 1440 requirement. I believe the standard for what qualifies as a 65 on an essay has changed throughout the years which is one reason for the lower bar passage rate. The low passage rate affects law students from moving on to the next chapter of life to becoming professionals. California has the highest scored and most difficult exam to be a licensed attorney. It is an unfair place to be that California educated attorneys may have to move elsewhere to obtain employment. Furthermore, most students are in debt with loans and employment is essential to this aspect as well. The new option of having a cut score at 1414 is generous, but I believe if possible the score should be lowered. This would help law students and law schools in California.
Anonymous Not enough people from ABA approved schools pass the test. We're way below the national average in passing percentage but we do not have higher quality lawyers?? California should not be in business of preventing Californians from reaching their career aspirations but should be helping citizens attain their goals. There is no correlation between passing the bar and being an ethical, competent lawyer other than if you do not pass you never have the OPPORTUNITY. No one is saying make law school any easier just passing the more in line with national standards and expectations.

Zach Smith - Recent Graduate

I sat the July 2017 Bar Exam in Oakland as a recent 2017 JD graduate from the Washington University in St. Louis School of Law. This summer, I spent countless hours studying for the Cal. Bar Exam like many of my colleagues. I had to forgo making any meaningful money to support myself this summer after putting myself through law school in order to adequately prepare for the test. Even so, I am still not confident by any means that I passed that exam. While I felt confident in my study preparation and did absolutely everything I possibly could to pass, it scares me to think that I might have just wasted ~$180,000 to never practice law. I do not want to spend much time comparing CA to other states, but the CA score is a statistical anomaly (except for DE). If the goal of the CA. Bar is to restrict the supply of lawyers by creating an artificially high cut score, I think resources would be better spent eliminating the non-accredited ABA law schools in the State that prey upon students and their dreams.

Thanks for taking the time to read my comments. I apologize if there are any spelling/grammatical errors as I wrote this on the go.

Mona Vartanian

133 for the cut score

Anonymous

California's cut score should be more in line with the rest of the country (~1350).

Jeffrey Behr - Unaffiliated

1414 score should not significantly impact quality of law practice in California. At the current cut score, fewer qualified lawyers are likely to be available over time.

Anonymous

The cut score should be retroactive for the past 2 or 3 years.

Anonymous

I agree that the passing score should be decreased and applied toward the July 2017 administration. However, I believe that the data to be gleaned from a decrease to only 1414 would be negligible and that a more substantial decrease should be applied toward the July 2017 administration. This would better serve the interest of determining what effect, if any, a decreased passing score would have on the core competency of attorneys practicing in California. Moreover, while it may not be practicable to apply a decreased score to examinees who were unsuccessful in administrations prior to July 2017; the evidence from the studies conducted thus far make clear that many otherwise qualified would-be attorneys have been disenfranchised as a result of the previous high passing score, at times, with horrible and irreversible effects. The data so far acquired makes clear that retroactive application of a decreased passing to the July 2017 administration is necessary and will best serve to maximize the ability to remedy the past injustices and prevent the horrible effects of the unjustifiably high scores on previous and future examinees.

Anonymous

The cut score should be on par with the national average. There is no reason that California should be any different.

David Pruitt - Zenith Real Estate

Take away content and lower the passing score. The Bar exam has become unnecessarily complicated.

Anonymous

Please lower the cut score so we can get out into the working world and pay off our enourmous student debts!

John Pabustan

I, Unfortunately, was one of the takers of the two lowest bar exam results in the history of California. I feel that although I would've passed in 49 other states, the test is inherently flawed and bias.

Michael Gallegus - N/A

Hello,

With all respect to the California State Bar, I believe the current cut score of 144 should be lowered to the national average of 135 or the proposed 141.

I do not belittle or under estimate the motive or purpose of the 144 score as it is important for California to ensure competent attorney's practice in our wonderful state. However, the current score goes above and beyond the intended purpose. We must consider the negative impacts the current score has on our young professionals. Today, we find and overwhelming amount of young people in mountain's of undergraduate and graduate loan debt. Debt that continues to grow each time one takes and fails the bar exam. Most often receiving high enough scores to pass in the majority of states.

The current score is haulting the growth of young attorneys at a disproportionate rate. As a result, we face young people fleeing California to practice in other states and allow millennials to go deeper into debt with no job opportunity in sight.

At the minimum, it is imperative the cut score is lowered to 141. In the interim, there should be a more comprehensive study to determine why there has been a dramatic decrease in passage rates. Additionally, the ABA should play a larger role in ensuring law schools are administering proper admission standards and providing adequate legal education to students.

The California State Bar has an opportunity to to address and resolve this growing harm. Please take action now, before another year of students is adversely impacted.

Thank you,
Michael Gallegus

Anonymous

While I clearly prefer Option 2, I still believe that the cut score should be reduced to a score below 1414 closer or equal to the national average.

Logan Willer - Smolich and Smolich

I believe that the cut scores in California should be lowered to be in line with a national average. The higher cut scores are no promoting better attorneys. It is simply delaying a number of attorneys the opportunity to start their careers. Attorney's who fail the bar do not learn skills that they will bring with them to their new field. They simply learn how to take the test.

Alternatively, if a higher cut score is utilized then the grading system should be re-worked so that the average bar grader is spending more time reading the essays. The average bar grader spends only several minutes skimming over an essay question. If the goal of the hardest bar exam in the country is to advance only the best attorneys, it would make sense that we take time to evaluate the substance of the essays that are submitted.

Lindsay Whyte

Setting the cut score at a level at which less than half of those who take the Bar are able to pass denies entry into a profession that those individuals have worked for years to obtain. If these individuals are unqualified to be attorneys, more should be done to prevent entry into law school, rather than allowing the accumulation of hundreds of thousands of dollars in debt at schools the ABA has said are of a level suitable to train future attorneys.

Anonymous

California has for far too long had a cut-off score that is disproportionately high. Aspiring attorneys in this state consistently have better scores than those in other states, yet are precluded from practicing by the arbitrary difference in score cut-off. While the state has maintained that this is a minimum competency exam, that really doesn't hold true based on how the rest of the nation scores it exams. Are we to believe that all of the practicing attorneys in other states who passed their bar exams with lower threshold scores, are not competent to practice law? Clearly our cut score needs to be modified to adhere more closely to the national standards.

This is especially concerning due to the change in format to a 2-day exam. Our aspiring attorney's now have less margin for error due to the reduced amount of questions that can be asked and the reduced chances to show their knowledge and skills. If the state bar has already decided on a change in cut score for future test takers, why not apply the reduced score to those who have already taken the exam? It would be unfair to these test takers who score somewhere in the 1430's this time and then fail and would be forced to re-take an exam when if applied retroactively to the new standards their score should have already been passing.

Anonymous

The score should be lowered, but 1414 does not sound like enough. The CA Supreme act should decided what amount is adequate and uniform with the US.

Yigal Rosenberg - Chabad S. Clara

Not necessary to keep score so high, just complicates things

Anonymous

The cut score needs to be cut even more. It is unnecessarily difficult considering the gap between the New York State Bar cut score and the California Bar Exam cut score. Lowering the cut score will not create more incompetent or unethical lawyers. If the argument is truly to safeguard against non-ABA schools, then you need to focus on the mini baby bar or focus on a set of requirements for non-ABA schools rather than subject all students to this.

Anonymous

I have been an attorney for twenty years in good standing and have achieved an "AV" rating from Martindale Hubbell and I fully support lowering the raw score to 1414 !

Anonymous

The cut score should not be used to monopolize the job market in California in favor of existing attorney's. The cut score should be what is needed to make sure new attorneys have the minimum compentency needed.

Jennifer Chen - 2016

I believe that the cut score should be lowered.

One of my best friends in law school who studied diligently for the July 2016 bar exam did not pass on the first try. When she received her scores back, her information indicated that she scored passing marks on all of her essays. However, she missed the passing score by a margin of about one to three MBE questions; had she just gotten less than five more questions correct, she would have passed. If the cut score were lowered to 1414, she certainly would have passed. Because of the arbitrarily set cut score at 1440, my friend had to invest another 3 months in preparing for another bar exam, while working full time as a post-bar law clerk in the district attorney's office in Martinez County. As she was working as a post-bar clerk, she successfully drafted her own motions and appeared at hearings on behalf of the State. She demonstrated that even though she didn't pass the bar exam on the first try by a slim margin, she was more than competent to represent the County of Martinez in criminal matters.

My friend's experience is a clear indicator that the current cut score of 1440 is precluded individuals who are fully competent to practice law from entering the legal profession. Because of the current cut score, a competent and capable prospective lawyer was required to incur further financial costs as a result of having to re-enroll in another bar prep course. She also was required to invest additional time and energy into preparing for the test a second time; this energy, in my view, would have been much better spent representing the County of Martinez and facilitating the administration of justice in the county. My friend is but one of many similarly situated individuals. Should the cut score be lowered, qualified individuals will be able to enter the legal professional without having to incur extra monetary and personal costs, and will be able to serve their community by providing legal services to those in need.

Anonymous

I agree that the score should be lowered and applied to the July 2014 exam but the new score should be lower than 1414.

Anonymous

Hi. Even proposed cut score is too high.

Melanie

I am someone who has taken the California Bar three times now. Prior to this administration, my scores on the written portion of the exam have passed but I have not passed the bar because my MBEs have not met the threshold. In reviewing my scores every time it seems absurd to me that my writing and analysis skills have been sufficient to permit me admintance (a skill that is actually applicable to the practice of law) but I've been held back due to a disproportionately high cut score on a portion of the exam that holds no practical application to the successful practice of law. While I recognize the importance of the MBEs as a way to measure aptitude over a broad range of candidates all across the nation, it seems backwards to me to have a score so high that it is neither in line with the majority of states, nor actually applies to the practice of law.

California should lower the pass score to ensure uniformity with other states. A decrease in the pass score will resolve these issues and make the California bar exam more relevant and consistent with other states .

Anonymous

A 1414 (or an even lower) is consistent with the current difficulty of the bar exam and can better serve growing demands of legal services in California.

Jamie Belin

As a recent bar taker I feel very strongly about this. This test causes so many law students so much stress because it seems to be an impossible test to pass. The score is unnecessarily high and I truly believe that many qualified and intelligent lawyers are being missed out on because of the high score you need to pass this test.

Anonymous

133 --- The score should be reduced to below the national average to compensate for the years of lost jobs and opportunities. In 5-7 years, maybe up to 135, since the california bar is insistent on scaling the exam to national NCBE standards. With that said, this should apply retroactively to 2008 since that's the beginning of the study date. The bar exam is, according to the bar, to test minimum competence and protect the public. There is no evidence here to suggest other attorneys in other states malpractice more or less than in california, (protecting the public) so all these figures etc and this report are nonsensical data.

Anonymous

The cut off should be in line with other jurisdictions. For instance New York is 135 and California should be equal to that.

Jerry Delaughter - JL DELAUGHTER, Esq., PLLC

I am a member of CA Bar (#107050) and MS Bar (#6033). The present CA Bar cut score is outrageously high. It prevents applicants who have studied law and graduated from accredited law schools from pursuing their chosen profession. (I'm not advocating that all law school graduates should be allowed to practice law; but I am advocating that CA set a reasonable cut score, even maybe below 1414.) The lowered cut score should be retroactive for at least one year, maybe two. How can CA avoid being sued by those who have paid expensive tuition, paid excessive price for test preparation, paid for the CA Bar test itself, and still not be allowed to enter the legal profession because of an artificially high cut score? It appears as a scam - go to law school, meet all requirements for graduation, prepare and take bar exam, and be denied admission because "someone" decided to set cut scores as highest in country. How is this not interference with prospective business advantage?
Again, I'm surprised the CA Bar has not been sued for deceit. CA Bar knows that other respected state bars have much lower cut scores, and are not overwhelmed by admitting to practice those who have "paid the price." Are there not at least 48 other states that have lower cut scores? The February CA Bar exam had a passing rate of 34.5%, not because the material was harder but because CA Bar imposed an arbitrarily high cut score. This is absurd! The old saying: "Do the right thing" is applicable to the CA Bar now. Lower significantly the cut score and make that revised cut score retroactive for at least one year if not two.
Jerry DeLaughter

Lusine Vardanyan - Heit Law Group

The score must be lowered because the low passage rate affects the profession and there is an increasing risk of creating a big pool of graduates who cannot move on with their profession due to the constant failure of the exam, which is considerably harder and has a higher requirement than anywhere else in the country. This also creates a risk of outsourcing well educated individuals to other states where they can have an earlier start to their careers due to lower score requirements. I am sure the schools are also suffering with the number of applicants each year due to the public discouragement of the possibility to even obtain a license after graduation. Overall the difference in the score is not substantial between 1440 and 1414, but it will be a confidence booster and bring positivity to many more new students and struggling law schools.

Jason S

I think the cut score should be lowered to 1350 so that California is in line with the majority of other states cut scores. I see no compelling reason for CA score to be higher than other states such as New York.

Anonymous

I personally believe 138 would be a fair cut score in comparison with the majority of other jurisdictions set at a 135 passing score. A 138 cut score would still be much higher than other states like New York's passing score. It is undisputed that California has the second highest passing score just below Delaware.

California has a rich and diverse cultural background representing growth of people from all walk of social, cultural and economic life. As such, the California State Bar Committee of Bar Examiners should be sensitive to the needs of such dynamic groups.

In closing, I believe having a public hearing in allowing comments on both sides of the issue is a goodwill gesture toward making a final recommendation to the California Supreme Court. The climate for change is ripe for the July, 2017 administration of the California Bar Examination. Thus, I am urging the Committee of Bar Examiners to please work alongside with the Office of Admissions and Education Committee in voicing the need for change and collectively move to the Board of Trustees in making a recommendation to the California Supreme Court in September this year.

Anonymous

Option 2 (application of the lower 1414 score) should be applied to the July 2017 bar exam unless there is a later finding by the CA Supreme Court as to the appropriate cut off score for the test. The court's finding should be applied to the July 2017 test (whatever that may be) and not the 1414 cut off should the court find that a different cut off is appropriate.

Anonymous

I agree with a lower score of 1414, however I would also recommend a lower score of a 1390, which is the lowest score that can be received to get a second read. I would suggest this because this shows that a person who would receive this score could possibly be competent to become an attorney due to the disparity in grading. However, with that score being implemented I would not suggest a second read for any scores that receive less than that. I would suggest no second read whatsoever.

Lynn Franco - Southwestern Law School

The two-day exam gives examinees less time to demonstrate their legal knowledge compares to the three-day exam. If the California bar exam was meant to be an endurance test, then a five-mile run should be added as passage criteria.

Anonymous

The bar exam is purported to be a minimum competency examination. It seems clear from the background of the test and the study that was conducted that there is no clear evidence that a cut score of 1440 results in a marked improvement in the quality of California lawyers, or that individuals who score in the gap between 1414 and 1440 are unworthy of being licensed. There is certainly a lower boundary to the cut score, but 1414 is not it; indeed, it should probably ultimately fall even below 1414 (as seen by the majority of other states having lower cut scores). In any case, an interim cut score at 1414 will be a useful and important exercise to measure how a lower cut score impacts the profession. I support Option 2.

Anonymous

The MBE score should not have been increased to weigh 50% of the examinees overall score. To be a skilled attorney you have to be able to deal in the gray area of the law. A scenario will often vary from prevalent case law or it will be unclear how the law should apply. To have an MBE portion of the exam I e weigh so much of the score is not going to test a students knowledge of the law, it is simply going to reward the students who cannot see hot sides of a situation and have an ability to guess better. The examine should be a 100% written examination as that is what an attorney has to do everyday. They have to be able to write in every area of law. To force an individual to pass a multiple choice portion that weighs 50% of their overall score on obscure areas of law is unreasonable. Remove the MBE portion and make it all essay.

Additionally, even the top 10% of students would have had trouble with the MBE exam this year as none of the bar prep courses had any questions remotely similar.

Anonymous

Given the increased financial burden of attending law school and the increased level of competition, an adjustment to the cut off score is necessary. Younger attorneys are responsible for not information, against a more numerous and competitive group of peers, and with a greater financial risk to pursue a legal career. lowering the cut-off will not lower the quality of attorneys but will instead counteract the additional burdens that current law students face since they are responsible for a considerably larger amount of black letter law than older attorneys

Anonymous

I agree with option 2, but believe the cut score can actually be set lower. The object should be to weed out candidates who don't have the minimum competence to start in the profession without punishing those sharp candidates with an exam that is too difficult to pass, even if you know your stuff. The current high cut score coupled with the subjective grading has caused many qualified candidates to fail the California exam, including well respected, industry leading attorneys from other jurisdictions. A cut score between 1380-1410 should accomplish the goal of weeding out those candidates who are not minimally competent without putting worthy candidates through what seems like unnecessary hazing.

Anonymous

It should be lowered much, much lower than 1414. See below:

Focus group of California lawyers defends tight restrictions on entry into the legal profession (Michael Simkovic) By Michael Simkovic Share California is an extreme outlier in the extent to which it restricts entry into the legal profession compared to other U.S. jurisdictions. Two examples of this include an unusually high minimum cut score on the bar exam and a refusal without exception to permit experienced licensed attorneys from other jurisdictions to be admitted without re-examination.

California lawyers are relatively highly paid, and relatively few in number considering the size of the workforce in California. Restrictions on entry into the profession may help maintain this status quo. There are serious questions about whether this protects consumers, or is economic protectionism. Economic protectionism could benefit California lawyers, but it would likely also harm consumers of legal services by making legal services less available, more expensive and perhaps lower in quality because of reduced competition. Protectionism would also reduce economic opportunity for those denied the option of practicing law in California, much as immigration restrictions deny economic opportunity to those excluded from high-income countries.

The Supreme Court of California, concerned about the anti-trust implications of a licensed profession establishing criteria for entry, instructed the California State Bar to prepare recommendations on revising the California bar cut score.

Stephen Diamond reports that the California State Bar recommended that its bar examination should either stay

the same or be made even harder.

The California Bar arrived at this conclusion by asking a panel of California lawyers how hard the bar exam should be. To be more specific, panelists read essays, categorized them into good, medium and bad piles, and, with the assistance of a psychologist who specializes in standardized testing, used this categorization to back-out an extremely high recommended bar passage score.

Finding that people with high multiple choice scores also tend to write better essays is about as surprising as finding that cars that Consumer Reports rates highly are also often highly rated by J.D. Power. It's also about as relevant to the policy decision facing the California Supreme Court about minimum competence to practice law.

The relevant question for restricting entry into the legal profession is not whether good (and presumably expensive) lawyers are better than mediocre (and presumably more affordable) lawyers. Rather, the relevant question is when consumers should be able to decide for themselves whether to spend more for higher quality services or to save money and accept services of lower quality. Most people will agree that a new Lexus is likely a better, more reliable and safer car than a similar-sized used Toyota. But this difference in quality does not mean that the government should banish used Toyotas from the roads and permit to drive only those who are willing and able to buy a new Lexus.

Is there evidence that a bar examinee who would be permitted to practice law in Washington D.C. or New York or Boston or Chicago, but not in California, would routinely make such a mess of clients' affairs that California clients should not even have the option to hire such a lawyer?

Is there evidence that consumers of legal services cannot tell the difference between a good lawyer and a dangerously bad one?

If these problems exist, could they be addressed by simply requiring lawyers to disclose information to prospective clients that would enable those clients to judge lawyer quality for themselves?

The California Bar has not yet seriously addressed these questions in arriving at its recommendations.

The California Bar also reported that other states have sometimes recommended increases or decreases to their own bar examination cut score. But these states are almost all starting with much lower bar cut scores than California's baseline. It appears that few if any other states recommended bar examination cut scores as high as California's.

Diego Flores

Should be lowered even further.

Amanda Neves - UC DAVIS SCHOOL OF LAW

I think the cut score should be reduced since a test is not the best predictor of a good, competent lawyer. California does not require a law school education to become a lawyer and I think those who put the time, money, and effort into getting a law school education should be rewarded rather than penalized by a higher cut score.

The failure rate last year was staggering, even among the top schools. That is an indicator that the test needs modification. There wouldn't be feedback being taken if modification weren't a serious consideration.

I believe that a modified test -- one that places more emphasis on writing rather than multiple choice -- is essential since a good lawyer needs to know how to write and craft skillful arguments. Just as the LSAT and SAT have evolved, this test should too. Evolution is necessary for growth, and it's time to modify this test into a better predictor of who qualifies as a lawyer.

Anonymous The cut score should be lowered to be more in line with other states. There is obviously a problem when experienced lawyers licensed in other states cannot pass this exam.
Anonymous Given the more weight given to multiple choice questions of the MBE, lowering the cut score will enable students who previously would have passed (under the prior format of the bar where MBE was not weighted equally to the written portion), to pass with the cut score of 1414.
Hugo Salazar In the alternative, the cut score should be lowered to 1340. There's no need to have such a high score. Thanks
Anonymous It is time that CA followed other states that take a more sensible approach to the bar exam.
Anonymous I believe there is something internally wrong with the scores. All schools have been effected by the current scoring system for years now. The increase of non passing scores does not reflect the school or the student's ability to practice law. I believe there is a larger issue that must be determined.
Anonymous The score showed be lowered even further to bring California in line with the rest of the country.
Debra Jennings - Law Office of Debra Jennings California should admit out of state attorney's without examination as New York State and the trend in several other states and ABA recommends.
Anonymous The passing score should be lowered to 133 as in line with the New York bar. There is no rational reason why the CA bar passing score should be higher than New York's.
Anonymous The cut score must be lowered to match the standards of other standards. In light of the trauma it causes to law students, such as the Hastings student who committed suicide for not passing the bar last year, there is no reason why California's cut score is so high. Lowering the score for July 2017 would at least allow the state to see the effects of a lowered score. Any arguments against a permanently lowered score should be considered in light of the actual effects.
David Mendoza - Whittier Law School Getting through 3 years of law school is already enough to become a lawyer. 1414 is not so big a drop as to allow unqualified takers to pass.

Anonymous

The cut score should be set to a more statistically significant number to ensure passage rates consistent with minimum competency standards in other states, considering our higher MBE rates.

Doug M

1414 is still too high. Frankly, the discussion accompanying the proposed change illustrates the fallacy of the exercise of the bar exam. Every single lawyer knows that the bar exam in no way resembles legal practice. Yet we continue to operate under the assumption that the bar exam is necessary to protect the public. Let us admit what it actually is: a protectionist measure. If you want to protect the public, enhance discipline, and change the bar exam to a pure performance test. It may not fully reflect the practice of law, as no one gives you the law directly to figure out, but it would be a hell of a lot more accurate than the current exam, with bizarre trick questions on the MBE, and essays that are far more difficult and detailed than is expected in any other state's exam.

Obviously, youre not going to change the bar exam based on my comment, as that would be wild and lawyers will do anything to resist changing their practices, no matter how arbitrary, unfair, and inefficient. But in the meantime, the cut score should at least be set t something comparable to most other states (1350), so fewer potential lawyers are punished by this worthless test.

Anonymous

Score should be reduced significantly more. Low passage rate benefits only the lawyers who get to keep out competition out and charge higher rates.

Anybody in favor of a high score requirement is (1) already a CA lawyer (2) who did not go to a top law school and thusly relies on the bar exam to limit competition.

Andrew Ryan - Ryan Law Partners

As an out-of-state lawyer who is admitted in California, I think the time has come to bring California more in line with major legal markets/jurisdictions like New York, Texas and DC.

Ritz Kumar

Dear Bar Adjudicators,

Great to find this discussion after almost 30 years. There is real dearth of lawyers in the lower strata of society. Most of the lawyers are heading to Urban areas with minimal presence in Rural or Pro-bono community. CA is considered to be the World's toughest bar. Apart from complexity of Questions which is good for the Bar, the grading itself takes it to a way different than other US bars. There are lots of bar where 70+% of pass rate are average.

This is indeed a great effort in giving much larger pool to Law Graduates to enter the Legal field instead of allowing them to suffer how to pay
loans or getting frustrated or joining an entire new field.

Good luck CA Bar!

Rodney Nickens - California Senate

The score should be lowered until the Courts come to a final resolution .

Anonymous I believe the CA score is artificially high. Allowing the lowered score is fair to those who have worked hard and could pass in other jurisdictions. It will help those who cannot attend an expensive law school but who have the brains and work ethic to commit to a 3 - 4 year program of study to have a better chance of passing.
Anonymous Lowering the cut score to 1414 will allow capable attorneys to practice and meet the incredible legal need of middle- and low-income California residents.
Anonymous With so many requiring legal assistance, it is time you help all those in need. A bar exam is an exam for the basics, and does not test actual expertise in the field of law the lawyer will soon practice. Moreover, the bar exam does not test other critical skills essential in the practice of law.
Anonymous The current cut score of 1440 is arbitrarily high. California desperately needs lawyers to represent underserved communities. It makes no sense to exclude those who would be qualified to practice law in almost every other state from practicing law here.
Anonymous The score should be the same as NY State. There is no reason it should be harder to pass the California bar.
Anonymous After 3 tries of the CA Bar, I would have most likely passed or at least received a second read in my last attempt if the pass score was 1414. I would be a resourceful and responsible attorney if I had been admitted to the CA Bar. Thank you.
Anonymous New York is at 1330. A lowering of the cut score to 1414 is insufficient and an arbitrary number inconsistent with the intentions to mimic the New York bar in California. The modified raw cut score figure should be 1330 here in California as well.
Jeffrey Zwerner - Milbank Tweed Hadley & McCloy It is essential that the lowered score apply to the July 2017 test takers. Given the changes from 3-day to 2-day, all 2-day takers should be treated alike. If the cut score is not applied, July 2017 would be THE ONLY bar takers who had a 2 day exam with a higher cut score. There is no reason to treat the July 2017 takers so differently.

Nicholas Biechlin - 1L student

As the famous lawyer John Adams once said, "Facts are stubborn things." The data clearly indicates that California's cut score is prohibitively high, and needs to be adjusted to a more rational reflection of what should be asked of new lawyers. Unless we should assume that the practice of law is so much more difficult in California than anywhere else, it needs to be fixed.

The fact that I am a 1L student beginning in 5 days, and would directly benefit from a lowering of the score is also a compelling factor in my reasoning.

Thank You
Nick Biechlin

Anonymous

I agree with lowering the cut score but I believe the cut score should be lowered further than 1414 in order to be comparable to the majority of other states' cut scores.

Anonymous

This is the fairest outcome.

Anonymous

Unsure of the efficacy of the particular score proposed, but I generally support lowering the cut score to align passage rates more with national or comparable state averages.

Anonymous

The California State bar should have a greater tolerance for Type 1 error than Type 2 error; it is far more detrimental to prevent a student who has heavily invested (both money and years) from pursuing his or her career than it is to pass a student who's aptitude is borderline. As such, the cut score should definitively be lowered to 1414.

Anonymous

Score should be lowered to NY 1330 score

Anonymous

The CA Bar exam is nothing but a hazing, I plan to practice immigration law, I have yet to see how the CA Bar is an indicator of how well I will do in this area of law.

Anonymous

My colleagues and I all believe that the cut score should be lowered for two reasons.

First, there's no reason why someone would be "competent" to practice law in states like New York but not in California.

Second, and more importantly, the bar exam does a poor job determining who is actually fit to practice law. If the exam were more relevant and better tailored to determine minimal competence, then the set cut score would be much more important and should not be lowered below what California thinks is a competent threshold. However, the bar exam as it is now does not test true competence to practice law. Many top students who take the exam are forced to learn obscure, impractical legal theories that they'll never come across in real life. This is not helpful for the profession; rather, it's an unnecessary period of hazing that law school graduates must go through to practice law in California at this time. Furthermore, given the setback that a potentially very capable student and future lawyer faces if he or she has to take the exam twice, and considering how such initial failure is in many ways out of the student's control and unrelated to competence, setting the cut score arbitrarily higher in many ways destroys resources and hinders the profession's good will.

Either the cut score should be lowered, or the test should better determine minimal competence.

Ara

The problem with the California Bar Exam has to do with who is able to take the test.

In other words, the ABA has a quality control problem. There are too many law schools and too many alternatives for those who do not have the grades to attend a quality school. If there were more rigorous systems put in place to determine ABA accreditation, the Bar Exam would not have to be as difficult or unfair.

The solution lies in ramping up the rigorousness for law school accreditation and cracking down on unaccredited schools. Until the deeper issue of unaccredited law schools and the number of under-qualified grads they are turning out is addressed, this adjustment will only address symptoms of a larger problem.

I support lowering the passing score, but I would be much more supportive of it was coupled with some plan on addressing the unaccredited law school problem.

Krist Gregorakis - n/a

Hello. Thank you for providing me the opportunity to express my opinion.

The State Bar of California makes a lot of people's life unreasonably difficult. I don't find anything enjoyable of being ''a famous drama '' State with so low passing scores. Instead of giving the chance to practice law in CA, personally I know a few attorneys from other states or from foreign countries, that are driving for UBER or working at the restaurants. So, please stop humiliating at least those intelligent and experienced attorneys, who were practicing at law and they have relocated to CA for some reason. It will be beneficial also for the economy of our State.
Thank you.

Anonymous The State Bar of California has perpetuated a monopoly on bar admission and thus the practice of law. It is indefensible that passage rates have continued to plummet, and there is simply no reason for California's cut score - and passage rate - to be significantly lower than those of other states. Access to justice is essential - the State Bar of California *must* reform its Bar Exam policies. If no change is made, the current course will be destructive to the practice of law.
Anonymous 1440 is too high. And unjustly alienates competent attorneys the community needs. The community suffers.
Anonymous I do not believe the current cut score in California is reasonable compared to the cut scores across the nation. Passing the bar exam that has a high cut score does not necessarily mean that the attorney will practice law successfully. Lowering the cut score also does not represent that the attorneys that pass with a score between the lower cut score and the older cut score will be entering the practice field less competent. I believe the score should be evaluated and a score should be adjusted lower to reflect a reasonable score compared to that of other states.
Anonymous Availability of much needed public interest and low income representation would benefit from a lower cut off score.

Karen Barbieri

I work as a legal examination consultant for the Supreme Courts/Boards of Bar Examiners of several states. I served in this capacity in California, as a bar grader and member of the EDG team for many years as well, so I am very familiar with the CA exam as well as other bar exams across the country. The extremely high cut score in CA has never made sense to me. I think it places an undue burden on our applicants for no discernible reason. Studies have shown that CA applicants actually do better on the MBE than those in other states, but still fail due to the cut score. There is no evidence of which I am aware that shows CA attorneys are more competent than attorneys in states that have a lower cut score. I attended the hearing before the legislative committee in Sacramento earlier this year and heard Ms. Parker say that she didn't know any reason why the cut score had been set at 1440, and I think that alone speaks volumes.

While some may point to the fact that CA allows people to sit for our exam who have attended non ABA or non Cal bar accredited law schools , we have the First Year Law Students Exam to serve as a gateway to sitting for the general bar exam. I worked on developing and grading that exam for years and know it to serve its purpose well. So the educational qualifications of our applicants can't serve as justification for the cut score.
I also know that the CA exam is very difficult and is graded very precisely and with very high expectations. From my own experience I can attest that the CA exam itself is harder than most others around the nation, and so to add on an unreasonably high cut score makes it doubly difficult for our applicants. And for no apparent reason.
I strongly believe the cut score should be lowered, and I think it should be lower than 1414 as well. Exam answers already go to second read if the total score is 1390, so there is the assumption that 1390 might be close enough to passing to require another look. Most states have cut scores between 133 and 138, and I see no reason that CA shouldn't be in accord with the rest of the country.

I also know that most people who receive scores that are close to 1440 do pass on their second or third try. I don't think they are any smarter or more competent on the later tries, it's just chance. Why make them suffer through the expense, and the wait, if they are so very likely to pass?

I have heard comments from some that they oppose "dumbing down" the exam. I don't think that lowering the cut score would do any such thing, it would simply bring our exam in line with the rest of the country.
Additionally, I don't think anyone knows precisely what's going to happen with the new two day exam. By increasing the weight of the MBE, those who tend to do better on the written portion will likely suffer. Keeping the cut score at 1440, in addition to a new and untried (in CA) format could be devastating.

Finally, my understanding is that an adjusted cut score would help minority applicants to pass at a higher rate. If the CA cut score is unreasonably high, as I think it is, and that's coasting problems for minority applicants, then whatever can be done to help in that regard should be done. Said another way, if an unjustifiably high cut score is causing minority applicants to fail disproportionately, then for heavens sake lower it to a level more in line with the rest of the country.

Anthony Ha - Law Offices of Phillip Ma

Dear State Bar of California,

I agree with Option 2 as to lowering the cut score to 1414. Based on the statistics within the last couple of years, the exam passage rates have dropped. I feel there's a lot of subjects on the exam that is presented. Test takers may not have strength in a certain subjects. The cut score will help make up for test takers who are weak in areas they do not plan to practice.

Mark Gray - Quinn Emanuel Urquhart & Sullivan LLP

The purpose of the bar exam should be to weed out individuals who, at the present time, are not ready to formally join the profession and begin the lifetime process of learning to be an effective attorney. It should not be to maintain a small pool of attorneys, or to elevate California's status as the most difficult bar exam to pass. Neither of these serves the public's interest in having access to the legal system.

As a more general matter, the bar exam does a poor job of imitating legal practice. For the MBE, it relies heavily on test-takers memorizing large bodies of information, and taking a test over several days, without access to research tools, books, or colleagues. Students memorize the elements of common law crimes that don't exist in any jurisdiction, and memorize the details of community property (even if they spent their time in law school as a patent agent, and will only practice before the Patent Office and federal courts).

But until the California Bar Examiners take a broader look at the contents of the test, they should be very careful about closing the gates too tightly against new attorneys. The bar should not test whether someone will be a great attorney on day one (and in any event, it doesn't do that in its current form), but it should instead test whether someone, after completing law school, is ready to take the first step into the profession, to work in a law office among colleagues who will help them grow in the decades to come. The cut score should be set to reflect that new attorneys are joining the profession to continue learning, and not because they managed to study the right subset of topics that was tested on the bar's essay questions.

More pragmatically, this is a very tough economic environment for recent law school graduates. Law school has become increasingly expensive, and even bar passers may struggle finding paid employment that lets them start paying down record-high student debt. Making it difficult to pass the bar (for no empirically sound reason) deprives young graduates of the chance to earn a living, and shrinks the pool of attorneys available to serve the legal needs of the general public.

I suppose lowering the cut score this year to 1414 to see how the outcome of the program, but going forward I encourage the Committee of Bar Examiners to think hard about the purpose of the bar exam, and whether the current format of the bar furthers that purpose or undermines it. Graduating law school isn't an easy process, and shutting graduates out of the progression should only occur when it advances the interest of the public, not because of a perceived "exclusivity" of the legal profession in California or a feeling that having a high cut score "is the way we've always done it."

There are thousands of aspiring attorneys who would love to apply their knowledge and skills to client in need of legal service, but for an exam that bears little resemblance to the day-to-day tasks that attorneys accomplish.

If test-takers are ready for that next step, we should not inhibit them.

Shahran Kangavari - Law Studentg

California, having one of the hardest bar exams in the country, is doing a disservice to the thousands that fail the bar exam each year. Those who have failed previously received a college degree, took the LSAT, enrolled in law school and completed curriculum requirements, passed the MPRE and completed any other requirements necessary to sit for the bar exam. Moreover, such persons have presumably given up two to four years of their life to complete law school, may have taken out hundreds of thousands of dollars in student loans, and forgone many opportunities available during this time so as to meet all the requirements to be able to take the bar exam.

The cut score should be lowered because too many are failing after having prepared for so long to become an attorney, but come short because CA expects so much more than any other state on the bar. Moreover, there is no evidence that a higher cut-score produces better attorneys.

Anonymous

I am an individual who took the July 2017 exam. The two day change was a step in the right direction. Adjusting pass rates to resemble other state pass rates is also the right step. If possible, drop it down to an even 1400.

The MBE questions are so random and at times very nuanced. It would be a better test if the MBE tested big/main concepts only instead of questions that test you about minor details like due dates.

The essays are so dense that it is extremely difficult to finish in the allotted time.

Also, adding more time for students to bar prep after graduation may also be beneficial. The approximate 2 months we currently have is so short. For example, the July exam can be changed into an August exam.

Perhaps the state bar should consider looking at other licensing exams such as that for accounting. The accounting industry has many similarities with the legal industry. This exam allows individuals to work and study while the the CA bar does not.

A S

I feel that our Bar Exam DOES NOT reflect the quality of people passing and failing. I have seen some of the smartest and best attorneys I have known and some still not attorneys because they haven't passed dealing with failing the Bar.

I am not sure if it the way the exams are graded or if the schools just aren't teaching correctly but I feel that it is not reflecting in any manor the abilities of our future attorneys.

Yes it's nice to proudly say I passed the California Bar Exam (the hardest in the country) but it's also saddening to follow people I know who are super intelligent who just can't get through from top schools.

Anonymous

It should be lowered even more or even eliminated.

Jennifer Rosenberg - Bramson, Plutzik, Mahler & Birkhaeuser, LLP

When I took the California bar exam in 1985, the passage rate was even more dismal than it is today. I passed the exam, but a few of my Boalt Hall classmates did not. I had studied with these people for three years, and knew that they were just as prepared as I was to practice law. Indeed, all of them went on to retake the exam and to establish successful careers. They weren't smarter or better equipped to practice when they retook the test than they were the first time. They likely simply fell afoul of a question or two that shaved off just enough points for them to fail. On the other hand, I've known plenty of people who passed the exam but are bad lawyers.

The high cut score seemed to me totally arbitrary then and it remains so now. There's no reason that the bar exam needs to be a hazing experience for takers. Lowering the cut score as proposed will not allow in floods of unqualified practitioners, but it will allow more perfectly qualified attorneys to succeed the current generation.

Valerie Menager - Carr, McClellan

I think an important issue that is not being addressed in this survey is whether the reason for the poor performance by individuals on the bar exam might be caused by the low level of education that they are receiving at law schools. I think that there are too many law schools which year after year have extremely low pass rates for their students who are left with historically high levels of student debt. I told my daughter when she took the LSAT that unless she got good scores, I could not encourage her to go to law school on student loans. (As a single mother of three, I could not pay for graduate school for all 3 of my children and still retire at a reasonable age.) Luckily, she had high scores, aced the bar, and was quickly hired by a top tier firm which allows her to pay off her student loans and still have a middle class life style.

We need to confront whether allowing law schools to enroll students that have very low bar pass rates is bankrupting a significant portion of the next generation of aspiring lawyers.

Neil Moran - The Freitas Law Firm, LLP

California's currently high cut score should be lowered consistent with other states' cut scores.

I'm not a Guilty White Liberal. I'm a Republican, like Nelson Rockerfeller, Pete Wilson and Michael Bloomberg is. For most of my 37 years of practice I've railed against any consideration of race or economic background, as reverse discrimination. But, after serving as an unpaid adjunct instructor at an accredited northern California law school, I've had a change of heart.

I grew up in an upper-middle class, white family of two college graduates. I somehow passed the Bar on my first attempt. I didn't know substantive law that well, but had a knack for test-taking and expository writing. Fast forward 37 years. My wife is a retired judge and now law professor. Our two adult daughters grew up listening to dinner table talk of legal issues, law practice and judicial administration. Older daughter graduated law school 'summa' and passed on the first attempt in 2016. The younger (Ivy undergrad) will pass the July 2018 Bar Exam no matter what the cut score.

Getting to know law students from less privileged backgrounds opened my eyes. The less privileged students work just as hard, as I know from direct observation: one recent graduate studied for the Bar Exam seven days a week in an office at my law firm. They are just as smart as the white, upper middle class kids. But the less privileged students don't have the same strong educational backgrounds as the privileged kids have. Yet these less-privileged students, the ones that came up the hard way, have great humility, outstanding communication skills, and more empathy. They will be great lawyers!

Life isn't fair. Some of us were born on third base. The current high cut score hits minority graduates unfairly; the Bar Exam necessarily emphasizes writing skills, and the mind-twisting of the multi-state, which hurts less privileged law school graduates. Those not born in the Lucky DNA Club are playing catch up all their lives. In her autobiography, Justice Sotomayor wrote that as smart as she was at Princeton, she was never going to write as well as classmates from privileged backgrounds. We can't make life 100% fair, but we can make it fairer for these deserving students.

I welcome new lawyers to the profession. The ridiculously high 1440 cut score is naked protectionism benefiting only the "old guard" of California lawyers; it's an unjustified barrier to entry.

Sincerely,
Neil Jerome Moran, SBN 96597
San Rafael, California

Anonymous

1414 is still a high cut score. The study's methodology did not take into account the MBE, which is half of the California Bar. The cut score should match the national average.

Anonymous

A recent article by an LASC judge argues against lowering the cut score, based upon his experience with attorneys who are unprepared and/or uncaring and/or unable to write clearly and/or to understand black letter law. These are attorneys who have passed the bar.

I passed the bar exam the only time that I took it. I do not see a great difference between those who had to take it two or more times and those of us who took it only once. A return engagement evidences diligence, stubbornness, dedication. Passing the bar does not mean that the applicant has the tools to succeed - the people skills, writing skills, willingness and ability to learn new things and to apply them to legal problems, business skills, honesty, integrity, the ability to think outside of the box, etc. Likewise, missing the cut does not mean that the person cannot become an excellent attorney.

Ideally, the exam would measure those skills that are open to measurement: writing skills (including grammar and spelling?), research skills as well as the reasoning skills and the matters measured by the multistate - relating to knowledge of particular principles of the law.

David Coats - Schlueter Law Firm, PC

I have passed the bar exam in three states (California, 2013; Washington State, 2014; Oregon, 2015). Both Washington and Oregon, I believe, have lower cut scores than California. I don't think it makes for less-qualified attorneys, and I don't think it negatively impacts the public. There are people who would be excellent attorneys (I know several, including several who wrote the July 2017 bar) who, for various reasons, have not been able to pass the California bar in multiple attempts who would benefit from a lower cut score. I think a 1414 score would be a reasonable balance between maintaining a high state standard and ensuring quality legal representation for the public, and ensuring that deserving candidates have the chance to practice.

Besides, in my experience, law is really just discovery battles anyway, lawyers trying to make life harder for each other until they drive each other out of the profession because in some way that's satisfying for them. (Yes, I'm in my first year of practice, and yes, I'm disillusioned.) To that end, I don't think that lowering the cut score to 1414 will have any impact at all on the nature of the business, nor on anyone's ability to practice effectively. On the other hand, it would do wonders for the prospects of at least four people I know who desperately want to be lawyers, have written multiple bar exams, and for whatever reason, can't quite crack 1440. Give them a chance to make their contributions, too. They'd still be assets to the profession.

Jeff Justice

I took the bar exam after practicing in Illinois for 35 years. I thought the exam was generally well written because it focused on fairly modern problems and practical solutions as much as is possible. However I think the level of knowledge required to pass the exam is probably too high for the average need of a small to middle size law firm. Much of what you learn to do as a lawyer is only capable of being learned on the job based upon local customs, the need of the client and financial ability of the client. Not everyone needs a 50K divorce or 75 page contract to sell a liquor store or donut shop. I felt that the exam was asking for a lot of esoteric information that may be useful to a big firm lawyer who might have clients who needed to worry about joinder of a local party to avoid removal but to average lawyer who represents a 100 member HOA, does divorces, small business contract work and the occasional traffic cases this kind of specialized knowledge is not crucial to being a good and helpful lawyer.

I would recommend giving the lower cut score a try and see if it really make a difference in the number of complaints about lawyers. Track the bar score with complaints.

Robert Jweinat

I agree that the cut score needs to be changed. Looking back since the score was introduced, there have been additional subjects tested on the bar exam along, the MBE's format has changed as well.

I think the bar exam should test minimum competency, but, we should look at the bar as a supplement to licensure and not as the end all. Reviewing other professions, medical for example, students are required to complete residency before being admitted. I think in addition to the bar exam, and law school, we should make it a requirement of at least 1 year of clerkship, or equivalent. If the concern of the CBE is licensing un-ethical or un-professional attorneys on the public, while valid, there's really no indicator that the bar exam, alone, can justify that concern. I think if we require attorneys to take exams every 5 years, or so, or conduct background checks from time-to-time, I believe we can curtail any concern the CBE has.

I see bar reviews charge $5000 per exam. And many of these bar reviewers simply teach what "they" view as how to take this exam. Since the late 90's and 2000's if you look at the number of bar reviews (which is the time that the use of the internet expanded) there have been at least two dozen exam review companies introduced into the market. This causes more confusion, and causes further conflict with the student; "what review should I take?", "maybe paying $10,000 is better than $5,000", etc. There are individuals who are NOT barred by the state that teach a bar review course. This industry is what needs to be regulated by the CBE.

I believe the duty of preparing the student for the bar exam should be born by the law schools they attend. I think if the CBE can find a way to work with the law schools to set mandatory requirements, or even testing throughout the 3 years, etc. I think the CBX wouldn't so daunting of an experience. And we are likely to place well qualified, intelligent, empathetic, creative attorneys who can serve the public interest.

Thank you for allowing the public to comment.

Tony Beasley - O'Melveny & Myers LLP

Preface: I took the Minnesota bar exam in 2008 and the California attorney's exam in 2015, passing both on the first try. I was also admitted to Wisconsin on bar privilege. I believe that the current cut score, especially when coupled with the difficulty of grading standards of essays+PTs, creates a high bar to entry into the profession in California that is both unnecessary and unfair in light of the standards applied by the rest of the United States. Knowledge of "bar exam law" and ability to pass the California test, while important, reflects an artificial level of skill that is tied more to test-taking ability than competency as an attorney. The bar exam should instead be a means of filtering out only the lowest tier of competency -- as is the case in most other jurisdictions. Overly rigorous standardized testing is not useful to the profession. If anything, it actually harms the profession by (1) allowing non-ABA accredited schools to attract students on the sole premise that they'll be prepared to take the bar exam, which is not the right goal for law students; and (2) in a similar vein, continuing to give market power to BARBRI, which is able to charge thousands of dollars for study materials premised largely on students' fear of failure. The profession already has many barriers to entry, especially to female and minority attorneys, and an overly rigorous bar exam, at worst, harms the profession, and at best, does not improve it.

Anonymous

Having taken and passed the most recent CA bar for which there are results, I believe the bar is needlessly graded too harshly. I performed internships for 5 semesters in law school and have been practicing for 3 months. The bar exam is nothing like practice. Many smart people have failed the bar and many people merely passed the bar through rote memorization. Now that the performance exams have been drastically cut, that will only increase. So many law school graduates cannot repay their debts because they cannot pass as they lack the ability to memorize large quantities of information that will only be forgotten months after passing. While attorneys need to know information for practice, it is acquired after years of practice, not months of study. The bar exam does not make anyone a better attorney. It should be abolished and replaced with stricter standards on the schools. The next best thing, however, is to lower the cut score.

Jacob Skousen - CircusTrix

When we limit the number of attorneys, and thereby limit the public's access to attorneys, we become too expensive and, eventually, irrelevant to society that has found other ways to solve it's legal problems. Protecting the integrity of the profession and the public is a necessary goal. But there is a balance to strike. This trend of expensive and limited numbers of attorneys incentivizes the creation of websites that give free legal advice and artificial intelligence based software that automates the legal function at a much lower cost. There is a generation of poor people who have never used an attorney because of the cost and availability. Their kids will do the same. As a result, we attorneys are useless to vast segments of the population. Like Detroit, we attorneys are going to drive the legal profession out of existence by limiting the supply and diversity of our attorneys. We must open the doors to more attorneys. We must allow the cost of legal advice to come down, both to preserve our value to society and to give those vast, poor segments of our population access to legal advice. To protect the public and our professional integrity, we should create a better rating system that reports and removes bad attorneys.

Al Mariam

In my view, the difference between 1440 and 1414 is minimal. If my memory does not fail me, the first time I took the bar I believe I got 1439. Just missed it by 1. I just could not believe it. That was a long time ago.

The real answer is not in moving the pass score infinitesmally up or down. The key is in careful grading of the essays and giving potential test takers a clear idea of how essays are graded. The grading process for most test takers is a total mystery. What criteria and standards do the graders use? What makes one answer slightly better to get to the 1440 point and not another.

It may be said that the graders are experienced and can reasonably judged an informed answer from an uninformed one. As a legal educator, I know that some students can express themselves well because they have developed certain writing techniques. But other students have extraordinary oral skills but are not so good in writing. To make it fair to all, the Bar should publish its grading criteria in detail and give test takers a clear idea of what makes a excellent, better, good and failing answer. With that, the passing score can be raised even more since everyone knows what they need to do to pass.

It is great the Bar has started this discussion. I hope it will not stop with the simple answer of reducing the passing score. The Bar should address the other questions raised above as well. There is always the danger of the slippery slope. Could the next move be slide to 1313? The answer is not in compromising standards but in informing all test takers what it takes to meet the standards. I am certain that anyone who completed three years of legal education can understand what it means to meet standards. After all, the law is nothing but a great collection of standards. Thanks for the opportunity to comment.

Anonymous

The state bar of California is intentionally keeping out qualified lawyers due to the way that they administer the bar exam. The state of New York, home to one of the most famous and business forward cities in our country, has a cut score of 133 compared to California's unjustified 144. The bar examiners have continued to make the bar exam harder over the years by adding subjects not just to the essay portion but also to the MBE's. Making the examinee's responsible for much more information then years prior. When you look at the released MBE's from decades past, they are also much easier then the multiple choice questions that current applicants are confronted with. Additionally, having to compete with examinees that take the exam using the computer and have the ability to type at feverish rates has made the exam harder to pass for many as well.

Law school cost are astronomical and then the cost to take the bar exam ($860 just to register and take the exam with your computer) and pay for preparation materials (thousands with a bar prep company or tutor) is difficult to do once yet alone twice, or three times and in many cases more. Unless you are a student who has unlimited access to funds this proves to be a significant hardship, where many law school graduates are forced to work low skilled jobs unrelated to the law just to have money while forgoing their dreams of taking the bar exam again due to the expense and time commitment.

Some people are simply good at standardized test, while many others are not and even through dutiful preparation qualified people fail the CA bar while achieving a score with which they would have passed in every other state besides Delaware. All too often EVERY OTHER STATE would deem the "unsuccessful applicant" in California QUALIFIED to practice law. That leads one to wonder if the state bar of California is truly interested in "protecting the public from unqualified" attorneys or if their true interest lies in profits and protecting their bottom line.

It is shameful that the state bar of California cannot concretely defend why their cut score is 144. So much so that in an unprecedented move the California Supreme Court is stepping in regarding this issue. This is not to be taken lightly, people lose out on job prospects and get caught in a perpetual purgatory of trying to pass an exam that does not correlate with ones ability to practice law. To say that California's cut score is protecting the community is trite and lacking foundation. Clearly an exam needs to be administered in order to determine who should get a license, but there is no justification for California's current cut score.

The former dean of Stanford law school, Kathleen Sullivan, took the CA bar exam in July of 2005 and did not pass. Not only was she the dean of Stanford law school but also a leading constitutional law scholar, and possible Supreme Court nominee. She was also licensed to practice law in New York and Massachusetts. Would the California Bar Association seriously argue that keeping her out of the state bar of California was protecting the public?

In closing, it is interesting that in the survey that was sent out to current members of the California bar provided absolutely no information regarding the changes in the exam format, or the increase in the amount of subjects that applicants are responsible for, etc. The California Bar Association is essentially asking people to weigh in on a topic that they may have no knowledge about while taking no steps to provide necessary information to give an informed answer. Many older generations have the mentality that "if I had to do it, so should they" again, many times unaware of changes in the exam, the skyrocketing cost of law school, the current challenge in finding a well paying job, and the like. California should have the same cut score as New York and in fact they should move to the Universal Bar Exam, which dozens of states have already done.

Anonymous

I think the bar should require a certain amount of internship hours if the score is cut. Make it harder to be a lawyer not to pass the law. Lots of states and countries require bar takes to log internship hours before, during, and after law-school. Law students, any age, need experience, shadowing other attorneys, mentors. Law schools and programs can do so much. The bar should make it mandatory and have programs ready to go to implement this.

Sonya Sultan - Sultan & Sultan

Both my partner and I passed the Bar on the first try but that is not the point. We know young people who are very intelligent, hard working, and highly motivated to serve the public, but have failed the Bar and found their dreams derailed. These would-be attorneys are often from communities of color and seek to become attorneys to serve those Californians who are underserved and in need of legal representation.

We were disturbed to learn that California's Bar pass cut rate is much higher than almost every other state and that there are forces working to keep the cut rate artificially high.

We believe that now is the time to lower the cut rate and thereby expand the opportunity to enter the legal profession to a more diverse group of candidates. We see no correlation between having a more reasonable cut rate and the likelihood that those admitted to the Bar will be unscrupulous or ill prepared to serve the public.

Anonymous

There are hundreds of bright attorneys who are terrible test takers, and end up having to spend significant time and money to retake the Bar in situations where they fail to pass by 10-50 points- a razor thin margin.

It is unacceptable that we force these people to delay their careers and ask them to sacrifice another 6 months of their lives and careers in order to retake an exam when they are in fine shape to practice law, even if they scored 10-50 points below the cut off.

I failed the bar the first time by 50 points. I spent 6 months unemployed to study and take the bar again. No firms would hire me because I was not licensed. The entire time, my loans were accruing interest at 7.25%.

There was no significant difference in my pefromence or knowledge of the law the second time I took the bar. I barely studied. The bar does a poor job of determining who should be licensed. Lowering the cut score will not contribute to any decline in lawyer among the profession.

Ronald Beals

Score should be consistent with other states. Practiced for over 40 years: never saw any correlation between an attorney's bar score and his/her competence or integrity. Bar should push for a low-cost law school; cost of legal education/student debt makes it almost impossible for even the most idealistic new lawyers to accept public service or under-served community positions.

C. Foglio

I failed the bar numerous times. Had the score been 1414 I would have passed years and years ago. As it is, I don't even practice since I've passed. Don't feel like the legal community supports me. You could have saved so much horseshit had you done this in the first place. I had to sell my house and move into my parents to pay off my hundreds of thousands of school debt since I couldn't find work without a license.

Lower the damn score.

Alvaro Mejia - CA Dept. of Justice

I would recommend that the State Bar lower the cut score further below the recommended option of 1414.

I believe it is important to lower the cut score below the recommended option of 1414 for the following reasons:
1. It would increase the diversity of attorneys from different backgrounds.
2. It would increase access to legal services for underserved populations.
3. The burden of student loan debt for law-school graduates unable to find gainful employment after failing the bar exam is great and saddles these students with a lifetime of non-dischargeable debt.
4. The bar exam pass rate in California has been declining for a number of years. I don't think this trend shows that we are producing more qualified attorneys in the state, rather keeping people out of the profession for the simple reason that the cut rate has been set so unnecessarily high.
5. The cut rate score in California is the 2nd highest in the nation and there is no rational reason for this to be the case. Many of the test takers that have failed the CA Bar Exam would have passed in New York, no easy place to practice.

I don't believe the high cut rate helps maintain the integrity of the profession or help protect the interest of the public from potentially unqualified attorneys. I don't believe that it has been demonstrated that a lower cut score would produce less qualified attorneys.

Many of my fellow attorney friends/colleagues argue that the cut score should not be lowered because we had to pass with the higher cut score. I don't believe that's a reasoned response to the issue of the cut score.

I seems to me that we're keeping prospective attorneys out of the profession for tradition's sake.

Charlotte Coats - Sorta retired

Law school unfortunately is for the single white male... and way too much emphasis is put on "passing the bar the first time".the subject areas in law school is lacking in Native American Law and culture awareness....an entire segment of the US population has been neglected way to long ... we think different ... set the cut off way below 1414 - not everyone wants to "Practice law" in the traditional sense...

Gary Mckitterick - Allen Matkins

I have been a practicing lawyer since passing the bar in 1984. I have seen many very qualified law students who have work for me or others I know fail the CA Bar exam by 30 to 40 points. I see the work product and drive of these students and many of them would be lawyers today in most other states. I know what it takes to practice at a high level (I am an AV rated lawyer) and know what qualities are needed as a lawyer in CA. The proposed adjustment to 1414 is a good first step to achieve the fair result we desire for the public. The adjustment will help diversity and maintain the integrity of the profession. I strongly support the passing score be lowered to 1414.

Anonymous

I do not believe that the current score is in any way meaningful. I have known too many people who passed it on the first try who turned out to be something less than competent. I also know many people who would make or would have made excellent attorneys that either have never passed or required multiple attempts. It seems to me that perhaps it is time to factor in things such as class standing and overall GPA (including undergraduate grades) as those things somewhat indicate how committed a given individual is to working as a licensed attorney. I also believe the Bar needs to settle on requirements for admission once and for all. It was extremely frustrating for me to pass both parts of the exam at different times knowing that, in the past, doing so would have been sufficient for admission. It was also my experience that no bar preparation fully understands what is being tested on the California Bar Exam and, when pressed, they kick the can down the road. It wasn't until I worked with someone who was very clear about what was being tested that the "lights came on" and I handily passed the exam. Had that information been available from any other source it would almost certainly result in higher pass rates. Having learned the hard way what is being tested, particularly on the written portion, I can say unequivocally that most Bar Prep courses are virtually worthless.

Anonymous

Some of the best lawyers in the country barely passed the bar in other states who have much lower passing scores. They would've never been able to practice law in California and that would be a shame.

Sandra Morris - Seltzer Caplan McMahon Vitek

II think that those who demonstrate sufficient knowledge and proficiency should pass regardless of how many new attorneys are admitted as a result. The purpose is not to keep people out but to insure quality. It is not even evident that a high pass score guarantees a competent attorney.

Maurice Attie - Peace Making Unlimited

While I do believe bar exams are an okay measure as to how well an applicant will perform as a licensed attorney, I also believe it to be much less than ideal in that respect. The UK system of mandatory clerkship (internship) provides a far better measure in my opinion. A combination of both systems would be my recommendation. Allowing more (1414) or less (1440) applicants to join the bar kind of misses the fundamental point; the point being how do we best protect the interests of the general public.

Anonymous

There does not appear to be any correlation between having a higher cut score and producing a better quality of lawyer in California.

Kevin O'Hara - The Simon Law Group

The bar exam pass rates in this state are far too low. The consequences of failing the exam are dire, including job loss and thousands to tens of thousands of dollars in increased expenses and lost income.

Anonymous

Moving the test passage score only rewards the best test takers, which does not insure the best attorneys are being admitted. Greater emphasis needs to be placed on requiring attorney candidates to obtain practical hands-on training, perhaps requiring a minimum amount of clinical hours, required as in various medical fields.

Sabina Crocette - Legal

As a lawyer for the past 19 years and college instructor for the past 13 years, we in academia and the work world must consider the relative fairness of our measurement systems when a statistically large number of students and/or employees are not able to meet the standard or measurement instrument. The CA Bar pass rate is a factor in determining how and in what ways to modify and/or fairly grade, or development assessment tools. As much as applicants need the tests as a measurement tool, so does the profession need the tool to guide the ways in which it works and the ways in which it needs alterations. In academia, we use the curve system to restructure a measurement instrument based on the results of the tool, to ensure a more accurate evaluation of effort and outcome. Option 2 provides the Bar with a similar tool.

The CA Bar Exam is an important milestone. Yet, it cannot and does not PRIMARILY demonstrate a candidate's fitness for the practice of law. It is only one indicator, but never a predictor of success. Accordingly, it should not be the gatekeeper or barrier for those who have successfully completed law school and its rigorous standards, which, in my opinion, better reflects a candidate's potential for success as an attorney.

For those reasons, a modification is not merely a good idea, but is in order based on the measurement tool's results.

Thank you for the opportunity to comment.

Best regards,

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Michael R

I have seen people ace the bar on the 1st try and be horrible awful attorneys. I have seen people struggle to pass the bar and it takes them 2-3 times to make it but end up fantastic, amazing attorneys.

I have never felt that the bar exam truly tests how a person will be as an attorney. It just does not test enough of all that goes in to being a lawyer. Given that, why are we torturing people into taking it 2-3-4 times, going absolutely broke in the meantime with student loans, accumulating interest, trying to work and study (but unable to work directly in the law in many cases since you wont certify them after they fail)?

Until a better way can be found to trim out people who will be bad attorneys, I don't see a reason to keep the standard so ridiculously high.

Anonymous

California should align itself with the rest of the nation. It should also enter into reciprocity arrangements with other states and move to the Uniform Bar Exam.

Anonymous

The cut score should be lowered further without a compelling reason for it to be so much higher than similar states (e.g. NY).

Sarah Huchel

The bar exam should be reevaluated to determine whether and to what extent it is a valid proxy for the successful practice of law.

Sheldon Wolfe - manatt Phelps Phillips

Even 47%, which would have been the pass rate had the score been lowered to 1414, which seems like a low pass percentage

Aaron Cronan - Cronan Law LLC

I took and passed the California bar in 2000 on the first try. I took and pasted the Oregon Bar in 2008 on the first try. The Oregon bar exam was a fair test of practical legal knowledge. The issues were meaningful yet complex. A law student with a solid understanding of relevant legal issues would do well.

The California exam felt like throwing darts with my eyes closed. The questions were esoteric and largely irrelevant sub-issues. I was a solid law student at a top tier UC school and I felt like the California test was nothing more than a roll of the dice. I studied 10 times harder for this test than the Oregon test, yet still had no idea how I performed.

My comment is to keep the cut-off at a high level but make the test relevant to actual legal issues real humans will face in a law practice. The questions on the California bar exam were so far out of left field I felt like I was guessing most of the time. The test filters for good guessers, not good lawyers.

Anonymous

I would prefer that The State Bar lower the cut score to 1375. This seems like a decent compromise between the 1330/1350 suggestion put forth in the law school dean's letter and the current cut score of 1440. Lowering the score to 1350 would place the CA bar exam cut score at an average difficulty; however, because CA allows students from unaccredited law schools to sit for the exam, I think the cut score should be slightly higher than average. This is why I believe a cut score of 1375 is a fine compromise between the current unreasonably high cut score and lower than average recommendation set forth by the letter from the deans.

Peter Dekom - Peter J Dekom, a Law Corporation

There are several potential compromises that might work "in between." If you have two pass levels, one allowing immediate practice and a second, lower level, allowing practice after at least one year working for a California-admitted lawyer, that could serve the public interest. Second, if we are lowering the score for new admittees, we might consider creating reciprocity with other states, with comparable pass rates with comparable exams, perhaps adding that the lawyer seeking that reciprocity also have worked continuously as a lawyer, law professor or judge for no less than the 5 (10?) years immediately preceding the request for reciprocity.

Anonymous

The cut score is too high. The CA bar is not admitting more competent lawyers. The exam is costing the people who fail to accumulate more debt and learn how to beat the exam. This process does not help the test takers become better attorneys but rather better at taking the exam. The exam cut score should be lowered and those individuals whom have completled 3 years of law school should've have to accumulate more debt because of unwarranted high cut score.

Ken Greenstein - Greenstein & Mcdonald

I think it should go even lower to closer to 1300.

I think it is elitist to keep out people who do not take tests as well as people who grew up going to the top private high schools and universities.

Moreover, it is also discriminatory because it disproportionately keeps minorities from becoming attorneys.

In addition, the exam is an inaccurate predictor of success and competency. I took the exam 5 times and I have had tremendous success as an attorney.

Finally, this is supposed to be a free market economy yet only a privileged minority get to become attorneys in California and therefore it is not really truly a free market or as competitive as it should be.

Sarah Eversole - Wilson Smith Cochran Dickerson

For the love of all that is employed, cut the dang bar scores. It makes ZERO difference once the person is in the real world, and the CA bar is really hard! I know this having taken the bar in multiple states. I've met many people now who did not pass the California bar on the first, or second or third try- and they are perfectly good attorneys. Some of them just have difficulty with standardized tests or test anxiety, and some just don't speak English as a first language and struggle more than is fair. All of these people should have a chance to be gainfully employed. Making it so hard for them to pass the bar makes absolutely no sense at all unless as a revenue generating scheme for testing.

Anonymous

It is more fair if it goes to 1375

Harry Roth

I disagree with the basic premise that the Bar Exam is a fair measure of competence. It is near nigh impossible to measure competence to practice, or for that matter ethical values, in advance. The only way to protect the public is to admit folks who can show a minimum competence at knowledge of the law and then aggressively get rid of those who steal from their clients in one way or another or engage in grossly dishonest and disreputable acts.

I know a number of lawyers who are diligent and competent advocates for their clients who needed multiple tries to pass the Bar and I know others who passed on the first try and whose practice of law suggests a such a lack of learning as to cast doubt on the validity of their driver's licenses. I have come to the belief that after nearly 40 years in the Bar my experiences are sufficiently extensive as to be more than merely anecdotal.

Stripping thieves of their right to practice law is a worthy endeavor. Barring graduates of reputable law schools who are just poor test takers does nothing to protect the public; it does a good deal to protect those already in the profession from competition. Any change that diminishes the power of the Bar Exam to exclude people from the profession is a good thing. Any change that diminishes it more is a better thing.

Harry Roth

Mary Ireland - Law Offices of Suzanne M. Graves, Inc.

It will be interesting to see the results of applying a cut score of 1414 to the July 2017 CBX. If the new cut score has the impact on pass rates estimated in The Study, the cut score should be changed permanently to 1414.

Changing the cut score is only one part of the solution, because passing the CBX is only part of the problem. No matter how hard you study in law school, you cannot gain a deep understanding of an area of law or its procedures. All law students should be required to spend one full year in training as a condition of graduation, not as a "go-fer" for a firm, but as a new member of staff, who will work closely with a supervising attorney. Depending on the area of law practiced in that firm or agency, the students would learn the black letter law first hand, prepare court documents, and learn proper court procedure and professional conduct in the courtroom from hands-on experience.

It is not fair and it is not constructive to throw a newly-minted lawyer into the courtroom with a stack of files and no experience or guidance. And it is certainly not fair to the client. But 12 months' real-life experience could go a long way in helping a law student to understand the law and perform better on the CBX, even passing it the first time.

Jennifer Elkayam - Blecher Collins & Pepperman P.C.

I completed the short survey sent via email. Seems like lowering the score to 1414 would be reasonable pending the Bar's decision on how to move forward. Reading through the Daily Journal articles on this topic, one thing I have wondered is why the bar passage is continuing to decline. Are the test getting more difficult? Students not preparing as well? More students from unaccredited law schools taking the exam. Have the grading standards changed in the last 10 years and/or are people tending to fail the multistate more or the essays?

If I were helping decide whether to lower the pass score or keep it the same, I would like to see statistics from the past regarding the number of students taking the exam, whether they are first time takers, how many are from unaccredited schools, ethnicity etc.

Also, I don't think the Bar should be 2 days. There are a lot of lawyers in California because there is a lot of litigation. Practicing law can be grueling at times especially in some legal environments in California. I think the 3 day test is more about whether people can handle the endurance and don't think changing from 3 to 2 days is impacting the passage rate (just a guess).

Hope this is helpful.

Good luck

Anonymous

The cut score should be lowered and should be in line with other states.
The reality is that the Bar exam has very little relationship to a person's ability to be an effective and competent attorney. It is just another hurdle. If one has successfully completed law school he/she should be able to practice law. Bar review courses and the Bar exam are just money makers for some. There should be a universal exam for all fifty states so that attorneys can be more mobile.

Alan Beck - Law Office of Alan Beck

The State Bar should move towards the UBE. This would make it much easier for CA lawyers to move to other states and vice versa. There is no good reason why CA should not have reciprocity with other states.

Anonymous

Of what import is California Civil Procedures? Most law students never learned it during law school and will not use it in practice.

Yet the topic reared its ugly head in the July 2016 exam. One wonders if the Bar Examiners did this out of spite and malice...

Julio Vigoreaux - Law Office of Stephanie Beaudry

Get off your high horses, this bar exam is creating a log jam of law clerks becoming paralegals and hurting the working class economy. You will eventually create a workforce of pissed off J.D.s that will open up opening legal prep practices and solicit clients away from attorneys like they do Riverside county and Los Angeles. Not to mention the graded essay portion is completely arbitrary and subjective. Do you realize that people who are not passing this exam are most likely future J.D.s that will return to their working class communities and provide legal access to a community that probably otherwise would not get representation? Being that California is the ONLY state where White is NOT the majority it makes me wonder what type of people are the gatekeepers to restrict much needed diverse advocates. I'm willing to bet the majority of this board is white; and don't even consider the community of people that need affordable representation the most. It's disgusting how a difficult bar exam benefits bar prep companies to profit off repeat takers. This high bar score does not at all reflect well on the integrity of the profession, rather it goes against the progressive stance and nature of what it means to be CALIFORNIAN. We are a state that prides itself in its forward thinking views, diversity, culture, and fairness. Otherwise we'd be texas. I'm pretty sure your statistics will show that the highest rate of failure on this exam is from blacks and latinos, which fits in line with this horrible President's agenda to dismantle our communities. So when you make an exam nearly 70% failure you are taking away the only legal way for underrepresented communities to defend and support themselves. Lets be very explicitly honest, it is rare for a ESQ from Thousand Oaks to open up a practice in Moreno Valley, CA. Yet the Inland Empire is one of the most densely populated areas in not only the state, but the entire nation. Make no mistake, this frustratingly difficult bar exam seems politically motivated to undermine future COMMUNITY LEADERS in underrepresented areas to take away a voice for the people. WAKE UP and keep California progressive, you are hurting your people. I've read your argument justifying your difficulty by stating the quality of the candidate is weaker than past years. Well I'd like to tell you a little bit about myself. I'm a veteran of the U.S. Coast Guard and I have saved over a dozen sinking ships, pulled about 6 people out of the ocean from drowning, honorably discharged, a single father, with 2 degrees from U.C.BERKELEY. The quality of candidate has not decreased. When you get your head out of your asses and actually visit the communities that your exams are impacting then you will how much of a disservice you are to the Republic of California. The California Supreme court should take away all your power as you do not represent the best interest of its NATIVES.

Anonymous

The cut score should be increased. There are far too many lawyers to begin with. Additionally, reducing the cut score does not protect consumer interests. The cut score should be increased.

Thomas Kidde - Lewis Brisbois Bisgaard & Smith LLP

While I understand, and agree with, the Bar's desire to insure the highest competency for the individuals who are admitted to the bar, I find it hard to reconcile this with the significant reduction of the admission rates over the last few years. Bearing in mind that the majority of the exam still relies on written responses as opposed to multiple choice, it is a question as to whether the exam, as prepared, is an exercise in testing an individual's competency, or, however unintended, the writer/or examiner of the exam's interest in ferreting out a particular nuance of the law. it is a two part question, that is made more difficult by the acknowledged subjectivity inherent in the examination process. I just find it hard to believe that the rate of passage is reflective of the competence of the individuals from ABA accredited schools who take the bar.

Michael Asimow - Stanford Law School

I am a law professor and have been an active member of the CA Bar since 1964. Except for 1964-66 when I was in practice, I've been a law professor for my entire career. I believe that the cut score for the CBX is far too high. I certainly agree with option 2 but I would go much further in lowering the cut score for future bar exams.

There is no justification for maintaining the second-hardest Bar exam in the country. It's no more difficult to practice law in CA than in any other state. The high flunk rate on the Bar simply cannot be justified as a way of protecting consumers of legal services (more aggressively than does any other state). I believe that the CBX is being used to exclude perfectly qualified lawyers in order to keep down the number of attorneys who will compete with existing practitioners. The high failure rate on the CA Bar is a huge hardship for young lawyers who graduate with enormous debt and are needlessly prevented from practicing their new profession.

I believe the high cut score on the exam is probably based also on the fact that CA has numerous unaccredited schools and the Bar exam is viewed as a way to keep their graduates out of the profession as well as to discourage people from enrolling at these schools. I think the unaccredited schools are a consumer fraud that should be remedied by closing them all down. However, just because the Bar Assoc. and the legislature have failed to do their jobs in regulating unaccredited schools is no excuse for punishing all law school grads by maintaining an excessively high cut score.

Thanks for the opportunity to comment on this very important issue of public policy.

Allison Kroeker

The bar exam may be racially biased. Of the existing studies, there is agreement that there exists a disparity between minority and White performance. This is unacceptable. Moreover, legal aid must turn away indigent clients because there aren't enough attorneys. It is unconscionable that 38 percent of graduates from law schools that meet the accreditation standards of the ABA cannot represent these underserved individuals because they are deemed not to have the minimum competence to practice law in California under the current cut score. The July 2016 pass rate alone, a 30-year low, constitutes sufficient evidence that the cut score needs to be lowered to 1414.

Anonymous

Both Law School curricula and the Bar Exams are poor ways of assuring quality legal representation. They are primarily monopolistic barriers to entry. The system is completely bankrupt, ethically! For example, why test applicants using the Multistate Professional Responsibility Examination? It is not the law of California. The California Rules of Professional Conduct govern California lawyers and are quite different in many respects. The only reason is monopolistic minimization of the number of new California lawyers. Why not have repeat examinations every five years or so? Why not actually test on in-person MCLE training? Again, the answer is protection of a privileged class: admitted lawyers. California should pioneer the way in establishing reciprocity with all other States of the US. Governance of the profession should include non-attorney with no vested financial interest in keeping lawyer's fees high.

Joy Lee - Mayer Brown LLP

The cut score of 1440 is too high compared to the cut scores of other states. It disadvantages well-respected, competent lawyers who have been successfully practicing their specialized field of law for many years out-of-state who want to practice in California and to contribute their diverse experience, knowledge, and insight to the legal community in California. The dismal passage rate of the California bar exam shows that California is unnecessarily restrictive in whom it admits to its bar. This bears the negative consequence of shutting access to competent legal services to those who can benefit from such services. While it is understanding to want to maintain a high cut score in order to control the number of attorneys who are admitted to practice in this wonderful, sunny, liberal state of California, the incidental negative consequence outweighs the benefit of maintaining an unreasonably high cut score of 1440. It would increase the quality of life of California residents to have more quality choices in selecting their legal counsel. A cut score of 1414 would bring California bar's passage rate more in line with those of other states, while still assuring that the admitted attorneys have a fair grasp of legal principles in seventeen subjects in law that are tested by the California bar.

Alternatively, the Attorney Exam may have a cut score of 1414 and require a showing of five or more years of competent practice of law out-of-state.

Yelda Bartlett - Bartlett Law Firm

Provide opportunities for new attorneys to get on the job training after the bar, like a residency program. It's a real need!

Anonymous

The cut score should be adjusted immediately to be consistent with similar states such as New York. Whatever the defect in the current system, nobody who invests in a law degree, then pays and studies for the bar, then does as well as people in other states should face a career-affecting failure in California. Maybe in the old days when kids did not go $100,000 into debt for a law degree (quite a leap of faith in the bar these kids are making) you could justify sacrificing a few unlucky applicants for some greater purpose - now it is simply cruel. Bring California in line with other states right now and figure out how to handle the future in due course, after whatever presumably slow study will take place of why this state is an outlier.

Anonymous

The cut score should be lowered to 1414 retroactively applying to the July 2016. This exam marked the lowest July exam in the history of the California Bar Exam and started the discussion leading to the Standard Setting Study and the current debate. By all accounts, with this revised cut score, the July 2016 score would increase approximately 8 percentage points and improve the number of qualified attorney's in California.

Vatche Chorbajian - Self employed

I still feel the cut score is too high. It should be in 380 range. These students have passed LSAT, 3 years of learning school exams, got passing grades to graduate by accredited law schools and should be practicing already.

Anonymous

Lower the cut even more. There is no relationship between the bar and the practice of law. Just another hurdle that disadvantages the poor.

Anonymous

Law school is very expensive and time consuming. Unqualified students should be weeded out in the law school admissions process, or after the first year of law school, at the latest. It makes no sense to have 100s or 1000s of students each year in California who spend the time, money and effort to complete 3 years of law school, only to fail the California Bar. The bar exam pass rate should be 75% or higher. But this only works if significant numbers of students are eliminated from the pool earlier in the process. This would be beneficial to everyone (except the for-profit law schools).

Simao Avila

I agree that lowering the score is the best option now as the current score is irrationally keeping well qualified applicants from the practice of law and the pursuit of justice for deserving clients in California.

Anonymous

I would agree with the cut score comparable to all other states.

Anonymous

My son missed his last test by 20 points. He is very sharp and intelligent. I was surprised he did not pass the Bar Exam. I have talked to Bar Candidates over the years, and compared the feedback. The exam is getting harder every time. I support lowering the passing score, allowing more individuals to be licensed to practice.
There other means of protecting the public from unqualified individuals being admitted to the practice of law, such as the discipline process which is now in existence.
Thank you.

Anonymous

If anything, the cut score should be lowered to be equal to that of other large states. Having a high cut score just means that many well trained students will have to shoulder massive amounts of debt. While this debt is not the fault of the Bar, it is not helped by the glut of unaccredited schools in california that lure in students.

John Mcinerney - Reuben Junius Rose LLP

I think if Option 2 is adopted it should also be applied retroactively to the group that would have passed at this level during the past 5 years. All of the reasons given for the adoption of Option 2 equally apply to the group that would have passed at the reduced cut score. I think this is terrific that the Bar has seen to do this. I have personally felt it has been very unfair to a clearly brighter group of candidates than when I took the exam in 1975 that so many qualified people have not passed because of an excessively arbitrary threshold. I think in fairness some of the past inequities should be cleared up now, and the Bar moves on with a clear conscience of having done the right thing.

Anonymous

If the exam is going to be made "easier," including a now 2 day examination and a lower cut score, will the committee be reviewing the stringent and often unreasonable "reciprocation" that California is unable to participate in with other states? It makes it incredibly difficult for a California attorney, who is generally taking a more difficult examination to move to a different state without having to jump through several additional hoops to do so. It is widely assumed that the reason California does engage in this process is that our exam is more difficult and that it would attract attorneys from jurisdictions with easier exams. Will this still be the case now that the test will be easier?

Anonymous

The score should be lowered a further 100 points consistent with other states. The high rate set by the State Bar of California is elitist and does not comport with the public interest.

Mitra Nejat - LAW OFFICES OF MITRA A NEJAT

This exam is unlike any exam that is being administered, it is difficult as it is to be examined on all subject at one time unlike other professionals that have a chance to pass partial exam and take the remainder on the second time.

More importantly after spending four years in school and accruing such a big debt and not be able to pass the exam nor find a job, the young generation is very discourage to take on such burden and many that I have spoken to not matter how bright they do not want to pay student loan for the rest of their life and not be able to pass the bar or be employed.

Kelvin Green

I generally agree with the concept of lowering the score. 1414 is probably about right. I can tell you from being one who passed on second time (failed the first with about 1435) that I would have welcomed this 5 years ago.

In looking at the Bar Survey there are a couple of questions I would like to address.

-Lowering the bar score because of student loan debt really should never be a consideration. The student loan crisis has a multitude of issues. However lowering the cut score does not solve that issue. Many legal jobs in California have marginal pay rates. Attorneys in the LA County District Attorney's Office make approximate $65,000 to start. An Attorney I for the State of California is about the same. Many of the areas these attorneys work in are high cost areas. With these kinds of salaries, a student will never repay these without student loan forgiveness programs.

- I dont believe that the lowering of bar scores will assist those areas that are underserved by attorneys. The massive student loan debt requires these students to chase the high paying jobs. Students that become new lawyers cant (in many circumstances) provide legal services because they are trying to pay student loans and also have a reasonable lifestyle. I was lucky and really had zero debt when I graduated. Would I like to assist in underserved areas? Certainly but even many of the organizations that serve those that need legal assistance require accredited degrees or other filters. The California Bar and Supreme Court should step in and fix these types of issues with potential employers. The ability to contract or work on a contract basis with these organizations dont exist. Lowering the score does not address employers who wont hire non accredited graduates. We all pass the CA Bar the same but not treated equally. The test is supposed to determine basic competence but employers expand because somehow they dont trust us. If you lower the cut score, there will be more attorneys from non accredited schools who wont be able to be employed unless it is pro bono. They wont live in underserved areas because there are no paying clients.(reason area is underserved to begin with). These attorneys could better serve because they are likely to have less debt but cant because of employer requirements.

-I have noticed a decline in the ability of those with ABA and especially ABA accredited degrees not being able to pass the CA Bar. This tells me that these schools are not focused on the basics of law. The decline in these scores tells me that they are spending too much time trying to build specialty programs but they dont focus on the basics like clear writing, basic criminal law, basic constitutional law, basic tort, basic contracts. This should be addressed in the testing. If the score is going lower, the test needs to be further refined to focus on the basics of the law. The practical exercises should maintain importance in this testing environment.

- California should also look at reciprocity. I know there may be some States who would be hesitant to engage with reciprocity based on the education requirements in California with the non accredited schools. However I know of a well versed attorney (extremely competent) that took the CA Bar six times to practice but had been practicing as a highly successful lawyer in a neighboring state for years. If the idea is to increase the numbers of attorneys, CA

ought to look to allowing tests from other states and other reciprocity issues. California could also go to bat for those of us who graduate from non ABA accredited schools. California makes those of us who attend these schools pass through may rigors that an ABA student does not have to. I spent 4 (plus) years studying at my school. We do the First Year Exam (which are clearly the basics), have to certify studies, and take the regular bar. During negotiations with reciprocity with other states, California could accept law licenses from those that pass in other states if the California could certify to the reciprocal state that our combination of testing and education meets acceptable standards equivalent to an ABA school. I will note that CA has at least three non-accredit i.e. do schools that have National accreditation from US DOE but other states treat foreign law degrees better than those. Reciprocity would allow to use test standards from other states (all presumably to ensure there is a basic level of competency) . Many could reciprocate in and solve many of the issues addressed by the survey as well.

Linda Raznick - Former editor in Chief and cofounder of The Rutter Group (retired December 2016)

In my experience, "near passing the exam" but not passing by just a few points is not an accurate earmark of excellence in the ability to achieve a high caliber practice of law. Lower the cut score to 1414 can make a huge difference in infusing the California bar with excellence. Many highly qualified candidates who may not be great "test takers" WiLL be exceptionally quaified lawyers. It's worth the "experiment"--I'm assuming that if reducing the cut score by this modest amount does not prove worthy the Committee can revisit this change and change it upward once again.

Troy Johnson - N/A

Dear State Bar of California:

I strongly urge you to lower the cut score to 1414 points; I failed the Feb 2017. I am African American and I live in the projects; I was extremely diffucult for me to go to law school and afford a effective bar prep. In fact, I had no bar review before I took the exam in Feb. 2017. The high cut score makes it more unlikely that people like me will become a attorney. I know that I can make a difference in the legal profession if can pass the bar.

Anonymous

The bar exam is not an indication of the type of attorney that the taker will be. It is an unrealistic threshold to "weed out the potential bad attorney's" when it in fact has the opposite effect. If the national average is 135, why is California's so high? There are plenty of individuals who study for the bar efficiently, have jobs as law clerks doing everything but signing their names on the attorney block, yet fail the bar exam because of the high cut score, but if they were in another state, they would have passed and became an excellent attorney. No one is naive to believe that there are some potential attorney's who in fact do need "weeded out" but having such a high bar pass rate is not the way to do this. A majority of those individuals will weed themselves out because it is not worth it to them to study the proper way and they rely on online sources to "guess" what will be on the bar. They will not pass even with a lower bar pass rate. Bad attorney's do not always equal bad bar scores. There will always be bad attorney's but the potential good attorney's shouldn't be punished by having a ridiculously high bar cut score. Please consider lowering the score to help the good candidates to pass, the bad ones will take care of themselves and fail all on their own.

Brian Newman - Brian A Newman APLC

I don't believe that the bar exam accurately represents whether a candidate would be a good attorney or not. The screening should take place at the Law School level. The bar exam is artificiallly high.

Anonymous

I think the cut score should be lowered even more and the entire exam re-modeled. The entire exam rests on learning how to take the exam rather than your knowledge of the law. If you have money and can pay a tutor or an exam prep course you pass, if you can't you fail. Its really one of the more obnoxious experiences I have had in my 15 years practicing.

Jennifer Wagster - Hinshaw Marsh Still & Hinshaw

If the cut score is lowered to 1414, I would ask that the California State Bar seek reciprocity agreements with other states that have similar pass scores.

John Jacobson - Baker, Olson, et.al

I also want California to become a UBE state.

Laura Palazzolo - Berliner Cohen

The arbitrarily-high "cut score" on the Bar Exam has become a significant barrier to diversity in the profession. Students for whom English is not their native language may well be able to practice the essential tasks of the profession (reading, writing and expressing their arguments clearly in English), but never be able to pass the Bar Exam because it is, for them, a speed reading exam in a foreign language. This is particularly so now that it has been compressed to two days, placing additional emphasis on the multiple choice questions (for which students have less than 2 minutes to read, process and answer each question) and the Performance Exam (for which students must read and process an entire volume of materials and write an extensive response in even less time than they had before (90 minutes, instead of three hours, if memory serves)). There is no mechanism for requesting additional time on the exam because of a language barrier like there is for certain other conditions under the ADA (like ADD/ADHD). And this is unfortunate, because in the context of actual practice, such attorneys would have as much time as they need to research and draft appropriate documents for their clients or the courts. The timed nature of the Bar Exam therefore unfairly disadvantages people of disparate ethnicities with no corresponding benefit to the protection of the public from a potentially poor practitioner. There is no empirical evidence that a brief which required four hours for a non-native speaker to research and write is any better or worse than a brief that only took two hours for a native speaker to research and write.

The solution to protecting the public from incompetent attorneys is not a higher exam score requirement than almost any other state (there is no empirical evidence to my knowledge to suggest that New York or Texas lawyers are less competent than California lawyers because their bar "cut score" is lower); but rather more extensive practical skills units in school, or more CLE requirements after passing the Bar Exam, or both.

Having attorneys who are able to communicate with our state's diverse ethnic communities in their native languages is critical. Ethnic communities often do not trust practitioners outside their native culture, and attorneys outside certain native cultures may not understand how tradition and culture affect the parties' approach to legal disputes. A lower cut score gives us a better chance at expanding our pool of competent attorneys of all backgrounds and cultures and thereby expands the opportunity for justice.

Rebecca Musarra

I've taken (and passed on the first try) bar exams in New York, California, and Delaware. While I think it's very important that the State ensure only qualified individuals are admitted to the bar, I do NOT believe that the high score required in California is necessary to accomplish that goal. Instead, I know of many really smart and talented individuals who would be assets to the state bar who didn't make it because the exam is just too touch in too short a period of time, far beyond what is actually necessary to protect the clients and the profession. I would possibly even support a score below 1414.

Having practiced elsewhere, I cannot say that the quality of California attorneys is discernibly better than those in other jurisdictions; the bar is just keeping otherwise good attorneys (often minorities) from making a difference in California.

Please make this change.

Sergio Diaz - retired

The cost of legal education has risen astronomically in recent years. Salarys for licensed attorneys have not kept up with the exorbitant cost of legal education. The exception to this may be for the largest law firms. Needless to say, only the top tier graduates, from the most prestgious law schools, are offered one of the coveted positons in high-paying law firms. Without a license to practice law, the recent law school graduate is likely to be employed at considerable lower pay than a newly admitted licensee, making it more difficult or impossible to repay those large school loans. Furthermore, the recent graduates who fail the bar exam, are often forced into non-legal jobs where the value of the a priced legal education can seem irrelevant. As most school loans are non- dischargeable, new graduates who fail the bar exam are financially burdened for the remainder of their working lives without the benefit of a high-priced legal education.

Furthermore, the State of California is become increasingly diverse, particulary in larger cities. I suspect that an overwhelming number of graduates who fail the bar exam are minorithy students. Perhaps this is the result of attending lesser known schools or not having the benefit of a solid high school and college education. Alternatively, it may be that those who prepare the exam, review, and correct the exam vary considerably in social, cultural and economic status from those students unable to pass the exam. If an overwhelming number of minority or impovershied students are failiing the bar exam, and these are the same graduates who would be willing to work wlth the diverse population of California, at a lower compensation rate, the Bar Examiners are doing a disservice to the people of California denying the poor and disadvantaged access to legal representation by a recent graudte who is able to attain a score of 1414 but is deemed to have failed because the score is below 1440.

Rebecca Lewis - LA County District Attorney, retired

It's my understanding from news articles that the "cut score" is lower in 48 other states. I believe California has an inflated "cut score" in order to keep the percentage of lawyers lower. I believe that to lower the number of attorneys licensed to practice in California. That is unfair. I think the argument that more unqualified candidates will become attorneys is bogus. If the lower "cut scores" works become lawyers is bogus.
If the lower "cut scores" work for the rest of the country,then California "cut scores" should be lowered.
Regulate law schools if the fear is that candidates are unqualified. Law school is really expensive.

Anonymous

Considering the cost of law school compared with the ability of hard working, diligent, moral individuals who may just be bad test-takers and end up not passing the Bar Exam, I think lowering the cut score is a good idea and vital to allowing more quality individuals pursue their careers as attorneys. Bar review courses are expensive. Not everyone studies or takes a test the same way. Ending up with student loans from law school but without a license to practice is devastating.

Having practiced for almost 30 years, I can tell you (as can most attorneys, I would imagine) that passing the Bar does not ensure one is a quality, ethical attorney.

Anonymous

Like all standardized tests, the California Bar has never been a measure of an applicant's actual skill, knowledge, or broader ability to be a lawyer. Rather, the CA Bar Exam is, and always has been, a measure of how good you are at taking a test, or more specifically, how good you are at preparing to take THIS PARTICULAR test. This is precisely why many low-income applicants have disproportionately low pass rates. They often either do not have the financial resources to afford a good bar preparation class, or they may not be able to take the weeks and weeks off work in order to devote specific time to studying for the exam. (Speaking for myself, I had to take out a separate loan just to afford the bar prep class I took, BAR/BRI, and took off the full two months before the exam to devote fully 100% of my time to studying.) Thinking of the CA Bar Exam in purely these terms makes those who pass it not "lucky" or the "hardest studiers" but rather those who have the money to both afford it ad to not work for weeks and weeks in order to devote all their time to studying. How this, in and of itself, helps to create a diverse workforce of lawyers is beyond me.

Amanda Parker - City of San Bernardino City Attorney

I generally feel torn about this issue.

I think instead of focusing on the scores themselves the grading process should be focused on. These exams are graded by scores, if not hundreds of people. What is the turnover rate for these exam graders? What is their process? What is done to ensure consistency between graders? The law school curriculum has not changed, the substance of the exams have not changed. The only thing that has changed is the exam takers themselves and the people who grade them. Either the people sitting for the exams are genuinely unprepared or there is an inconsistency in the grading process.

I think given the change from 3 days to 2 days for the test has substantially changed the exam already. part of me thinks that the scores shouldn't change until we see how that change affects the pass rate. The other part of me thinks that cutting an entire days of exams without lowering the cut score is unreasonable. I think that lowering the pass rate will not necessarily lower the quality of attorneys. there are hundreds, if not thousands of terrible attorneys in this state who passed. The exam is not indicative of a competent attorney with integrity to practice law. The only portion of the test that genuinely tests attorney skills is the performance test, which is a minor part of the overall score.

Dennis Weaver - McDonnell & Weaver

Option 2 is not enough. Changing the percentage of test takers that pass the exam from 43% to 47% is INSIGNIFICANT!

The pass rate for law school graduates should be between 75 and 85%. Forcing a student to take the test multiple times before admission does not make that student a better lawyer. Many people are deprived of legal services because the cut score is so high and the pass rate is so low.

Other options besides a high cut score can be utilized to insure protection of the public interest and to maintain the integrity of the profession, such as a mandatory mentor program for one or two years following bar admission for those new lawyers not employed by a government agency or a firm with a new lawyer training program that score below a certain level on the bar exam. The mentor program could be set up through the new lawyers' law school, the state bar, local bar associations, or private firms and be monitored annually to insure the effectiveness of the program.

Provisional admission can be awarded to applicant's with lower scores to allow them to practice law, gain experience, and earn a living while they study to retake the portion(s) of the bar exam that they did not pass the first time. They should not have to retake the portions of the exam that they did pass. For to long the California Bar Exam has been the primary tool used to prevent people from becoming lawyers in California.

Would it be asking to much to suggest that a lawyer or test grader sit down with an unsuccessful exam taker and go over his or her exam with them to discuss the reasons that their exam was graded below the pass cut score? To point out what points were missed in the student's answer or where she or he went off track with an answer? Could something be done about the high cost of retaking the exam to encourage students that failed once to retake it promptly? Would a higher bar exam passage rate have an adverse impact on the income of practicing lawyers in California such that they may have a conflict of interest in maintaining control over the bar admission process?

Dale Rothrock

The marketplace will sort out any attorneys who pass under an easier point level. If need be, you can always raise the requirement later. Lowering the requirement will give us time to figure out why the pass rate from alarmingly good law schools has fallen so much.

Anonymous

Maintain the cut score at parity with NY state. Elitism and market manipulation is a dead-end solution.

Zane Hilton

The bar exam is intended to be a test of "minimum" competency. As it stands, the exam appears to be geared towards preventing an oversaturation of lawyers in the marketplace. Oversaturation in the legal market is a problem, but it is not a problem that the bar exam is intended to correct.

Anonymous

If California's high cut score, and correspondingly low pass rate, protected the public from unqualified lawyers, it would be defensible. There is no evidence that it does so; and the California State Bar does not claim to have any evidence that it does so.

But the arbitrarily high cut score impacts real lives in profoundly negative ways. Thousands of graduates, many of whom would have successfully passed other states' exams, are forced to give up jobs, put off job opportunities, incur considerable debt, and suffer emotional and psychological harms as a result of the California Bar's grading practices. As the State Bar itself recognizes, most of the 38% of those who failed the July 2016 exam will eventually pass on the second or third try. In the meantime, these candidates fall deeper into debt and further into despair. And for what? From the first administration to the second or third, when over 90% will likely pass, these takers do not learn to be better lawyers. They spend their time and money learning how to beat the test.

Anonymous

I believe the State Bar Committee of CA should substantially lower the passage rate to be on par with the rest of the country. I believe the committee acts capriciously regarding the grading, in particularly with the written aspects of the exam. Scores have shown to be inconsistent, unduly unfair and completely subjective in a negative form. It seems unjustifiable that CA has one of the worst passage rate, yet has some of the best law schools in the state! CA takes the risk of losing promising, smart and zealous attorneys because no one can pass the exam. People will leave the state and those states will profit from those students and their citizens will receive the benefit of those individuals. I truly hope the scores across the board are lowered significantly and I do not feel it will jeapordize the integrity of the exam or the state.

Cydney Batchelor - Retired

I think another option should be considered -- reciprocity (admission by motion) with other states for attorneys who graduated from an ABA school and have practiced continuously without discipline in a jurisdiction that allows reciprocal admission by motion. That would increase the pool of qualified, ethical attorneys in CA.

Philip Crawford - Law Offices of Philip Crawford

I am a State Bar member (30 years) and the Law School Pathways Faculty Champion for San Jose City College. I don't see the demographics on diversity impact in these statistics but if they are consistent with past demographics there is a disproportionate impact on applicants who are candidates of color. Setting arbitrary high cut standards with no data suggesting a relationship between high scores and high performance as a lawyer is simply an arbitrary barrier that serves only already licensed attorneys in keeping the pool of licensed attorneys smaller and whiter. This is bad public policy flying in the face of an increasingly more diverse California population whose legal needs can be best served by attorneys who have common ground with their clients.

Robert Myers

The cut score should be adjusted to ensure that at least 70% of those taking the bar exam pass.

The bar exam does not have a direct relationship to one's ability to be a good and honorable lawyer. It certainly does nothing to weed out dishonorable individuals.

Instead, the bar exam rewards good test takers and creates a barrier to individuals who do not possess good test taking skills.

Anonymous

I took the bar exam 4 times (5 now after july 2017 exam) and I have had second reads 2 times now. My first second read have a difference of TEN points between the graders; one saying clear pass with 65 and another a clear fail at 55?? Had my second reads received my essays first I would have had enough to pass. This past February 2017 exam I scored a 90 (yes 90) on one essay and a above the average of MBE's but yet still came up short and failed. The grading on this exam is completely unfair. I am clearly competent enough to practice law. I graduated law school in 3 years, was on the dean's honor roll, and even got the top grade in several classes. No one should have to suffer for years taking an exam to determine their future and get great scores but STILL not pass. My life has changed so negatively because of this exam. This exam should not define your life and it has I have been out of work and severely depressed.

Sheila Slaughter Dey - WMA

I think the cut score should be lowered even below 1414. I think we need to make our Bar Exam more in line with the exams scores in other states. The Multi State exam is the same for all the other states, so we don't have to worry about that part of the score, so the writing exam is the main part we need to take a look at carefully. I would recommend a score of 1400.

Anonymous

I think that lowering the passing score is a narrow approach to the problem. I believe there are two issues that should also be addressed.

First, I think most law schools teach classes with an outdated "Socratic method" that doesn't really prepare law students for passing the bar exam or with the actual practice of law. Law school should be more practical: more testing, more writing, more real life experience than a lot of wasted time reading cases and sitting around while a few students get picked on in class by teachers. Schools seem to be stubborn about changing this and its only gotten worse with the lowering fail rate.

Second, I think California needs to close unaccredited law schools. Those schools have historically low pass scores. It is cruel to have people attend schools and pay costly tuition only for them to receive a poor education and to fail the bar. I think its better to not allow low performing people to attend law school. Then that narrows the pool of people who can attend law school, making it competitive for the remaining accredited schools and increasing their chances of passing the bar.

Cynthia Gitt - Brown Gitt Law Group ALC

I question whether either score has been properly validated or whether the panelists are sufficiently diverse. We "senior" practitioners would say that 10 years in nothing in terms of the ability to assess ultimate competence and that 25 or more years should be required for most panelists. Also, I do not see any reference to age in the materials and whether the exams and scores have been validated for older test takers. This is not a very impressive report.

Brenda Hay

I understand that CA has one of the highest MBE scores in the country. I took the bar exam in Feb 2016 and did very well on the MBE but I failed because of the essays which are being graded by lawyers. The essays grading is subjectively graded by lawyers who most likely work in CA. Maybe the graders need to be looked at also, maybe less lawyers in CA would be in their best interest.

Anonymous

I don't think an individual's performance on the current bar exam assesses in any helpful way whether or not the person would be a good lawyer. Perhaps find a method that more accurately evaluates an applicant's actual lawyering skills, rather than their ability to cram for a standardized test on basic topics they already learned in law school. And, no, the "performance test" is not any better just because it's longer.

Jennifer C.

I believe the cut rate score has virtually nothing to do with the ability to practice law. I believe the cut score should be even lower. Also how can someone graduate with a J.D. from a CA law school and not be able to pass the CA bar? It makes no sense.

Marta Stanton - Law Offices of Marta I. Stanton

The pass rate is too low. California is making it too difficult to pass the bar compared to other states.

Abigail Sullivan Engen - HaleyNelson & Heilbrun

I strongly support modifying the cut-off score, but I don't think the proposal goes far enough. If it would have resulted in a pass rate that was still below 50% in July 2016, that's still a major problem. I believe a pass rate under two thirds strongly suggests that the exam is too difficult.

I have practiced in another state where the pass rate was 90-95%. To me, that went too far in the other direction. The essays were way too easy. I encountered a lot of unfit attorneys there, and I do not think that an exam that amounts to a mere formality would uphold the integrity of the legal profession in California.

Nonetheless, the exam in its current form is too stringent. The vast majority of students who successfully graduate from law school and study for the bar as if it were a full-time job for two months, should be able to pass. I have met far too many smart, dedicated law school graduates who have not passed the bar, even though they clearly would be fine attorneys. Similarly, I've met attorneys in this state who are sloppy, inept, and serve their clients poorly, despite having passed the bar. My point is that, by setting the cut score so high, California is not achieving the objective of keeping bad attorneys out of the profession.

Perhaps most importantly, in my anecdotal experience, those who have trouble passing the bar are disproportionately people of color and international students. My understanding is this reflects a true trend in the pass rates. The legal profession and our clients would be better served if California attorneys more closely reflected the state's population in diversity.

Jeffrey Knoll - Law Offices of Jeffrey Knoll

My opinion is that there is no rational reason to have the passing score much higher than other states.

Phil Goldberg - seraph legal

I wish I understood the reason for the decline in Bar Scores. If the exam is getting more difficult, then the passing score should be lowered; conversely, if the exam is not getting more difficult, the passing score should remain at 1440. Without evidence either way, I'm in favor of lowering the score requirement, temporarily, to avoid potentially penalizing applicants unfairly while this matter is sorted out.

Meanwhile, some serious analysis needs to be done regarding scoring. Perhaps current graders should be asked to regrade several past-year exams to see if their scores match the scores given in the past. If it can be shown that their grades are demonstrably lower, then lowering the score requirement does nothing to impair the qualifications of new bar members. However, if it is shown that applicants are just not very well prepared for the exam, I am wholeheartedly against lowering the Bar's standards for admission simply to keep pass rates elevated.

Finally, I would suggest that any analysis needs to be completed within twelve months so that, if people are simply less prepared, the Bar does not have a continuing influx of lesser-qualified applicants.

Anonymous

I agree with Option 2 provided that this option will be implemented only as an interim measure pending further study. I understand the general goal of the scoring is to protect the public. There are many people who are good test-takers but who may not be competent attorneys, and who will pass the exam regardless of the cut score. It seems more likely to serve the goal of protecting the public if those who are called the "false negatives" in the study, and who might be very good attorneys, have an opportunity to practice. (This is extraneous, but I can't help adding that we, as practicing attorneys, have an obligation to provide opportunities to law students to develop the kind of competence that will serve them on the bar exam and beyond.)

Anonymous

The cut score should be even lower, especially if the cut score for New York is lower. Assuring the public that lawyers are well educated and knowledgable is important. But the Bar Exam does not test whether they are. It simply tests how well they have been trained to take the Bar Exam. Those test-taking skills are totally unrelated to what lawyers actually do, or need to do to provide valuable legal services to clients.

David Levine - University of California, Hastings

If these are the only two options available, then I prefer the interim change to 1414. I wish that the survey itself included information about the cut scores of other large states, such as Illinois and New York, as well as the national median for comparison. At this point, we are not protecting members of the public, because so many people just miss the current cut score and pass on the second try. All we are doing is enabling those test takers to learn better how to take the test. They learn nothing more about the law or being a lawyer. All you're doing is adding to their debt, expense and stress.

Anonymous

The cut score should be lowered to 1414. A 1414 score will cause a very slight increase in the overall pass rate, which is much needed. If the pass rate is less than 50%, there is something wrong with the system.

Anonymous

I do not think it is the Bar's job to regulate the number of lawyers in the state. The Bar exam is meant to ensure that licensed lawyers are qualified. As such, (referring to the questionnaire that goes with this public comment forum) I feel that the strongest reason to lower the cut score is to make sure that all California communities have access to excellent legal expertise. This is why our California accredited schools are so important.

Anonymous

I took the bar in July 2016 and I passed on the first try. I am sure many of my fellow classmates who also passed will be vehemently against lowering the score as it will "cheapen" their accomplishments. I am not in the same school of thought.

The California bar has always been notoriously hard. I would like to think most law students are aware of that before they sit for it. I certainly was. But a passing rate of roughly 30% is unacceptable. That kind of pass rate indicates that something is grievously wrong in the way law schools are teaching or the test itself. But I am a huge believer in Occams Razor; which is that the simplest explanation is often the best one. So the problem is either that all ABA accredited schools are doing something wrong, or the Bar is just too hard...occams razor would indicate the latter.

Also, what statistics do not address is that every single element of that 30% is a person. That 70ish% of people that didnt pass the bar in February 2017 are all people. They are people trying to make something of themselves in this life. And while this doesnt mean that we should just lower the score bc they are "trying", we should do everything in our power to at least let in the people that are in the 'grey area' that would be acceptable lawyers in any other state. 1414 still means that you understood the law and are competent to practice. It will merely let in 5% more. This is a small price to pay if we are advancing someone's legal career.

Also, alot of legal scholars are claiming that lowering the score will increase malpractice. How do they know? has the score been lowered? How are the forming this opinion? the MPRE deals with ethics and malpractice, not the bar. There is no basis for the claim that lowering the score will increase malpractice. Its a boogey-man tactic and its despicable if the claim is baseless.

I hope these comments reach the right people.

Anonymous

A pass score of 1400 should be sufficient, given the well-known arbitrary grading of California Bar graders. I went to a top five law school, clerked in federal court, and work at a Vault 15 firm: I can't think of a single incident where I have used knowledge I was tested on during the bar exam.

The problem is not only your pass score; its your arbitrary grading and mandated redundancy on the essay portions of your exam. Pointing out the legal deficiency in a issue where the answer is "no" should be sufficient; examinees should not be forced to then list the other factors of a issue that have been met. (For example, in a real property question about adverse possession, it is sufficient to say "there is no adverse possession because the party attempting possession has not been on the property for the required period of time;" yet the current CA bar exam requires examinees to list out the other five factors as well and discuss them in length when it is obvious these factors have been met.) This kind of redundancy leads to poor practice skills, and if attorneys were as verbose in their briefs as they are forced to be on the exam, no judge would ever read the filings without internally criticizing their drafters.

So please, do not let this new exam turn into a typing contest. Please encourage succinct and poignant writing.

Richard Mccue - self/retired

The bar pass rate has been falling consistently for several years. There is a chance that the vast mass of law students is getting stupider over time but that seems unlikely.

There is a chance that this is a deliberate attempt to protect the present mass of lawyers from competition. While I have heard that theory articulated- I discount it.

There is a possibility of "downwards grading creep" - where graders unconsciously over time apply a higher and higher standard in grading the exam - that should be checked perhaps by regrading a random sample of previous years answers on a regular basis and seeing if the scores change. Given the commitment to stasis in the Bar Association I doubt that.

Still the statistics that show that less than 2/3's of ABA schools first time applicants pass the bar is astounding. That's a poor result for 3 years of bar preparation, as that is what the law schools constantly harp on, bar preparation courses designed to hone the dullest mind into a razor to cut through the bar exam, and a pretty vicious selection for getting into law school to screen out the dim from the brilliant. Yet the almost universal comment of working attorneys in the district attorneys office where I last worked who were entrusted with interviewing applicants was that "these kids are a lot smarter than I was".

There is a disconnect between the experience of interviewing the population sitting for the bar exam with the actual results they get. That very large government experience (I know government attorneys aren't "real attorneys", I was told that all my career, but we did have to take and pass the bar exam) is unique in that there are a large number of pretty normal people applying as opposed to say the obsessives trying to break into Gibson Dunn.

My experience is that truly competent lawyers are competent not because of their book smarts (which disappointed me as I was pretty book smart) but because of their judgment and their ability to know their own limitations. Neither of which is tested on Bar exams or moral character background checks. Emotional intelligence - that slippery term - is much more important to an attorney working in front of a jury than raw intelligence. That is not tested for either.

I have had the opportunity to meet a good number of attorneys from outside California and to talk to them about their experiences of the law and courts and practice. They all sounded just like the experiences of California attorneys even though they all came form states with lower cut off scores.

I do not think that there will be any clearly observable difference if the score is dropped.

What is interesting is that a lot of little conversations at bar conventions and MCLE and other places that one meets attorneys you will probably never see again, especially with older attorneys (I'm one of them, I can say that without obvious prejudice) is that there are too many kids coming into the business. They will never be able to make a living and they are undercutting my business. I smile and nod through that. One of my family beliefs, held more firmly than any religious belief, is that there are never enough good attorneys. And listening rather than opining leads me to the observation that the complaint about to many entrants is a complaint not about the entrants but about how the industry is structured.

The Bar examination system is a 19th century answer at a time when the law was exploding in complexity. It happened at the same time as the medical profession was trying to grapple with similar problems of competence, public service, and maintaining a monopoly on defining just what competence was. That it almost certainly ensured that no competent lawyer or doctor who stayed sober would ever drop out of the upper middle class was certainly an unexpected side effect. For a world defined by printed books, stationary libraries, a great deal of prejudice disguised as "common good sense", and a society where the need for an attorney (or for that matter a doctor) was restricted to the rich, or the desperate, it worked reasonably well. That late 19th/early 20th century gentleman's consensus has disappeared.

From a profession that most well off persons, even affluent, would need to resort to about as much as they would have need to resort to the professional undertaker, today the need for a lawyer of some sort has become a necessity for the majority of the population. That the majority does not have access to a lawyer is the cause of much heartburn and quite a bit of heartache to the judiciary that struggles to deal with the tsunami of everyday tragedies and upsets from divorces through minor traffic accidents that clog the courts. A judicial system that has dealt with this overwhelm by triaging cases into the trivial, the common, the more deserving and the most deserving of attention via mandatory settlement conferences, arbitration by former judges replacing an ineffective pension system, browbeating, may manage to maintain the illusion of a judicial system where all are held to the same high standard but the reality is trivially obvious even to civilians. The amount of justice you get depends on how much you can spend.

Then there is the issue of what competence means. In the 1900's a single lawyer or a single doctor might be able to boast of competence in all areas of the profession, and be telling the absolute truth. Anyone making that boast today would be laughed at out loud. The law and the Bar recognize that today in the ethical demand that the lawyer be competent in their particular area of practice. A criminal defense attorney drafting a generation skipping trust is almost the definition of overstepping one's bounds.

While lowering the cut off score will be resisted out of habit it would seem unlikely to do harm. By fighting about the cut off score we are happily ignoring the problem that as a profession we are still perfecting ways of making sealing wax while the world has moved on. We need a system to resolve disputes and more importantly to guide people through a legal jungle created by a complex society. To open a small business - say a coffee shop - you have to navigate labor, realty, tax, health regulations before even worrying about the possibility of scalding a customer. That can only be don with attorneys. How we make attorneys affordable to the public while being able to make a good living (we are not about to become monks) is the issue we are avoiding. We need to stop it.

Nick Gregoratos - Prisoner Legal Sevices

As a practicing attorney who struggled through school my entire life due to learning differences, w/out accommodations on the Bar and in law school I would not be the successful attorney I am today. I have two employees who have not been able to pass the bar multiple times yet their research and analytical skill far surpass my abilities. Togere we have prevailed in multiple appellate cases that were decided w/out oral argument and the writing and research was not of my doing. Test taking should not be the litmus of who becomes an attorney. I would trust both of my employees to appear in court and represent my clients and/or me but our profession is missing out. SInce we are insisting on a test, I support a cut to 1414 or below.

Cathy Ota - retired-previously a research attorney

California has always had one of the most substantially difficult bar exams in the nation. I do not see why, on top of that, the cut rate should be the second highest in the nation resulting in a bar exam passage rate of one of the lowest in the nation. Out of fairness, the cut score should be lowered.

John Macconaghy - MacConaghy & Barnier, PLC

The barriers to the practice of law in California are too high, unfair to young attorneys, and a disservice to the public. I vividly recall that a number of years ago Kathleen Sullivan, then Dean of Stanford Law School and former professor of law at Harvard, failed the California bar exam her first try as she was transitioning from academia to private practice. How ridiculous ! I have been actively practicing for almost 40 years (after passing the bar exam on my first attempt). In my opinion, the bar exam evaluates nothing meaningful to our profession except for endurance and tolerance for self-aggrandizing bureaucrats.

Josh Effron - IMMIGRANT REP INC

I would like to see the cut score lowered even further. Additionally, I would like to see the Bar Examination become what it purports to be: a test of "minimal competency" to practice law. I am sure that many of the comments from attorneys, especially, will favor keeping the current cut score or even raising it UPWARD. The problem is that such thinking has two major fallacies: (1) It presupposes that the Bar Examination weeds out potential lawyers who lack the competence to practice law. (It does not, for the reasons that I will be discussing below.) (2) It presupposes that the Bar Examination serves to restrict the number of lawyers who can practice in California, which goes against the whole notion of protecting the public. (After all, only with a free market and more available lawyers will the price of lawyers be as low as possible, resulting in more affordable legal services for all.) Furthermore, such thinking results in an abuse of the police powers of the State to artificially control competition and manipulate the free market, rather than simply act as a buffer against unqualified lawyers practicing law.

As discussed, the entire California Bar Examination needs to be revamped, as it does not test minimal competency to actually practice law. If it did, then clearly qualified lawyers from other States should be able to easily pass it without even studying.

With the possible exception of community property, the California Bar Examination does not test actual law. If I were to go into court to defend an accused burglar, and I quoted from the common law definition of burglary used in England centuries ago, I would be laughed out of court; the judge is interested only in the CURRENT definition used in CALIFORNIA today. Why, then, does the Bar Examination test common law definitions, majority and minority definitions, and other things that are not relevant to the actual practice of law in California today?

Furthermore, as a closed book examination done under time constraints, the Bar Examination tests one's ability to commit malpractice. After all, if a client walked into my office with a problem, and I analyzed that person's problem as quickly as possible, using legal definitions that I had memorized (rather than looking at actual laws, regulations, and caselaw), I would be committing malpractice and would not be adequately serving the client's needs.

In place of the current California Bar Examination, I would like to see a combination of the current Bar Examination's emphasis on issue spotting and the Performance Examination's emphasis on legal research. An ideal examination would have the test taker spot the relevant issues and then use a library of law, regulations, and cases to analyze the issue(s) in question. (These laws, regulations, and cases should also be what is, in fact, on the books today in California and not the laws of the fictional state of Columbia.) This ideal Bar Examination would either be without any time constraints or at least DOUBLE the amount of time reasonably needed to adequately answer the question(s) on the examination, so as to eliminate the issue of time constraints.

Also, the Multistate Bar Examination (MBE) should be eliminated, as it tests majority and minority rules and definitions and not the actual laws of California (and federal laws) in use today. If a multiple choice section is still needed, I would recommend a section that, again, tests ACTUAL California (and federal) law on the books today.

Lastly, although it is not technically part of the Bar Examination, I should point out that the Multistate Professional Responsibility Examination (MPRE) should be eliminated, as it tests ABA rules, which California has expressly stated do not apply here. (For the same reason, the portion of the Bar Examination that tests ABA rules and has us compare them with California rules should be eliminated, as this is irrelevant to the practice of law in California. It would be the same as testing us on the ethics rules that apply to attorneys practicing law in India; since the California Bar Examination only leads to a CALIFORNIA license, the rules that apply in CALIFORNIA should be the only ones that are tested.)

In place of the MPRE should be an examination that exclusively tests the ethics rules in force in CALIFORNIA today.

Thank you for your time and consideration.

Talene Ghazarian - CA DHCS OLS

Sure California should be selective about who can practice law, but that the bulk of any "weeding out" should be done before students sink three hard years, ungodly amounts of money, and all their emotional resources into the dream. The bulk of the weeding out should NOT be done through the Bar Exam. Address the root of the problem -- the unaccredited law schools.

Glenn Trost

The current (low) pass rate cannot be justified, in my opinion. Students have devoted three (or more) years of their lives and have incurred many tens of thousands of dollars in expenses/debt to get through law school. Most devote additional months and expense in bar-review courses. How can it be that such efforts and sacrifices result in failure to pass the exam? Can it really be the case that law schools are accepting students with no hope of becoming competent lawyers? That the schools educate so incompetently? That law-review courses specifically designed to prepare test takers fail to do so adequately? I find it hard to believe that these possibilities explain the current situation. Instead, it seems to me that the testing and grading are not well designed to identify those students whose preparation and skills are sufficient to join the profession.

Inducing law students to devote such unrecoverable time and resources into the study of law, only to deny them permission to practice, is unacceptable. There are many active bar members who fail to live up to the quality standards we should demand of all members. I find it hard to believe that the students now being excluded by the bar exam would perform at a lower level than these poor-performing members. It seems to me that the pass rate is being set artificially high in order to protect incompetent members from the competition of younger lawyers.

For these reasons, I support the reduction in the cut-rate as presently proposed. I would also urge the Bar to ensure that our law schools are doing a good job of not admitting students who cannot become competent lawyers, and to weed out the incompetent lawyers who are currently members of the Bar.

Anonymous

I recently was admitted to the California bar. I took the bar exam twice: the first in July 2016 and the second time in February 2017. I passed the second time. The first time I took the bar exam (when I failed), I received a second read through. Applicants who fail by a 50 point margin receive a second read through. My score was 1387 after the second read through. My MBE score would have passed in every other state besides Delaware. I was very depressed after failing and the financial burden of re-taking the exam was very real for me. I was lucky that I had a job that was flexible with me during the re-take period but I know others were not as lucky. I don't believe I was less competent the first time I took the bar than afterr I took it the second time, which is why I'm advocating that the exam should be lowered even further than what is currently proposed. I believe the cut score should be the same as New York and DC, which I believe equates to a 1330. Both of those jurisdictions have a competitive legal market like ours, and to say that applicants who score below California's standard address not competent enough to practice here is insulting at the least. This mentality perpetuates an elitist system in an arbitrary manner. I thank you for providing a forum to discuss this serious issue and plead that you re-consided option #2 by cutting the score to a 1330.

Morgan Ricketts - Ricketts & Yang

It strikes me as harsh to reject an applicant from our profession after 3 years of law school and $150,000 in tuition because they are not in the top half of performers on a certain test. I am in favor of lowering the pass line to admit more people.

However, we do have a LOT of attorneys in this state, and some of them are not very good, to the point that they cause serious problems for their clients, co-counsel, and adversaries. We need an additional policing mechanism to permit practicing attorneys to submit complaints about other attorneys along with documentation. For example, consistent failure to follow court rules or rules of civility, or filing numerous baseless motions, should all be grounds for an attorney-sponsored complaint. There should be a fee to submit such a complaint, and one or two complaints shouldn't ordinarily have much consequence. But if an attorney is repeatedly getting called out by his or her peers for his or her incompetence, there should be a procedure by which to discipline, or briefly suspend them from the practice.

Megan Carroll

Lowering the cut score is not going to address the fundamental issues- but would be meaningful to those who would otherwise fall below the cut so worth doing for the time being. The bar exam has never been a good indicator of quality lawyering. Most of the subjects are never used in practice. What needs to be learned is primarily learned on the job. If someone graduated from an accredited law school the bar exam should be almost a formality. In my firm it was very common that the graduates of Harvard Law never seemed to be able to pass the first time. It was a running joke. Were they not smart enough? Were they bad lawyers? Of course not. People waste much of their life and resources studying for this and some just can't pass it. You don't even know if you are weeding out the right people. So, what good is it? If we need an exam at all it should only measure the most fundamental concepts. The rest is learned on the job. If there need to be higher standards for particular fields than have special exams for those purposes. I for one never intended to be a litigator so very little of the exam was relevant to me.

Start with the question, why do we need a bar exam? What is the purpose of it? Are there other ways to meet the objectives without using a test? In particular, a test that the majority of people (who might very well make great lawyers) can't even pass? You need to start over.

Anonymous

In addition to lowering the cut score to 1414 or below, the Bar should consider decreasing the number of the topics covered and / or creating a separate, CA only portion of the exam, that is given several times a year. If the goal is to increase comprehension of CA, then give out of state lawyers, and law students, neither of whom have studied CA law either in law school or their home state, a full and fair opportunity to study those subjects. WA does something similar. Relatedly, our cut score & high number of topics do nothing to protect the public from unqualified lawyers practicing in CA - studies have shown that. See, WA. Rather, not disciplining admitted attorneys is what endangers the public. Rather than obsessing over ways to keep out competition, under the guise of public protection, the State Bar should be aggressively working through its 900+ backlog of discipline cases and ensuring that it has adequate staff such that discipline of practicing lawyers is handled swiftly and fairly. Please remember that the State Bar is not an employment protection organization / advocacy organization, but in this regard, an oversight organization, ensuring that only competent lawyers are admitted to practice. The cut score of 1440, MPRE score of 85 (highest in the US), and plethora of topics covered in exam do not achieve this purpose, and furthermore, the hysteria around "too many lawyers" is unfounded. New attorneys are the least likely to "steal" work from seasoned practitioners.

Stephen Schulman - court of appeal

The bar exam is a wholly artificial measure of anyone's ability to practice competently as an attorney, so if the artificial pass rate is lowered to be more in keeping with the rest of the nation, we should do it--there isn't ANY sign that California attorneys are any better than the rest of the country.

Heidi Loch

By maintaining a high bar score cut off, but allowing students from unaccredited law schools to take the bar, the California Bar Association is allowing low quality schools to prey on students. Those students are deep in debt and unable to find a job by the time they learn they won't actually be able to practice as an attorney in the state of California (and since most other states only let students from accredited schools sit for the bar, they can't practice anywhere). The CA Bar should stop allowing students to sit for the Bar if they aren't from an ABA accredited institution. It should also allow for reciprocity with more states and consider adopting the UBE. Excluding lawyers from California, or trapping them in it without an ability to practice elsewhere or practice at all, is wrong. The California Bar association would be better served by better reprimanding lawyers, having more robust CLE requirements, and following other states by allowing a uniform bar exam that gives reciprocity.

Lane Wallace

I believe 1414 to be an arbitrary number, and feel that an exact 1400 would be sufficient.

Marc Shumaker

The most important job of the State Bar is to protect the public from incompetent lawyers. Demonstrating an ability to memorize volumes of legal rules has no bearing on a lawyer's competency, especially considering that many areas of practice and many essential litigation skills are not included on the exam. Ethics, character and fitness, and attorney discipline should be the primary methods of protecting the public, and many of those areas need substantial work. Lower the cut score!

Anonymous

In my view, the California bar exam should not require such a high score from applicants, for a few reasons. First, it is unrealistic that an applicant will at any point in his/her career be called upon to recall a certain area of law that the bar exam requires. Realistically, if an attorney is faced with a problem that they do not know or cannot recall from law school or their studies, they will simply research the problem or perhaps look to a practice guide. To solve an individual's problem in an hour from memory recall seems to promote negligence (as is simulated on the bar exam). The standard should not be so high in order to be admitted to the bar because no attorney will be practicing law under the method in which the bar exam tests.

Second, I understand that there is a concern for competent legal advice and providing the public with competent representation. However, there are professional responsibilities and legal ethics involved which cover, competence, diligence, confidentiality, loyalty, etc. which are in place to act as safe guards for clients and other lawyers. Based on the standards that are set in place, it does not seem necessary that the 'cut score' be so high. If an applicant is admitted to practice law in the state, and in turn violates a duty owed, depending on the severity of the action, an attorney can be disbarred and lose their license to practice law. Again, it does not seem necessary to have a 'cut score' be so high when the state has measures it can take if an attorney does not fall within those standards.

Based on the reasons above, it is my belief that the 'cut score' should be lowered to 1414 or lower.

Douglas Perlo - Ficksman & Conley

I have been a practising attorney in Massachusetts for 31 years. I specialize in medical malpractise defense. Taking the CA bar has been very difficult for me, having not had to use any prior general knowledge of Contracts, Property, etc for so many years. While I appreciate that I am eligible to take and have taken the so-called Attorney Exam (July 2016, July 2017), I note first that the pass rate for the July 16 attorney exam was exceedingly low. I also know that there are many who will turn out to be fine, honest and hardworking lawyers, but for their difficulties passing the bar exam. Conversely, there are many who are able to pass, yet who do not possess all of the qualities that the bar strives to hold up as exemplary. I am very aware (in Mass) of numerous attorneys who do not live up to those standards that are expected of lawyers, all of whom passed their respective bar exams easily.
So perhaps my difficulty is more with the fact that (I believe) the exam really has little connection to the reality of law practise. I realize that it is the only test we have, and I fully agree that CA has made a legitimate attempt to change the format of the exam (by adding the CPT) to try to replicate what I believe is closer to some aspects of the actual practise of law. Still, I think that the high cut score/low pass rate may keep numerous well-qualified attorneys from practising in CA.

I understand that there should be some limit to the number of new lawyers pouring into any jurisdiction in any given year. We have the same issues in MA, with many fine schools and numerous graduates being admitted to our little state every December. This does pose a difficulty for many who are seeking employment. I personally believe that the market will control itself through the numbers of hirees among bar passers, and that the bar exam itself should not be as major a gatekeeper as it has been.

I hope that my comments will have some impact on your decision as I feel I have a somewhat different position from most; having practised for so long and with success, it is very frustrating to be moving to CA and potentially not being able to practise at all if I cannot get past the exam. I am also very interested in the discrepancies between the full exam pass rate and the attorney exam rate. Again I wonder if the much lower pass rates on the attorney exam might be a clue that the test really does not allow a practising lawyer to show her actual skill level.
thank you

Aaron Behar

The decreasing pass rate in California is alarming and is threatening the legal profession throughout the state. I strongly believe that option 2, decreasing the cut score to 1424, better reflects the competency requirement to become an attorney in California.

Anonymous

As an admitted attorney practicing for 10 years, it is absurd that the discrepancy from New York to California is so grave. I have participated in some of the most influential cases, both within New York State and globally, however find it impractical to ask an attorney to re-study from scratch criminal law and fee-simple absolutes, all because my family decided to move to California. My firm quickly approved the transfer, but the fact that California does not recognize any admitted attorneys is arrogant and self serving. The profession needs qualified, trained attorneys who are good at their practice focus, not ones who can memorize elements of law and regurgitate them 10 years after clearing their first bar exam.

It is time for California to appreciate and respect all of those who have already paid their dues of preparing and passing a bar exam. To hold otherwsie would be archaic, unfounded and chauvinistic.

Anonymous

Overall, the cut score should be in the mid 1300s.

The grading of the essays - subjective portion of the test - is highly suspicious and not adequately addressed by the study. Without adequately presenting a baseline for consistent and quality grading or suggesting an improved grading process, the study goes on to discuss cut scores. Please see the samples of officially scored essays on BarEssays.com and determine whether there are noticeable quality difference in a score of 55 vs. 70. Rather than scores reflecting essay quality, a better predictor of a passing score is word count - it is noticeable that passing grades have higher word count (>1000 words). This suggests that some graders may not be actually reading the essays - they may be using word count to make judgements to issue low grades.

I have four specific suggestions regarding the grading process, the first being the most important and not addressed in the study.

1. In selecting model and/or reference answers, DO NOT select essays with more than 1000 words. Select it from candidates that actually passed the exam without any accommodation. It is not realistic to expect the average exam taker to be able to type more than that under time pressure, especially older exam takers. As it stands, most model answers that are posted have excessive word counts - 2000 words or more. Such essays serve no realistic purpose. This means that the exam taker was one or more of the following: 1) an exceptional typist, 2) had time accommodation, or 3) failed the exam by devoting more time to type the wordy essay at the expense of not fully addressing another. Having a realistic reference should also discourage graders from simply looking at word count to issue grades.

2. Stop printing the word count on the essays for the graders to see. A visible word count does not help the quality of the grading process. A grader may have already formed an opinion of a grade before actually reading the essay based on a relatively low word count alone.

3. If word count is important, please announce the minimum word explicitly, but also cap the maximum word count to something that is reasonable, perhaps 1200-1500 words so that exam takers know what to expect, as well as know that the California bar exam is not a test of typing ability.

4. Require the graders to write the basis for scores given (such as a list of missed issues) in order bolster the grading integrity. There truly may be a basis for appeal, considering how subjective the grading process is and how opaque the basis for scores. As it stands, essay grades not being reviewable or contestable prejudices exam takers, especially considering high registration fees and the exam takers have to put their lives on hold for almost half a year for results. The policy of unreviewable or uncontestable scores are better for objective tests, rather than highly subjective ones.

Thank you.

Jeremiah Newcomb - N/A

Lowering the cut score further would be a good idea. If someone is minimally qualified to practice law, they should be able to. This would assist in resolving the plight of those who graduate from law school but who do not pass the bar exam. Such persons are in a predicament-most employers (read: all employers) do not believe an applicant who had years of professional training in another field (law) would want to work at an entry level job. But with no experience other than schooling, most law school graduates are looking for entry level positions. It is difficult to work, and it becomes increasingly difficult to pass the bar exam, and the debt keeps piling up. If they are qualified to practice in other states, why not in California? Answer: because California allowed too many law schools to graduate an excess of people, resulting in way too many lawyers. The state's solution must not be to keep out minimally qualified persons. Rather, the state should stop allowing so many law schools to use the easy availability of loans to graduate huge numbers of people into an economy that does not support those numbers. And in the meantime, lower the cut score, so that the minimally qualified can start practicing law.

Anonymous

Should be lower than 1414.

Martin Gattas

Although the proposed score of option 2 is a good start, it does not go far enough. The score should be lowered to 133-135 to reflect cut scores utilized by many states similar to California.

New York has a cut score of 133. Does that mean New York produces less qualified attorneys? No. Does it mean that New York's residents are significantly more exposed to malpractice? No.

Let the market and disciplinary systems play a larger role.

The current cut score is completely unreasonable and the harm it is causing is unconscionable. The student loan crisis is rapidly growing largely due to law school debt.

We need more CA attorneys now more than ever.

Patrick Begley - Data Analysis, Inc.

Respectfully, I believe that the cut score should be lowered to match the cut scores of other large, legally sophisticated jurisdictions such as NY, TX, FL, etc. Especially for attorneys who have already been licensed in other states. I have been practicing for almost six years now. The bar tests many complicated areas of law, in-depth, that are not relevant to my practice of law on a daily basis.

Most bar subjects are taught in the first year of law school. For most practicing attorneys, they have specific areas of practice and expertise. Accordingly, many practicing attorneys will be long-removed from their initial learning of most bar subjects.

For the majority of my career I have worked as in-house counsel. As such, I do not regularly deal with Property, Criminal/Criminal Procedure, Civil Procedure, Evidence, or Tort issues; or with issues that deal with Community Property or Wills and Trusts. Yet these subjects make up the vast majority of questions on the bar exam and determine whether I am "minimally competent" as an attorney.

In taking another bar exam, the odds are already heavily stacked against a practicing attorney. Taking time off to exclusively study for the bar is pretty much an imperative. I took off two and a half months ahead of the bar in order to prepare myself and it took every second to get myself to a place where I felt prepared for the exam.

In taking the exam, I felt that I performed at least at a level that should illustrate "minimum competency." However, because I only took the essay portion of the exam, the grading of my exam will be completely subjective. And not to mention that I know that I confused certain elements under the stress of the exam and ran out of time to adequately discuss others (though I identified the issues). Further, there was one essay question that exam-takers were not even sure what law the question was asking takers to apply (it was a professional responsibility and evidence question, though some test takers identified the question as a PR/civil procedure question).

Based on the BARBRI grading scale, to pass the exam it seemed like you needed absolute perfection in your essays. I hope that is not the case in actuality or I did not pass the last administration of the examination. After the Texas Bar Examination I felt good leaving the examination because I knew the law, analyzed the issues, and wrote what I knew. In California, with the current cut score, while I diligently prepared and felt the same way I did after the Texas examination, I am not sure that I will accomplish the same result.

Lowering the cut score would be beneficial for the California Bar and the public-at-large as it would help make it easier for experienced attorneys to practice in California.

Robin Smith - R.J. SMITH LAW OFFICE

Lowering the "cut score" to increase the pass rate is appropriate. Lowering the cut score to ONLY 1414 so that the pass rate will be raised to only 47% is insufficient. The cut score should be lower beyond 1414 so that the pass rate is 55%. For the seven years between 2007 through 2013, the pass rate has been at least 54.8%. I doubt seriously that law school have become worse or that applicants have become dumb or that test preparation courses have become less adequate. Rather, the Bar has administered tests that are unnecessarily difficult. The Bar needs to do its job better.

Anonymous

I agree with lowering the cut score but I beleive 1414 as a new cut score would not make significant difference.

The main reasons I support a lower cut score is the following:

I beleive that the declining MBE scores partly susceptible to the students' legal skills and partly to the changing exam structures. Even though, the NCBE uses a statistical formula to measure the difficulty of the questions in a given administration of the test and then statistically adjusts the raw scores to reflect the difficulty level, it seems there certain factor not considered by the formula. By taking the difficulty level of the test into account, the scaled score allows scores to be compared across different test administrations, regardless of difficulty level. For example, if you received a 140 raw score on a relatively easy test, the statistical process might give you a scaled score of 143.

However, the statistical method probably does not take the growing study material into account. Recently, MBE added a new subject, civil procedure. Although I totally agree that CP should be tested on the MBE it means the students needs to preprare themselves for being tested on a whole additional subject. This move added hundreds of additional pages to the exam. Even if CP had been part of the California part of the exam the stundent needs to prepare for specifically CP related multiple choice questions. To prepare for the exam and learning the black letter law is somewhat different. The students must develop specific exam skills to be able successfully answer the questions of any given subjects.

The students usually have 6-8 weeks to prepare for the exam. I need to emphasize that I am talking about preparing for the exam and not learning the subject. This time period probably the most optinal. if we extended the preparation time, the materials studied two months ago would start fading away. Therefore, the candidates have the same time period prepare for a more extensive exam that probably also contributes to the declining MBE scores.

Additonally, looking at the MBE statistics, after each change of MBE rules (increase of number of unscored question, new subject) we saw dramatical decline in the average score compared to previous years. It might suggest that the applied statistical method is not perfectly compensate the changes.

Finally, MBE rule changes have a negative impact on the California part as well. It arises from the simple fact that the candidates have less time to prepare for the essays.

Best regards,

Max Ghenis

California's lawyer shortage means too many consumers don't get the legal advice they need. They resort to worse services like online research, and end up without proper counsel and justice. Accepting more lawyers would reduce this problem and provide work opportunities for many who want to practice low-level law.

Anonymous

The cut score should be lowered to a reasonable score below 1414.

Meeta Chetal

It is difficult as it is to know the rules of 14 subject areas of the law for the bar exam and under time pressure and anxiety it is difficult to recall rules. Making it less difficult would me more appreciated New York bar I heard had reduced their subject matter so at this time California is the toughest bar to pass. In real life these rules can be looked up by lawyers so even the most smartest of individuals would have a hard time to meomorize 14 subject rules.

S - ABA Law School Graduate Awaiting Bar Results

I think it should be lower than the 1414 recommended score. But I can live with a 1414 cut if you so choose. We are in hundreds of thousands of dollars school loan debt, please reform the bar by cutting the score to help us get jobs.

Anonymous

I agree that the cut score should be lowered to at least 1414. However, I think that is a very small difference and the Supreme Court should consider lowering it even further. The overall ability of an attorney in practice does not hinge on successfully answering multiple choice questions.

Melanie Mesiroff

The current cut score is higher than all bar exam scores (except Delaware). It should be lowered permanently and especially given the fact that the July 2017 bar was the first new format/2 day exam offered.

Andrew Cutrow - UTA

The bar should be on par with the NY pass rate. If you're going to continue to saddle people with student debt and force them to pay more than a thousand dollars just to take the test, it is absurd and borderline insulting to continue making the test this difficult to pass. I doubt older attorneys taking this test could pass first time were they coming out of law school. That said if the goal is to leave this earth with the younger generation increasingly incapable of financial freedom, you're doing positively fantastic. Real bang up job.

Anonymous

I agree that the cut score should be lowered. I fail to see what the concern is with the cut score of 1414, it is "de minimis". California's Bar sets an unreasonably high cut score, taking into account the already unreasonably high requirement expectation for each essay - it is ludicrous that scores of 50's 55's are given for essays that are written for an hour. The Bar should evaluate the graders as some of them grade harder than others; the graders that routinely give scores of 50's and 55's should not be allowed to be a grader again.

The cut score that the Supreme Court set should be retroactive to the July 2017 Bar.

Christina Strickland - Board of Parole Hearings

This should also be applied to the previous bar exams, prior to July 2017. Those of us who were subjected to the higher pass score put forth a tremendous amoutn of effort, and those of us who scored above 1414 on past bars should have the opportunity to show that they have met the new threshold. To apply this to only the most recent bar and the future bars will show that there was a problem, but not provide a remedy to those who were subjected to a problematic test. I personally have taken the bar multiple times and have scored above 1414 more than once. While it is true that I would likely be able to take the test one more time and pass, I have already exerted so much effort including, time, stress, money, and personal sacrafice, that I should not be forced to endure the test again, much less pay for it. Myslef and those like me should be given the benefit of the new pass rate, if it is accepted as a recommendation. Or in the alternative, we should be allowed to take the test free of cost in the future.

Anonymous

The test is deterring qualified attorneys from practicing while gaining meaningful employment. This is outrageous.

Anonymous

I have taken (and passed) the bar exam in three states: Florida, Massachusetts, and Illinois. All three states have a lower "cut score" than California (136 for Florida, 135 for Massachusetts, 134 for Illinois). Illinois recently raised its cut score two points, first to 133 in 2015, and then to 134 this year. This was the first time that the Illinois Board of Admissions raised the score since 1994, and they did so to ensure a level of minimal competence among Illinois attorneys.

If the bar exam is designed to test "minimal competence," it seems very strange that "minimal competence" in California would be 8 points higher than in Florida, 9 points higher than Massachusetts, or 10 points higher than even Illinois's new higher cut score. All three of those states base 50% of the overall score on the MBE, as California now does beginning July 2017. Is "minimal competence" for a lawyer in California that much more stringent of a standard to justify having a score so far above the mainstream score in other major legal markets? I would argue that the cut score should be lowered even farther than 1414, putting California more in line with other major states like those mentioned above, as well as New York (133), Texas (135), Georgia (135), Ohio (135), and Pennsylvania (136). But, at the very least, the score should be lowered to the proposed Option 2, to a new score of 1414.

Anonymous

With a 47% pass rate for first time ABA accredited graduates, something is wrong. Students who can matriculate and graduate from ABA accredited law schools should not be bogged down with the be struggling, having proven themselves as qualified law school applicants, who found success in school.

Anonymous

The exam ought to be all essay and no MBE. The MBE does nothing to indicate that someone will be competent to practice. The cut score should be lower than 1414 or alternatively the ratio of the value of the essay vs. MBE should be restored to 65:35 (as it was for the three day exam) to put more weight on being a competent writer. Excelling in standardized multiple choice test taking is not a valuable legal skill. Frankly, the MBE should be removed, but I know this will never happen.

Anonymous

I agreed with Option 2, to lower the cut score to 1414. However, I believe the cut score should be lowered further.

Kamari Muhammad - Calif School of Law

Make the exam simulate real life work . ATTYs are not expected to argue a case in 90 min. Also , you are exhausted from doing 5 essays so the performance test will not be your best work simply. Because you are Tired and most people cannot think clearly when tired.

Anonymous

I am licensed in three jurisdictions other than CA and have passed two other states' bar exams. I failed the Feb 2017 attorneys only exam and am awaiting results from July. I have been a practicing attorney for ten years, working in family law related litigation and appeals. I personally feel that CA's high score is only serving the interests of the attorneys already admitted to practice by keeping out other attorneys who are qualified to practice law. It is controlling the market to limit competition for business. I would argue that part of the ethical responsibilities attorneys have is to welcome those who are qualified even though they may create competition. I understand the desire to have high standards to admit and hold attorneys to. However, lowering the cut score does not necessarily mean admitting unqualified attorneys. There are other requirements and safeguards in place to ensure the quality of legal representation in CA remains high. Admitting even more qualified attorneys will ensure that there are attorneys are available to serve the needs of CA.

Also, I will note that I am considering relocating out of CA and back to my original jurisdiction of practice if I learn I was unsuccessful on the July exam. For me it's not worth fighting an uphill battle when I know I am a highly qualified attorney who could practice in any other state in the country. I know I not the only who will or who has already made such a move for these reasons, which results in the bar and the state, as a whole, losing members and residents.

Thank you for your consideration.

Juneko Robinson - O'Brien Immigration

At the current rate, California does not appear to be adding a sufficient number of attorneys each year to be able to meet the current demands based on population growth alone, to say nothing of addressing current access to justice problems with large swaths of the population. Although I am concerned with maintaining standards for entering attorneys, the low bar passage rate is not necessarily reflective of a lack of command of the law, but rather is more likely to be a measure of how well you understand the requirements of the exam itself, your ability to afford a bar tutorial class, as well as how well you perform under artificial time constraints. This places at a disadvantage students whose first language is not English even if they are otherwise fluent, as well as those who read or write slower or who cannot touch type quickly--hardly the kinds of gatekeeping mechanisms we should be striving to maintain. In 2015, the National Conference of Bar Examiners found that New York state added some 8,209 new attorneys while California admitted 2,400 fewer attorneys to practice despite having a population that is roughly double the population. It appears that what is needed is a nationwide study of the relationship, if any, between bar passage rates and attorney discipline and/or disbarment rates. We need to know whether states with higher bar passage rates are more likely to have attorney discipline issues and whether the two are statistically correlated in a strong fashion. We do need to maintain quality, but we must also take steps to ensure that all Californians have access to an attorney when they need one and that the bar is as diverse as the people it purports to represent.

Anonymous

I am a New York barred attorney, licensed to practice since 19999. That means that I graduated from law school in 1998 Requiring out of state older attorneys to relearn subjects irrelevant to their practice and initially learned 20 years earlier in their first or second year of law school is ridiculous. My problem isn't with the scores per se, but instead with the grading. To increase my chances of passing, I took the full exam. Despite scoring in the top 90th percentile, I failed the written portion. As my writing not only got me through three years of law school (graduating with honors), it also got me through 20 years of successful trial/litigation practice. I believe that is a better showing of my abilities to practice law than are some essays that are required to be in a specific format, againnot representative of actual practice. Nonetheless, the fact that I surpassed 90 percent of our nation In the mbe, including newly graduated law students, the fact that I failed the bar is indicative of the ridiculous grading standards on the essays. Sorry that this comment doesn't use the bar required "headings." I hope it is nonetheless readable.

Patricia Kelly Carlin

My question is what is causing declining pass rate?

Is it that new graduates are not able to focus as they are effected by trends generally related to a declining rate of attention span with the use of computers and iPhones etc? Is it that students are not as prepared for the exam? Is the exam getting harder? Are graders being harder on how they are evaluating the exams?

These questions need to be answered in order to truly assess whether lowering the passing score makes sense. Also, are there other strengths these folks are bringing to the table? Do we actually want these folks practicing as they have other strengths the profession needs? Are we short on practicing attorneys so there is a compelling need to pass more students into the profession.

It seems to me that lowering the score a few dozen points is not going to significantly diminish the quality of the folks passing this exam.

For those feeling that their efforts to prep and take the bar exam and pass it under the more rigorous standard feel they are being cheated by the score being lowered, they (I) can still brag that they passed the exam under the more rigorous standard.

Good luck to all...

Carol Schmid-Frazee - In -House Counsel

I recommend that we reduce the cut score on the California Bar so that there is commensurate pass rate with other similarly situated states, like New York and the District of Columbia. At a time when many significant legal issues impact people at all economic levels in California, we should not make Bar Passage so difficult in California that those, and particularly those in California's many diverse communities, cannot pass the Bar and provide assistance to those in their communities.

Chase Whiting - Georgetown Law

The current cut score is set at a level that creates serious restrictions on those who may become an attorney in California -- people who grew up low-income or in non-majority communities are placed at a serious disadvantage against white and wealthy people who have obtained educational opportunities that make them more likely to succeed on standardized tests.

The effect of the current system is to institutionalize racial and class-based discrimination.

Anonymous

By my calculation, lowering the cut score to 1414 lowers the cut by only 2%, from about 72% to about 70%. That 2% difference is not going to allow unqualified, lazy or unintelligent applicants to pass. However, it will prevent the failure of applicants who are intelligent and ready to contribute to the legal community and the community at large. I am a currently practicing attorney, and I appreciate the concern of keeping a standard that creates a high barrier to entry - practicing attorneys want to protect their market share. But passing the bar is not a free ride to a full client portfolio. It merely means you've passed the written part - there is a lot more involved in being an attorney than memorizing and passing a test, whether the required passing score is 100% or 72% or 70%.

My point is, let's not exclude good lawyers over 2% points. CA can move to 70% (1414) and still be on the high end of required scores.

Roxanne Huddleston - Law Offices of Roxanne Huddleston

I'm shocked by the question posed to Bar members asking if the Bar needs to lower its standards to increase diversity--the obvious implication of that question is that women & minorities are incapable of meeting high standards. This sort of thinking hurts diversity by encouraging everyone to believe female and minority candidates cannot compete without special help and is a barrier to equal opportunity throughout their careers. The Bar should not encourage the belief that women and minorities can only succeed if standards are lowered.
Student debt, too, is entirely irrelevant to measuring the ability to practice law. I think the cut rate should be lowered because California is an outlier but not so less competent attorneys can gain employment, debt laden or not.

Patricia Hamilton

The declining bar rates do not just reflect the quality of law school education. They also reflect the reclining public school and college educations. I recently read that remedial college classes are being eliminated because they are causing people to drop out. Children aren't getting more stupid;we are failing them On lowering the cutoff score, law schools need to consider modifying law school teaching methods. Students need to graduate law school with exceptional critical thinking and writing skills.

Jasmine Wong - Stanford Law School

I believe stricter standards should be adopted, not at the bar exam stage, but at the law school stage. In other words, there should be more filtering of lawyer candidates at law schools, such as by tightly regulating which graduates may take the bar exam. For example, I strongly urge the State Bar to consider shutting down non-accredited law schools or simply prohibiting graduates from non-accredited law schools from taking the bar exam. In my opinion, trying to filter candidates at the bar exam stage is too obtuse of a way to 'protect the public'.

Anonymous

It’s hardly a giant surprise that a study that the bar commissioned and whose terms and approach they defined has managed to come out with a recommendation that supports almost precisely what they’ve been doing without evidence for the past 30 years.

— Jennifer Mnookin, law dean at UCLA, commenting on a study prepared for the California State Bar by educational consulting firm ACS Ventures, on the state’s contentiously high bar exam minimum passing score.

The cut score should be much, much lower, in the low 1200s perhaps.

"Did the State Bar of California have research indicating that its cut score of 144 was more protective of the public than New York’s 133? Twenty (out of 21) deans of ABA-accredited law schools in California wrote in protest to the state Supreme Court, which has authority over the bar. Several of us later testified on the subject at a hearing before the California Assembly’s Judiciary Committee, where Elizabeth Rindskopf Parker, the state bar’s executive director, told the committee that “there is no good answer” for why the California cut score is so high."
- Dean David L. Faigman

It is an embarrassment that the State Bar cannot be trusted to make good faith recommendations, that they choose protectionism over the public interest.

Jo Anne Schram - West Coast University

Think Bar exam cut score should be 1400.

Another option would be to split the exam and let people take MBE and must get a minimal score and can do the essays/PT separate (section the exam so people can focus on one part at a time)

Anonymous

It is ridiculous that the pass rate is so low in California. It seems like "The good ole boys network " . I think the Bar is trying to make extra money by making students fail so they have to reapply and the Bar makes more money for retakes.

Kellen Enz - Federal government

Lower score to 1400.

Anonymous

The bar exam is an exam of minimum competence. The committee in California sees the bar exam as a test that only a few "experts" can pass and the declining rates indicate this theory. Rather than torturing students into passing a nearly impossible exam, the cut score should be lowered to better reflect the exam as testing minimum competency. Furthermore, there is inconsistent grading with regard to the essays. There are countless examples of exams where scores on essays are scored over 75 and some that look identical will be at 55 or below. There is no transparency in the grading which is crucial.

Anonymous

I wouldn't necessarily say that the high score is the problem itself, so much that the bar exam is not an accurate reflection of a lawyer's knowledge, or more importantly, an accurate representative of what an attorney will face in reality. It's great to have a basic understanding of all the topics but once someone is an attorney they will not require such an in-depth knowledge of all the subjects. The will niche into the fields that are relevant to their jobs. Further, they won't have one hour or two minutes to survey a question and analyze it. Most attorneys end up researching (or giving to interns to research) whatever new and unfamiliar issue comes their way, and usually they have a lot of time to address the issues, or may ask the court for additional time. Additionally, a lot of the questions on the bar are not clear enough, or short enough for the time frame given to answer these questions. The high score required under CA would make sense, if the concerns the bar examiners may have--i.e. to have an attorney who is capable and knowledgeable enough so as not to render ineffective legal service and consequently damage the field's reputation and irreparably harm innocent clients--were served. As the bar exam stands it does NOT serve these interests. All the bar tests is examination-taking and memorization ability.

I think a better method to address these concerns are to test mostly in the format of PTs, and to test only evidence, criminal procedure, and civil procedure (and perhaps constitutional law). Though not a perfect assessment, PTs better analyze what an attorney might do in real life, by looking at their ability to analyze and apply issues to real life cases. The three subjects mentioned previously, are significant to know in order to protect client interests and to avoid wasting the court's time. They arguably govern no matter what field of law you are in. Clearly civil procedure is imperative to rendering effective service since it dictates how the courts operate. Criminal procedure is also imperative in order to protect the client's interests, and because a lack of knowledge can waive an important right. The same goes for evidence. These fields are significant so as not to result in a waiver of protection for clients. Constitutional law is important more so on a general over-broad sense. However, the other subjects tested, including Constitutional Law, will be only relevant if the job and field one is in involves those topics. Otherwise, they will not be necessary to know, nor will be used, and thus the Bar Exam will not accurately show whether an attorney will in fact be a good one or not, if it tests the ability to memorize the law on fields the future attorney will never use.

Anonymous

The cut score should be lowered to where the various deans of CA law schools recommend (133-136).

Raymond Lewis - Law Office of Ray Lewis

To the State Bar of California:

The current cut score is too high, and should be lowered to align with the national average, or be set at 1400.

The passage rate for years was 70%, and I believe this served the State Bar well.

I have submitted the survey, and would agree that the current cut score (which is the second highest in the nation) does impose a huge burden of student loan debt on a higher number of unsuccessful applicants. I also believe that a significant number of minority applicants, and applicants from diverse backgrounds who would otherwise be providing services to underserved populations are disproportionately affected and the those underserved populations are suffering from a lack of legal services. Our State Bar would benefit from increasing diversity among new applicants.

I also realize that maintaining the integrity of the profession is a goal that should honored, but I do not believe that lowering the current cut score by a couple of points on the bar exam will have a direct effect on the integrity of the profession. There are other factors at play, and the problems we face regarding attorney discipline and maintaining the integrity of the profession have more to do with the moral character of the subject attorney, and a lot less with whether he scored a 1440 or 1414 on the bar exam.

More Importantly, the Bar exam has now been cut to two days, with the multiple choice part of the exam accounting for at least one-half of an applicant's overall score. I believe that too much emphasis is being placed on a six-hour multiple choice exam as a measure of a potential applicant's ability to practice law. Over the years, we all have learned that the practice of law involves a comprehensive recognition of the critical facts presented, an understanding of the law and how it applies to those facts, and a well-reasoned application of the law to the facts to reach a reasonable conclusion. We all understand that ultimately there may be no right or wrong answer, and that the conclusion is often times not as important as the analysis and reasoning which forms the basis of the legal analysis. An applicant has a much greater opportunity to demonstrate these essential legal skills in a narrative response to an essay question, than he does in simply having to select the 'right answer'. (Either a,b,c,d, or all of the above.) Many times there is not just one right answer, but also a "righter" answer. (Pardon the grammer!).

I am acquainted with a current new applicant who took the July 2017 bar exam. He attended an accredited California law school, took classes year round while he was working in order to accelerate from a 4-year night program to finish in 3 years. He founded the Real Estate Law section and an Environmental Law Section at his school. He hosted public forums and televised public debates on real estate issues affecting his community, He graduated Cum Laude. He won the real estate Student Writing Competition hosted by CEB last year. He was selected by his school as "One to Watch". I believe this young man has exemplary character, and will pass the bar exam and become a asset to our profession, However, the Bar must ask themselves a question. Should his ability to practice law be dependent on whether he happened to get 144 correct out of 200 on the multistate, instead of 141 out of 200? The multistate exam rewards the ability to select the 'right' answer, the 'right' conclusion. It does necessarily not allow an applicant the ability to explain a close call, demonstrate his or her analysis, and why one of the other options should be given due considered. Is it more expeditious to grade? Of course, but I have always been opposed to so much significance being placed on a multiple choice exam as a test of an individual's ability to practice law, and now, it counts for as much as 50% of the exam, because three additional essay exams have been taken away. What other profession awarding doctorate degrees requires such a potentially punitive exam? Most candidates in the sciences go through 'Orals', allowing them the ability to explain and demonstrate their knowledge and analysis of their subject of choice.

In sum, my answer is YES, the cut score should be lowered. I believe many well-qualified candidates are being deprived of the ability to practice a profession that they have been well-trained and well-prepared to do.

Hannah Bertrando - Santa Clara University School of Law

I believe lowering the cut score to 1414 will strike the appropriate balance between maintaining the integrity of the profession and allowing ABA law school graduates a meaningful Janice at passing the CBX on the first try.

Anonymous

I believe that lowering the cut score to 1414 will be good for the people of the state of California, especially our underserved communities of color. For a variety of reasons, students from underrepreent d groups (Black, Latino, Native American) are underrepresented in higher education. This leads to a limited group of potential lawyers from this group. These students often have a strong connection to the communities they come from and are more likely to serve the needs of these people. A lower cut score could ensure that a higher number of Black, Latino, and Native American students become licensed lawyers and are able to provide legal services and advocacy for these communities, which is an important goal of the state bar association.

Anonymous

I agree with option two simply because I sat for the July, 2017 CBX. However, my overall opinion is that it is imperative that CA not lower the cut score simply because of applicant's inability to pass the test. The state should do its best to determine why people are now passing at lower rates and then make a downward adjustment only if done for the right reasons. Are fewer people passing because the questions are more difficult? The graders are being more "tough"? Or are law schools failing to adequately prepare students for either a) the legal profession, or b) the bar exam? And should a law school's goal be to prepare people to pass the bar, or is that the applicant's responsibility?

If fewer people are passing because law schools aren't doing their jobs, or because they are admitting students who aren't qualified to practice law, then absolutely do not lower the cut score because we need to ensure that only qualified applicants are licensed.

If on the other hand there are issues with the test (confusing or obscure questions), or with grading, of if CA has unrealistically high expectations for a passing score, then considering lowering the cut score.

It is clear that students from the higher tier schools pass with more regularity than the lower-tier schools. So I tend to think the low passage rate has more to do with the lower-tier schools admitting less than qualified students in order to maintain revenue streams than it has to do with the difficulty of the bar exam.

Bottom line, ensure competency is not compromised, but also ensure the test is fair.

Samantha

While ensuring that only qualified graduates are licensed in California to practice law is extremely important, the bar, in its current form, does not do its job in separating in separating unqualified graduates from qualified graduates. I have worked in a law firm since my graduation and 2011--I have conducted discovery, written briefs, complaints, declarations, done client intake and interviews, drafted contracts and fee agreements and have been extremely successful in functioning in a lawyer's world. Yet despite graduating from an Ivy League college Cum Laude, and an ABA accredited law school--I have been unable to pass this exam. If you were to sit me in a room I could lecture you on every topic and the nuances of the law, but the bar doesn't necessarily reward novel thinking or profound understanding--rather we are told to memorize, memorize, memorize without digesting that with which we are told to memorize. The bar doesn't reward ingenuity, profundity or intelligence but rather rewards those students who have successfully memorized the Barbri Templates for each topic. The bar and its failures can be noticed by looking at bar prep in general--what are we given in bar prep? mad lib like legal templates we are supposed to remember and then fill in with the applicable facts--we are told not to go too deep, don't waist time on really understanding the law or the reasons for which the law was created--don't question--just memorize.

I am confident in my abilities to be a lawyer, as is my firm, but yet 3 years out of law school and I have still been unable to pass. I work at a civil rights law firm and love the people i work with and help--to give that up not because of my inability but because of this one requirement that I cannot seem to overcome--a requirement that doesn't do its job and kills the dreams of many tenacious and competent graduates is honestly just sad--sad for the legal community and for those that we have helped. I understand the need to keep bar passage rates low and manageable. but the grading system used currently is unfair and cruel. Part of my fear in taking the bar again, is that I don't trust the results. Even if I feel as though I nailed the bar there is wide disparity between different graders views on the score of an essay as well as a disparity in grades based on whether your test was reviewed towards the beginning of the bar grading period, or towards the end. If the goal is to really weed out those incompetent to practice--there are other methods of doing so--change the professional rules of responsibility--make disbarment a more common remedy for malpratice, require more than self reporting of violations but make it mandatory for other lawyers to report any misconduct that they have witnessed. Don't punish the people who need legal resources and the people who have worked so hard to become effective advocates for the law. Please lower the cut score so I can move forward with my life and career. I cannot afford to take the bar again, therefore if I did not pass the July bar--despite my love and passion for what I do--right now assisting a family in a police brutality case. and another in a rape case--I will have no choice but to find a new career path--solely because my bar results don't meet California's minimum cut score.

Anonymous

This is the first year a 2 day bar has been implemented, so there is no actual precedent to use the 1440 cut line. The fact is that every bar exam in CA has been a 3 day exam in a different format. Therefore, to use the same higher cut line for a three day exam with a two day exam would not make sense. With a three day exam a higher cut line at 1440 is reasonable because there is more opportunity to gain points throughout the exam. But with the two day exam, there is a greater need to do better on the individual problems and thus having a lower cut score at 1414 would comport with the lack of opportunity to gain points over more questions.

The two day exam is experimental in itself and the results that will come from it cannot be anticipated. Because the CA Bar Committee decided to change the format without anyone yet knowing the ramifications of doing so, may have put this years bar exam takers at a greater disadvantage than any other generation. Although some may argue that its better for us to have a shorter exam, this generation has nothing to base our expectations on, while every generation before this one, knew exactly the breakdown and pattern of how the exam scores. Therefore, the judicious thing to do would be to slightly lower the cut score to 1414 because (1) there was less opportunity to get away with making mistakes in the exam and passing and (2) know one yet knows the implications of a two day bar on bar results, unlike every three day bar exam taker before this years bar.

Thank you for your consideration.

Anonymous

The cut score should be lowered to 1350-1360 to be consistent with cut scores in the majority of jurisdictions. It is not clear to me why California needs to establish a cut score that is 8-9 points higher than the national mean.

Anonymous

The cut score should be lower than 1414.

Anonymous

I strongly support lowering the cut score to 1414. I can think of no valid justification for why our cut score is so much higher than New York's, a state with a legal industry very similar to California's.

Anonymous

The Cut Score Should Be Reduced to 1390, And Here's Why

The significance of the modification is not just to lower the cut score for the sake of appearances to the California Supreme Court that the State Bar has made some attempt to address its growing concerns. Instead, the significance is to approach the rest of the nation in bar passage and not have California stand out for all of the wrong reasons.

I am sure the State Bar is aware of all statistical information available on applicants and bar passage. However, I would like to draw attention to NCBE's published 2016 Bar Examination and Admission Statistics. Therein, no other state that administers the bar exam in February and July has a total bar passage rate below 50% aside from California. California is significantly lower with a 40% overall passage rate. This data includes that of New York, which has been most often compared to California in terms of passage difficulty. If the State Bar of California justifies its low passage rate being due to trying to keep lawyer population down within the state, I ask that it look at its counterpart, New York, and the fact that with even more applicants in a less populated state than California, still passed over 3,000 more applicants.

This is just one area of the statistical data that shows how unjustifiably difficult the California Bar Exam is to pass, especially when compared to the rest of the nation. If lowering the cut score to 1414 will only increase the bar passage rate by 3-4%, then the modification falls short. Based on the data mentioned above, California has a 10% difference in bar passage rate from that of any other state. Therefore, the cut score should be lowered to at least 1390 to achieve the 50% passage rate. Anything less and the State Bar has failed to make any significant attempt to rectify the doubts that the Supreme Court has in its ability to set the cut score for the exam.

Stephen Dill

I believe the passing score for the California Bar Examination should be lowered further than 1414.

Far too often the California Bar Examination receives attention to its minimum required score on the Multistate Bar Examination (MBE) portion of the examination. However, the MBE is a national test that is scored objectively, i.e., either an individual answered the question correctly or not. The only issue regarding the MBE is that most find that the required minimum cut-off score set by the State Bar of California is too high. I agree.

However, what gets little attention is the subjective scoring of the essays and practice portion of the examination. Over the years, graders have drastically skewed the scoring downward. When reviewing answers to essay and practice questions, an average answer (essentially a “C” and therefore supposedly passing answer) is given a 50. A “C Plus” answer is given a 55. However, to pass the California Bar Examination a test taker must average somewhere above a 65 on each essay and practical question. A 65-70 score equates to a "B Plus-A minus" answer. Therefore, it is too high a hurdle.

Take for instance test takers who are members in good standing of the bars of other states and who have practiced law for more than 5 years. They are not required to take the MBE and take the Attorney Exam, which consists solely of the essay and practice questions. This group has one of the lowest pass rates annually due to the onerous and purely subjective grading of answers to the essay and practice questions.

The scoring of the written portion of the test must be made fair. An average answer should be given at least an average score of 65.

I expect that If the State Bar lowers the passing score to 1414, then graders of the written exam will only score the answers to the essays and practice portion of the exam even lower, thus negating the effect of any lowering of the MBE cut-off score and overall passing score.

Anonymous

Lower the cut score to even more than 1414

Anonymous

Curve the exam so that the majority of people will pass the essays. Or lower the score like other jurisdictions.

Aalia

I am a recent graduate of Emory University. I worked hard, got above-median grades, and excelled at several positions where I took on duties of a practicing attorney. My experience and credentials would lead most to believe I am competent to be a practicing attorney. However, despite studying with every ounce I had in me, following a $3000 bar prep course, practicing real MBE questions, writing out and scoring well on countless essays. I am still positive I failed the bar exam. The bar exam does not test competency -- it tests for genius. By forcing students who are competent to reach cutoff scores that are unrealistic even for the brightest among us, the state of California is consequently keeping out attorneys who could really make a difference in the legal practice, in the economy, and for many lives.

I urge that you consider lowering the score to a cutoff that allows truly competent attorneys -- and not just the Scalias of our time-- to practice what we spent our lives preparing for.

Anonymous

I understand the CA Bar's desire to protect consumers from unqualified attorneys and the goal of maintaining the high standard of attorneys in the state. However, the subject matter tested in the bar exam most likely has no bearing on how competent the student will ultimately be as an attorney. We just need to look at the number of well known public figures in the legal community who took more than one attempt to pass the bar to show that there is little correlation between the cited goals of the State Bar and the passing score. Further, does New York (or other states with lower passing scores, suffer from an increased number of legal malpractice claims or disciplinary proceedings in comparison to California?) I doubt it. Strengthening continued legal education requirements would address any on going competence issues in a more helpful way.

Anonymous

I disagree with option 2 because it still sets a cut score much higher than the national average. The cut score should be in line with the rest of the country. The cut score is discriminatory. There is no legitimate reason why the cut score is higher than the other states. How can a lawyer be competent to practice in New York, but not California. The new proposed cut score of 1414 would still make California higher than New York. This is wrong folks.

Steven Gonzalez - Polsinelli

I want to thank the California State Bar for taking the opportunity to critically examine the current cut score for the Bar Exam. I believe the results of the study are informative, but should not necessarily be used for their numerical outcome. That is, the distribution of scores that resulted from the study's methodology should not pigeonhole discussions of the appropriate score. While it may be tempting to design and use the results of a study that produces such quantitative results, the emphasis should be on the State Bar report's discussion on the competing policies at stake in setting a cut score.

To use 1440 as the cut score, simply because the methodology supposes that this is the score that reflects "minimum competency" would elevate that one policy above all the other competing policies. That choice would feel logical, because the phrase "minimum competency" suggests that anything below that would lead to incompetent legal services. But, "minimum competency" is a difficult concept. This minimum competency presupposes that memorization of 16 subjects of law is an important element of legal competence. Yes, there are a number of other skills displayed in the Bar Exam essays, but the root of it all is rote memorization. To suggest that this skill is either the most important or even a requisite to competent legal services in the modern age of practice specialization and electronic legal research tools appears outdated. Furthermore, the methodology of the study did not consider the Multistate portion of the exam, except insofar as it is "scaled" the same as the essays. This further narrows the scope of the examined minimum competency to be that which can be displayed in an essay. While writing is undoubtedly important for legal practice, I have already discussed that rote memorization was one of the largest components scored on the essays. So, if memorization is so important, why only examine the type of memorization tested in essays (unaided recall) and not multiple choice examination (prompted recall). This incomplete picture of competence compounds the already-mentioned problem of using recall as a measure of competence in the first place.

Another issue with using minimum competence as the primary policy upon which to base a cut score is the obvious issue that the overwhelming majority of other states have lower cut scores. This means that the individuals who determined this study's definition of minimum competence must believe that a large portion of the test-takers who pass in these other jurisdictions are incompetent. This is not necessarily unjustifiable, but the burden should be on the State Bar to demonstrate why California believes their licensed lawyers need to be MORE competent than a portion of other state's lawyers. As far as I know there is no study of the relative complexity or vulnerability of the cases or clients in California as compared to other jurisdictions. This is especially complicated when other large states with complex industries (e.g., New York) have cut scores significantly lowers than California's. Can California make a credible claim that its attorneys need to be more competent than attorneys that handle the complex financial institutions in New York?

This indeterminate discussion of minimum competence leads to one big question: upon what principles should the

cut score be based when the primary characteristic (minimum competence) is shrouded in uncertainty? This is answered by looking at the State Bar's discussion in their report of the varying policies at stake. I am heartened that the report already recognizes that there are important reasons to prefer being over-, rather than under-, inclusive in cut score that should represent the class of minimally qualified individuals. I further recognize the value in the State Bar's conclusion that reduction to the cut score should be temporary to conduct further study of the impacts of a reduction--this is the kind of conclusion that uncertainty merits. However, there is a very real human element that I believe needs to be given far more weight in the calculus than the report appeared to give.

This human element is that of the graduating law students. While access to justice and diversity are important goals that merit a reduction in the cut score, they apply broadly to the profession and society and their impact is somewhat speculative. On the other hand, for every law graduate that fails the exam, when they otherwise could have been admitted in other jurisdictions, there is a discrete and measurable impact. These people's careers, livelihood, and mental health is severely at risk. Students take on unbearable debt to attend law school with the promise that they may obtain gainful employment after they graduate. But, the legal profession has decided to put such a strict gatekeeper at the END of the schooling process, rather than at the beginning. It is only after the student is saddled with debt, with no option to reneg, that they have the option of the rug being pulled out from under them. Even the possibility of this is taxing on a student or their families. To think that someone might have a child that they need to provide for, with the attendant stress of uncertainty over an exam score. 6 months this family has to live with a metaphorical guillotine above their necks--all over a score. I get it, some people have to fail. There are some good reasons for having a cut score, or having a Bar Exam at all. Personally, I believe there are better alternatives that could be applied earlier in the process to avoid this post-facto result (e.g., raising education standards), but I get it. But, do we have to make the process so Draconian that over half of those who graduate are barred from the process? Nevermind the serious issues with transparency--how many law-school applicants truly appreciate the fact that they have only a coin-flip's chance of getting gainful employment?

All of this is to say that the current cut score is based on indeterminate and subjective criteria that appear to most observers to be a poor measure of legal competence anyway. There are powerful, human reasons to admit more graduates to the bar exam. Even if there may be some downside risk, this risk should not have to be borne by graduates who have no escape from this process they may not have fully appreciated that they even undertook. The risk should be distributed among society, and should be mitigated going forward, not applied to people after they have already graduated.

The State Bar should lower the cut score dramatically, lower than the recommended 1410, but do so temporarily. Let the students who are currently entering law school be the last to have this temporary score applied to them, and seek to alleviate the downside risks of the policy in the meantime. The current cut score is arbitrary and inhumane--California needs to join the other jurisdictions by setting their score somewhere in the average range, until such time as rigorous studies and policy discussion can meet their burden of proving that this cruelty is justified.

Thank you for considering my comments, I appreciate the opportunity to have my opinion heard.

Otto Steinbusch

The current cut score is unreasonably high. The cut score should be lowered, to 1414 or lower.

As a first-time taker in July 2016 (from an ABA accredited law school), the relevant pass-rate was close to 50%. Students like me are expected to take this gamble *after* having spent years of effort in law school (and a lot of money), in addition to a few months of full-time bar prep. My JD degree is virtually worthless without passing this exam. For thousands of people who didn't pass, their careers and dreams are put on hold or destroyed, *after* they have fully committed to their education, and invested a lot of effort and money.

Personally, as a professional and a provider for my family, I cannot afford to take 2 or 3 months off, again and again, to study for this test. This means I have a few opportunities to pass (say 3 chances max) and after that, my entire investment in law school has been rendered worthless. I cannot take this test 10 times. No student should be expected to take this test many times.

It would be less destructive if students were forced to take a test such as the bar exam at an earlier stage. For example, prior to enrollment, or after the first year of law school.

Additional changes that should be considered:

* reduce the number of topics on the exam by half (e.g., PR has been covered by the MPRE and should be removed from this exam). For example, wills, trusts, UCC, and business associations should not be part of this exam at all.

* reduce the scope of each topic to a more reasonable amount (e.g., some topics such as con law or civ pro are just unwieldy right now).

* let a passing score in a particular area (written or MBE) stand and count for future tests, so a student is allowed to pass the essays on one examination and the MBE part on a next examination.

* release 100 new test questions per MBE topic to allow students to better prepare themselves. This is needed because the currently released MBE questions are much easier than the actual questions on the exam.

Finally, is there any evidence that states with a pass rate of 80% or higher suffer from having bad attorneys in any way? Perhaps that argument ("protecting the public from bad attorneys") is more myth than reality.

Anonymous

It should be lowered to the average in states across the country.

Anonymous

The Bar exam has little relationship to the practice of law. At one time law schools taught to the Bar exam, which increased the pass rate. Today most law schools teach students how to practice law, which actually makes for better attorneys while lowering the pass rate of the exam.

Jingnan Yang - USC Gould School of Law- newly admitted student

Many law students want to practice law in CA but they might be prevented from it due to the high cut score. Just one time exam score can not represent the abilities of one law student. If a person is not eligible for practicing law then the labor market will weed him or her out eventually. However, all the law students have the rights to get an opportunity to practice law in any state they want when they are basically eligible.

Anonymous

If the cut score is changed I recommend it be applied to anyone who tested in the last 24 months.

Anonymous

I believe that California Bar Exam's cut score has to maintain with that of the New York Bar because the high cut score would give burdens against students and employment rate of law school graduates, law school, the public and racial diversity.

This discrimination in cut score would provide social and economic burden. It is difficult to evaluate with only two day exams for applicant's practice capacity.

I strongly believe that all of works for attorny can compete in the practice. Cal Bar committee has to provide much more opportunities to a variety of fileds of race, ethnity, sex, minor. In order to do this, Bar cut score must lower much more, like New York State.

Anonymous

I am an attorney admitted in New York State and I took the CA bar in July 2017 with results pending. I believe the rate should be cut because I have seen the devastation not passing the bar has caused to several colleagues who have scores in the 1420's, for example. Not being able to get a job and pay back loans is an incredible burden. I don't believe the bar exam pass score is indicative of whether you will be a good attorney. I believe I am a good attorney, but by crossing state lines, I now have my career potentially on hold if I do not pass the bar exam. Having such a hard CA bar has real life implications to many people and it should be revisited.

Anonymous

The cut score should be lowered below 1414. The pass rate for the California Bar pass rate is too low, it has consistently been below 50%. The California Bar is supposed to be a minimum competency test. The difficulty of the California bar does not reflect national standards in the profession, and is unfairly difficult. The cost of the bar combined with the low pass score is discriminatory against low-income law school graduates.

Anonymous

The current cut score poses a serious threat to qualified future attorneys who have the skill passion and knowledge to become outstanding attorneys. The way the bar test is designed is not a true representation of real life practice. The cut score is not a true indication of the knowledge the applicant truly holds. Therefore, the score should be reduced to bettter Match the cut scores of other states.

Dennis Johnson

I am one of the many law school graduates who is having great difficulty repaying my law school loans due to an inability thus far to pass the California Bar Exam. I had dreams of making a difference when I passed the bar exam. I graduated in 2008 at 39 years old, but have been working in low paying paralegal positions ever since. I am now 48 years old and have not paid down any of my loans. Attorneys for whom I work are often much younger than me, but know that I often know more about certain subject areas than do they. It would really help people like me if the bar exam were made less difficult. Instead, subjects keep getting added to the exam while the price and pass score remain very high. I think I would be an asset to the legal community, but have needed to work full time while studying due to my student loans. I believe lowering the passing score is a needed first step.

Marlon Marrache - LOS ANGELES POLICE DEPARTMENT

My Honorable State Bar of California Staff Members,

Please lower the cut scores as it allows a bit more of an opportunity to obtain a passing score. I would like to further explain during public comment hearing here in the Los Angeles office on Monday, August 14, 2017.

Anonymous

Previous bar exam pass rates have been extremely low and such trend would have a negative impact on the California legal industry in the long run. Even with the cut score of 1414, the California Bar passing score is still the second highest in the nation and the score is very reasonable in comparison with most other states.

Joseph S. - Stander, Rubens, Thomas & Kinsey

The consequences of failing the February 2017 exam by 2.2 points have been difficult and frustrating, and I approve of the recommended score lowering. For me, it has been hard making sure I can make payments on my student loans (200k+ after interest) and the long process of studying/waiting for bar results turns away employers and puts my life on hold for nearly half a year. The current score of 1440 is arbitrarily unfair and not predictive of a test-taker's preparedness to practice law.

Anonymous

It makes little sense why California cannot simply be in accord with other states. Why is it that as a law school graduate who lives in California, I am punished because my parents decided to raise me and my family in California? The fact that California Bar Committee cannot establish mere reason or rational for their cut score is enough reason to lower it. Other states have moved towards a uniform way of examination, yet California is stuck in its way and unreasonable standard of 1440. It is in my respectful, humble opinion that California falls in line with other states--near the 1336s. It is cruel to leave students in massive debt, after they've made a three-year investment, to be stuck due to an unexplainable standard.

California should lower its cut score to the 1330s.

Elissa Wellikson - retired

The problem is not the cut score. The problem is that the bar exam is not relevant to the materials being taught in law schools accredited by the by the ABA allowing people to graduate without a reasonable expectation of passing the Bar Exam and/or that the exam has little or no applicability to what knowledge is actually needed to successfully and ethically practice law in the state.

What does it say if students can graduate from an ABA-accredited California law schools have an average pass rate of 62 percent. 62% represents a failing grade FOR THE SCHOOLS! We aren't talking about marginal schools. UC Hastings 51% - an F, Santa Clara University 66% - a D+; UC Davis: 72% - a C-; UCLA 82%, a B-; UC Berkeley: 84% - a B-. This is embarrassing at the least and a fraud on the students at worst.

This is nothing new. When I took the Bar in California almost 25 years ago, having passed the bar on graduation 15 years prior to that in Pennsylvania and practiced law continuously thereafter, I was told that my experience practicing law would give me no advantage in passing the bar. How could that be? What sense does that make?

Don't just change the cut score. Make the exam relevant to practicing law and ensure the law schools teach the students what they need to know to be a successful and ethical lawyer in this state.

Anonymous

The graders of the essays do not spend enough time and effort on genuinely grading applicants' essays. Their focus is highly myopic and tends to be limited to structure over form. Consequently numerous applicants with reasonable determinations and critical analyses are graded exceptionally low. Given the highly subjective grading, the cut score should be lowered until the State Bar is willing to update its policies and criteria.

Cory Woodward - Office of the Inspector General

I believe the cut score should be lower than 1414 and more closer to the mean average of all 50 states. A lawyer in California does not have to be "smarter" than a lawyer in any other state. The notion that the cut score must be the among the highest in the United States is an elitist attitude based on egoism, pride and selfishness. In reality, the "smartest" students as indicated by GPA will go to those private firms that must display a stable of the "smartest" lawyers. In reality, the market itself will separate the lawyers of the highest competence and most driven personalities who can work for the firms who cater to the clientele wanting or requiring the highest competence and most driven personalities. In reality, the vast majority of people who need lawyers need lawyers who understand the basics of the law and have a more "common man" personality/attitude and will assist these people with their problem and guide them through the process.

I have been a lawyer for 17 years, and a judge for 13. Some of the finest lawyers I have observed come from second and third tier schools. Some of the least effective lawyers I have seen come from the highest tier schools. So to argue that the high cut score means that only competent lawyers are practicing is overly simplistic. There is no legitimate reason that California needs to be significantly different than all but one other state in the nation other than for the Committee of Bar Examiners to be able to puff out their chests and walk around in the thin air of superiority. New York's passage rate is about 21 percent higher than California. Can anybody persuasively argue that the citizens of New York are being fleeced by legal charlatans?

I believe that a lower cut score will allow increased access to the courts for underserved parts of our society. These underserved parts are not limited to minorities or low income individuals. There are many average, middle income people that represent themselves because the costs of lawyers are so high. One need only look at the number of pro per litigants in the family courtrooms of California. The high cost of legal services is a significant bar to access to our courts. This is a wrong that the legal profession can address. If the current stable of lawyers can be selective enough to only take the clients that can pay $300-400 dollars per hour, then there may many more lawyers out there willing to take their cases for a much more reasonable fee.

Thank you for the opportunity to comment on this issue. Any parent can tell you that the children of today are the beneficiaries of a quality of education that the parent did not have access to. I will never be persuaded that the law students of today are less intelligent than the previous generations of lawyers. The current cut score is not based on reason, but on simple perniciousness.

Anonymous

As a practicing attorney in Texas and New York who has first chaired complex civil cases, I found that the CA bar exam arbitrary scoring system is not indicative of the quality of an attorney and his or her ability to practice law in CA. In fact, I have pro hac viced in cases in CA and have found the actual practice to be much more similar than different than other jurisdictions. There is no basis for CA to set a score such that a qualified attorney in Texas and New York is unqualified to practice law in CA.

Kathleen Back - retired estate planing lawyer

After a person spends 3 years and considerable money preparing for a career in law they should not be barred from earning a living by an exam. The exam should be scrutinized to answer the following questions:

1. Is it a fair test?
2. Does it actually test what law schools are teaching?
3. If not- are law schools teaching the wrong things? or is the test testing the wrong things?
4. Or are grades in law schools meaningless?
5. One would think that if a student passes 3 years of law school they have gained the knowledge necessary to pass the exam as is true in other academic fields-- If this is not true-- Why not?
6. Is there a problem with the accreditation of law schools?

It is cruel to allow students to spend the time and money to go to law school believing they will be able to earn a living and then fail more than 50%-- there must be a better way whether it is: closing law schools that are money mills whose students have a low passage rate or lowering the cut or having testing over more years or mandating certain classes be taught or revising the whole test or some other creative idea

Anonymous

The standardized exam does not reflect an individual's ability to analyze and interpret laws and regulations. In fact, there are many law graduates that are currently employed as law clerks, but are performing attorney level work. The only difference being is that they are not able to sign paperwork and argue before the court. Furthermore, the standardized bar exam has allowed many incompetent attorneys to practice law, simply because they are good test takers and do not posses any ethical or legal training despite being in the profession for over a decade.

The California Bar Exam has been a complete arbitrary and unfair exam that has impacted bar candidates and their families negatively for number of reasons. First, the exam is not graded fairly because the graders are not reading everything and merely allow candidates to pass based on the "look" of the structure of the essays rather than its content. Second, the inability to obtain jobs in the legal field or obtaining a low-paying job due to bar exam fail rates has been causing financial strains on families. Specifically, even if candidates are able to obtain a position as a law clerk, they are under paid while expected to generate attorney-like work product. Furthermore, this bar exam has caused many people to suffer mentally and have resulted in suicide, which I personally experienced when two of my colleagues took their lives. Third, the arbitrary bar exam scoring has been adding to the debt of the state of California when there are many candidates that are capable of performing competent attorney work, which would allow them to pay back their loans and ease the financial burden and negative impact on their families.

Julian Angeles

The cut score should be brought down to the national average.

Two of the essay questions should be replaced with a second performance exam question. There should be more emphasis on legal research, and the MBE already tests applicants on rote memorization and application of rules. Also the essays should focus on the application of California rules, given that the MBE already tests federal rules.

Misty Giles

The California Bar Exam should be lowered to make pass rates more realistic. It is stated that the cut score should remain at its high level to ensure competency to practice law in the state of California. While we all agree that we want to protect the integrity of the profession, I do not believe that a high cut score is the solution. Rather, law schools should increase their admission standards versus lowering them such as in the recent years. Law school has become more about making money than allowing the right students to attend. Law school simply isn't for everyone and we should increase the admissions standards to protect the integrity of the field on the front end. Schools that are not ABA accredited and offer substandard education should be closed down or their students have to go through extra hurdles to take the bar exam. I hope the cut score is lowered to a more realistic level and that these other global issues are considered as factors that are just as critical to protecting the competency of lawyers in this state.

Peter Hong - Stradling Yocca Carlson & Rauth, P.C.

As an attorney that passed the New York Bar Exam in 2014, I believe both options are too high. My score of 1370 in February would have been sufficient to pass the New York exam, and I see no reason why someone with a 1370 cannot be admitted in California. As background, I have practiced corporate law (capital markets and M&A) for three years. I am certain there are many others like myself who are well qualified to practice in California but for the unreasonably high cut score.

Brandon Boozari

Lowering the cut score is a step in the right direction but it does not solve the ultimate problem. The CA bar exam does not test a person's ability to be a diligent, competent, or successful attorney. The exam tests whether a person can play a game the correct way in order to become an attorney. A test that grants a license to practice law should not be a game that must be learned.

Anonymous

While it is a small part of the overall pass rate, some consideration needs to be given to the practicing attorneys' pass rate which was 44% in Feb. 2017. The factors affecting the score might be quite different considering many of the attorney applicants might be working while studying. However, if the idea of the bar is to test an applicant's competency to practice, and attorneys licensed in other jurisdictions are also demonstrating low pass rates on the CA bar, then maybe setting such a high pass score is not necessarily the most effective way to establish an applicant's competency to practice.

Anonymous

lower to 1400. There are many talented individuals who do not, for whatever reason, test well and the ability to do well and pass this test does not truly weed out who will be a good lawyer. On average, how many complaints against attorneys, aka, those who passed the test, are filed? How many are disbarred? or inactive? How many others care so deeply about being lawyers, will be amazing lawyers, were on the top of their class in law school, mock trial, etc., and do not pass because of the rigorous, arbitrary standard that has been in place, without real justification? Reaching this number and passing is not a true indicator of who will be a good lawyer. It should not be structured to keep so many out, especially when so many need services in California. California has the highest population of people in the U.S versus any other state and especially in today's political climate, the public deserves better access to justice, from a wider selection of more people who are more than capable. The California Bar is supposed to be dedicated to helping individuals access justice, yet, how can it be said that it is assisting individuals in accessing justice and protecting their legal needs when its arbitrary cut off score for an exam that does not truly test a future lawyer's capabilities to represent clients and practice law, keeps so many every year from doing so, especially in a state made up of such a diverse population, with diverse legal needs?

Anonymous

The 1414 score should be retroactive for 24 months.

Jeremy Stock

I believe the cbx should be re-evaluated from the ground up. A new cut score of 1414 is a good start, showing a willingness to compromise in light of current intents, goals, standards, and expectations. But the relatively small reduction in the cut score may not go far enough in addressing the current issues which seem to set the CA cbx apart from the rest of the nation. I support lowering the cut score to 1414, but hope that a more holistic evaluation of the entire process is undertaken.

Timothy Sullivan

I commend the State Bar of California for conducting a study to address a serious issue in the legal profession. However, while I agree that the cut score should be revised, I am concerned that the study ultimately failed to identify and address the underlying cause(s) of declining pass rates. More research should be conducted to determine whether the Bar exam is a reliable measure of competence and attention should be paid to the recent heightening of psychological stressors on aspiring lawyers. In addition, more creative solutions should be offered to remedy this problem without diminishing professional standards.

One area that warrants further consideration is a catastrophic feedback loop rising tuition costs and diminishing pass rates. Rising tuition costs have placed unprecedented levels of stress on aspiring lawyers. The upshot of this predicament is that, for many, only a lawyer's pay check can suffice, a reality of which law students are acutely aware. As a result, the bar exam, which is ordinarily a stressful affair in its own right, has become all the more trying. And yet, it has been shown that stress hormones inhibit executive functioning, precisely the same areas of the brain critical for the bar exam. From this perspective, it is not surprising then that pass rates have declined.

One solution I suggest is to simply reduce time it takes for results to be rendered, and offer more opportunities for re-application. It is inexcusable that despite the precipitous decline in applicants, the 33% reduction in the length of the exam, and the proliferation of typed exams, it takes more than three months to receive results. In the meantime, many applicants are being paid near minimum wage or are simply unemployable. Moreover, a failed attempt repeats the process. An applicant who passes on merely the second attempt will have been out of law school for a full year before being licensed. Expediting this process would not only mean tens of thousands of dollars for applicants, but would also greatly mitigate the psychological toll of the exam while preserving the Bar's professional standards. A greater sense of urgency is necessary and seemingly possible given these recent developments.

God-willing I will be a member of the California State Bar in a few months time. But, even now I feel compelled to protect the profession. I do not want to be witness to a degradation of the profession's standards. Still, we also must not ignore the deterrence created by the combination of rising tuition rates, worsening job prospects, and declining bar passage rates. Under the current circumstances, we have certainly already discouraged many who could represent the profession and the public with distinction. We can do better.

Finally, I would like to offer that often repeated statements that declines in pass rates is a product of less qualified applicants is self-serving, offensive, and, as far as I can tell, unfounded. Few have the audacity to suggest the humanity regresses over time. Moreover, such a statement seems to presume that lawyering skills are immutable. Indeed, a great deal of professional development happens from the time in between the LSAT and the Bar exam. One would hope that like a soldier's physical fitness on the first day of bootcamp is irrelevant to his competence at its conclusion, so too should the LSAT be a relatively meaningless metric of applicant's fitness for the practice of law. Still, even this analogy may give too much credit to the LSAT.

Anonymous

Lower the score further than 1414. Your proposed score is almost irrelevant without the use of MBE scores.

Maya Hamouie

It is not fair for law students in California to spend/take out thousands of dollars of loans on law school and not even be able to practice law because the cut off score in California is so high. California needs to lower the cut score and allow for more people to pass. It is ridiculous that even people who are hired at big law firms like Latham have to take the bar more than once to pass. It almost seems like the state of California is doing this to make money out of people. The high cut off score is also not fair for out of state attorneys. I am an out of state attorney who wishes to move to California to be with her family. I have spent almost $10,000 to take the bar in California. If I do not pass, after having passed the Texas bar by over 70 points, because the California cut off score is so high, then I will be very very dissapointed in the state of California.

Anonymous

My suggestion would be to split the bar exam in half and allow exam takers to pass each part separately. If an exam taker fails one part of the exam, but not the other, he or she can retake the failed portion again at a later time rather rather than having to retake both parts all over again.

Anonymous

I believe the cut score should be lowered further to 1390, which is the score that triggers the automatic second read. If this score is considered close enough to 'passing' to require a second review, then these students should be admitted to practice law. They have shown minimum competency. It is a test of minimum competency. A pass rate of 35-45% is an indication that the exam is no longer a test of minimum competency.

I also believe that the California Bar Exam has become a hazing ritual, denying people from lower-income backgrounds the ability to pass. If you cannot afford the highest quality prep course or a private tutor, it is very difficult to understand the expectations of what a passing written exam looks like. There is no democracy in a test that measures what kind of private education you can afford.

Adrine Van Diermen - Whittier Law School

As a recent graduate of Whittier Law School, I feel as though no student body has felt the impact of the bar exam scoring practices as our school has. Beginning with the fact that New York and many other metropolitan cities' future lawyers are not held to the rigorous standards that we are, in effect entitling more of them to the benefits of passing in one exam sitting (higher salaries, more job offers), to the fact that our perfectly competent school caved to the pressure that not enough students were passing and shut its doors permanently, we have felt the brunt of California's stringency every step of this educational process.

Legally speaking, I don't quite understand why there is not relative equality among the states with respect to the level of competence required to be a lawyer. How does Equal Protection under the laws and the Privileges and Immunities rights of practicing our chosen profession in any state of the union without artificial barriers to doing so factor into the equation?

I have spoken to many students who are awaiting bar results and should they not pass here in California, they are considering taking the exam at a more "reasonable" state next time around. Is this the desired result for all parties? I doubt it.

I have full faith that the State Bar of California has evolved its practices for perfectly altruistic reasons. However, given that the ABA sets the standards of the law school curriculum, perhaps the State Bar working in tandem with the ABA may redesign that curriculum so that the massive effort we students put into bar prep coordinates better with State Bar passage requirements.

Thank you for this opportunity to be heard.

Very respectfully,

Adrine van Diermen

Anonymous

I support lowering the cut score to one consistent with California's peer states. By peer states, I mean those in which attorneys perform similarly sophisticated legal work. New York is a good example. If peer states have not found that a lower cut score has adversely impacted their citizens, it is difficult to imagine why California would need a dramatically higher score.

I would also like to thank all involved for taking steps to address what is a complicated issue.

Andry Zinsou - Nossaman LLP

There is no reason why for the same exam and in the same country students from California who would otherwise pass the bar if the score with aligned with those required in other states including NY which has the largest number of attorneys in the country. An argument could be made that this is unconstitutional and not egalitarian.

Students pay on average the same to attend law school, student the same materials albeit specific to each State but when it comes time to take the exam that will determine whether they will be able to practice, the standards all the sudden become different.

There is no rationale for having a cut score that is 80 points higher than most other states which have an MBE cut score of 135. Attorneys can even waive into multiple states with a 135 MBE score, including in DC but many of these same attorneys may fail to even be admitted in California. This is a discrepancy that ought to be rectified.

Jody Kulow - Law Offices of Heather Gibson

I believe that California should be more in line with other states regarding the cut scores. I do not think that it will 'dummy down' the profession if a few points are lowered from the cut score in order to pass more exam takers. In my experience, lawyers who are beginning their practice are usually paired with a mentor and are very cautious in their decision making regarding their clients.

If CA lowers the cut score to 1414, we will have more practicing lawyers to fill the small towns that are unable to obtain legal counsel. Not to mention these young lawyers would be able to begin paying their student loans after the start of their careers. It would give more students a chance to fulfill their dreams of practicing law or possibly entering into another profession that requires a CA Bar license. There are many compliance jobs that require a JD and some require membership of the CA State Bar. I believe it is a good idea and I hope CA Supreme Court agrees. Thank you.

Bettina Yanez - Family Law Offices of Yanez & Associates

I agree with option 2 because thought we want the best candidates to pas at times the best may not be the best test takers, may be overcome by anxiety or stress and that can have an effect on the results. i for one can only speak for my own situation. I did not realize that stress affect my bar exam. I took the bar several times until I passed.

I am now a Certified Family Law Specialist. i have four county contracts where I represent low income litigants and have trained 5 new attorneys. I have shown that a person can be an excellent attorney despite their bar pass score.

I submit my story for your consideration as you make your decision.

Anonymous

The Bar and the California Supreme Court ought to be embarrassed of themselves. They let the law schools take all that tuition money from the students and then made, what can only be described as a punitive test, due to the way it is graded. You're telling me that 2/3 of the candidates did not show minimum competence? Shame on you!

Marti Patty - teacher

The score should be lowered to 1414 and should apply to any one meeting that score within the last 2 years.

Anonymous

Rather than using the bar exam as a barrier to entry for those who have attended and matriculated from ABA law schools, a true minimum competency exam should reflect the quality of legal education in the state and not become a tool to curb the proliferation of unaccredited and struggling law schools. As a corollary, the higher cut score tends to reward those who have the resources (particularly time which translates to the ability to prepare for an exam singlemindey without external demands such as the need to work fulltime for subsistence or to care for dependents) not those who have a greater aptitude, understanding or mastery of the law. This is evident in the number of graduates of accredited law schools who were strong law students and underwent a rigorous 3-year education in law but because they came to the CA bar later in life than the average examinee, perhaps due to a move from out of state, might be working full time and carrying significant responsibility in every aspect of their life-whether as parents, employees, mayors of cities, even law professors and law school deans. That such individuals, who are clearly capable of all which the state bar seeks to ensure, fail the CA bar exam suggests that the exam is more akin to a penalty than a minimum competency exam.

Anonymous

While I feel that the essay portion of the exam was fairly drafted and in fact. allows test takers to show a "minimum competency of the bar", the MBE portion was based very heavily on exceptions to exceptions, and thus, requires much more than a minimum competency to complete. Yes, lowering the score to 1414 is certainly a step in the right direction, however I feel the change needs to come from the way to questions are drafted as well. Basically, the reduction in score should mimic that of the median cut score for the country and there should be more questions crafted on a more basic understanding of the subjects. I graduated in the top 10% of my top 20 law school and do not think I will be passing. Many of my friends are in the same boat as me. Something needs to change!

Anonymous

It just doesn't make sense that CA bar takers score much higher than national average on MBE yet the pass rate is much lower than other states.

Laura D'Auri

On your survey, one of the questions concerned providing assistance to the underserved population. I don't understand how that is affected by the bar pass rate. It seems that you are saying that if we lower the rate, there will be more attorneys to represent them? In other words, those who are able to achieve a higher pass score wouldn't represent underserved population? I do not believe that is true and so gave a score of 8 to that question. Or are you saying that those who would serve the underserved go to less prestigious law schools?

I believe the bar pass rate should be lowered because many who may not be good at test taking will in fact be good attorneys who uphold the high standards of the Bar. I know a number of successful attorneys who did not pass the bar the first time. Test taking skills are very much a consideration in bar pass rates.

I passed the Bar the first time. Before taking the Bar I had to take the Baby Bar because my law school neglected to tell me after first year that I had to take it because I didn't finish my BA. (A lawsuit I did not pursue.) The Baby Bar pass rate that year was 11%. I believe the Baby Bar pass rate is much more discriminatory than the Bar pass rate. The Baby Bar questions required an intellectual sophistication that those from lesser law schools might not have due to their upbringing, but could develop through going to law school. 89% of those Baby Bar takers never had that chance. Or perhaps the CA Bar feels that those from non-ABA law schools do not deserve to be lawyers.

Anonymous

Modifying the cut score will do nothing when the grades can arbitrarily manipulate scores to suit their agenda. There is no transparency in scoring, and the graders have full discretion under this bogus "hollistic grading" criteria to issue passing and failing scores without justification or explanation. This allows the graders to set their own standard, requiring mastery of multiple subjects when the standard has always been closer to minimal sufficiency, The bar subjects and testing protocol have little to do with the actual practice of law, even within each subject. Potential attorneys are being judged without a rubric and without an explanation of how a particular grader believed "clear fail" at 55 is different from "clear pass" at 65. As long as graders are allowed to issue arbitrary scores as they please, without a clear list of where points were awarded and where points were missed, graders will control the outcome of the exam regardless of the cutoff score. If a grader simply believes that this particular person should not pass, the grader will simply issue 55s across the board, no matter how well some questions were answered. There is no remedy except waiting another six months to take another exam, taking more time off of work to study, accumulating more debt, and simply hoping to not piss off a grader on a particular day.

Even though California has, as far as rating purposes are concerned, 5 of the top 15 Law Schools in the nation within this state, as well as multiple others within the top 100, are we seriously THAT stupid compared to other states as a whole to warrant a pass rate of less than half of other states? Or is it simply that the grading standard is more unreasonable than other states? The cutoff will do nothing as long as the graders can set this standard as they please.

Andrew Torres

The bar exam should be restructured generally. Multiple choice does not make sense in terms of being a practicing attorney. It should be replaced by an oral component, so as to be rooted in what lawyers will actually encounter in the real world.

Antonia Darling - US Department of Justice

I think the pass rate can be lowered even more. Over my 40 years of practice I have known quite a few very smart, ethical and competent attorneys who didn't pass the bar on the first or second try- for psychological reasons. The anxiety of the bar exam is simply not warranted. Additionally, unfortunately passing the bar neither ensures competence nor integrity. As a government official responsible for oversight of attorneys in a federal area, I have seen plenty of unethical and incompetent attorneys who obviously passed the bar. I have also practiced in another state that had a much easier bar, and I saw no difference in the general competence of attorneys. We need to rethink the process, considering cultural differences, experiential back grounds, and the real reason e have a bar exam (which should not be to limit the competition). Test scores alone should not be the gate keeper to practicing law.

Anonymous

The cut score should be lowered below 1414. A lower cut score would increase the diversity of the profession, improve access to legal services, and be more fair to students saddled with large law school debt obligations.

Anonymous

The mere existence of this study proves that the system, as currently effectuated, is broken. The State Bar of California and the Committee of Bar Examiners have dedicated time, resources, and extreme care in evaluating all options in hope of rectifying the issue as it currently stands. In recognition of this issue, it is illogical to keep the current cut score for the present examination cycle. Doing so will operate only to penalize the July 2017 examinees until such time as the State Bar of California determines a final solution in light of additional studies. This will force current applicants to re-take the test at a later date to benefit from the revised cut score. The current cut score has operated to unduly burden examinees and bar qualified attorneys from practice in California. In recognition of the problem this very survey was created to correct, the cut score should be lowered to 1414, effective immediately.

Anonymous

The California bar exam cut score should be lowered to 133 so to be aligned with other large and thriving legal markets (New York and Illinois). There is no data to suggest those states have problems with attorney malpractice, nor does the 2017 Standard Setting Study reveal a meaningful correlation between the cut score and a individual's ability to be an effective, competent, and trustworthy attorney.

There are thousands of indigent clients in California waiting to be served. While a high cut score keeps the attorney population low and billing rates ridiculously high, many Californian's suffer as a result.

Anonymous

Honestly, I wouldn't have a problem with keeping the current cut score but I know that Option 2 would give me a better chance of receiving my license and practicing law and gaining employment fulltime as an Attorney so I couldn't pass over this option. I believe the most important change is giving express instructions on how to tackle and pass the Bar Exam on the part of the Bar Graders because a lot of Bar Prep Courses are charging an exorbitant amount of money on giving "insight" on how to successfully pass the Bar Exam when in fact they are not allowed into the Grading Process.

Anonymous

The cut score should be lowered to a number more consistent with the rest of the country. There is a need for more attorneys in CA to better serve the community. Moreover the public is not being protected to proportionately to the extremely high cut score above the scores of other states. The cut score should be lowered to somewhere in the range of 1320-1370.

Anonymous

Option 2 is a score cut in the right direction, but it is nowhere near enough to remedy the fact that California has one of the lowest bar passage rates in the nation. California has a large need for attorneys, and lowering the score cut will increase the number of qualified attorneys who are barred after their first bar exam. So many law graduates have to take the California bar exam multiple times, and they are forced to waste their money and time on bar prep classes and registration fees. Bar exam takers don't become more intelligent or more qualified once they pass the exam on their second, third, or fourth try. Their subsequent bar passage simply means that, on the second, third, or fourth try, they happened to do better on the test. The California bar cut score should be lowered from a 62.5% pass rate closer to 55% pass rate, or maybe even lower than that. Going from 62.5% to about 61.5% (1440 to 1414) is not an effective cut score, because it will only marginally increase the number of bar exam takers who pass on the first try.

David Callahan - Law Offices of David Patrick Callahan

I am far removed from the California Bar Exam, which I took in July 1968, passed, and become a member of the California Bar on 9 January 1969.
I attended an ABA Accredited Law School, Loyola Law School of Los Angeles.

As an AFROTC graduate from college, I was ordered to USAF Active Duty in April 1969 after being admitted to the California Bar.
The USAF sent me to Florida, Missouri and Illinois; all states where I took their Bar Examinations, successfully passed, and was Admitted to the Bars of the States of Florida, Missouri and Illinois. I am an Inactive Member of those three Bars, but an Active Member of the California Bar.

I am now a also an Active member of the State Bar of Texas, being admitted without examination because I was an graduate of an ABA Accredited law school, and had actively practiced for 5 of the preceding 7 years in California.

The point of the history is that my education at an ABA accredited law school well-prepared me to take and pass Bar examinations in four states, and get an admission to practice in a 5th state because of the fact of that education. I suspect that I am not unique and my fellow students, if so inclined, could have equal success at taking those examinations.

I think that the Bar Exam committees should crunch the numbers see if the fear that the current non-ABA accredited law school are so deficient in providing a proper legal education that a high bar for passing the exam is is justified.

There have always been ups and downs of passing rate, but, at 1500 miles away and in the dark, the recent low passage rates appear to me to be unfair to the current cadre of law students. Thus, a lower bar of this year appears to be indicated--subject to further study.

Many thanks to the committees and Bar administrators who have struggled with these issues.

Anonymous

It is interesting that there is no uniform cut score throughout the states. By California having such a high cut score, it is an indication that an attorney who passed the bar in another state and would otherwise be competent to practice law in that other state , is not competent to be an attorney in California due to the state's abnormally high cut score.

Anonymous

I would lower the cut score even further below 1414, to the national average. The pass rate for this test in CA is appalling. I suppose it was set so high to prevent all of those graduates from non-ABA accredited CA law schools from passing. But if the Bar Examiners have an issue with students from those schools practicing law, then they should not permit students who graduate from those schools to sit for the bar. That would be fairer to those students who attended ABA-accredited schools and who worked very hard for 3 years, but who have difficulty with standardized tests (like me) - and I am a graduate of 2 top-10 universities in this country (as well as valedictorian of my high school class). Lowering the cut score to the national average (i.e. between 133-136) is absolutely necessary at this time.

In addition, I would like to take this opportunity to address the Attorney Examination, as that is what is relevant to me. I have been licensed in NY (and England & Wales, by the way) for several years. I recently moved to LA and, of course, had to take the CA bar exam. I am a corporate transactional attorney. I have practiced in my field since 2005. Yet, there I was, having to cram every rule of evidence, the elements of crimes, etc., into my head again for this test, even though I (i) already have passed similar tests TWICE and (ii) never will use this information in my legal practice (in CA, or elsewhere). I had to take more than 2 months off of work in order to do this. As you can see, this is completely inefficient and, as far as I can see, not based in reason or rational thought. What is the point of making me re-cram every evidence rule into my head? If there are CA-specific laws that CA would like to ensure that attorneys moving into its jurisdiction know, then I think CA should test on those subjects only (like Community Property, CA ethics, etc.), but I think it is completely and totally inefficient and wasteful to make someone re-take a test on material that is identical to that which they passed long ago and which is not relevant to their practice area in any event. Contrary to what you may believe, you are putting CA at a disadvantage by continuing to deny reciprocity to attorneys from sister states - at least when the sister state is, for example, New York. I practiced in Manhattan for more than a decade. I can assure you that I am a proficient legal practitioner. By putting a barrier to entry for people like me, you are putting CA at a competitive disadvantage; given the horrific nature of the bar exam, I personally know of other lawyers (who are terrific) who otherwise would move here, but for having to take the bar exam again. If the Bar Examiners are concerned about admitting every attorney from every state, fine - pick which states you offer reciprocity to. But I certainly would include NY among them.

Isidra Smith

Score should be lowered to 1300-1350 like NY.

Connie Meredith - Self-employed

I am a member of the California, Hawaii and Washington bars. I took the bar exams a long time ago -- the first in 1978 and the second and third in 1989 and 1990. The exams were quite varied -- Hawaii had mandatory "long essay" exams in many areas as well as the Multi-State exam. Washington had "short essays" and no multi-state exam. The California bar exam I took had long essay questions in a small number of area which varied from exam period to exam period. For example, when I took the exam, Constitutional Law was not tested by a long essay question because it had been on several exams prior to the one I took. The multi-state exam was waived for me because I had already taken the Hawaii Bar. The California Bar exam also had Practice exam questions where the examinee handled a real-life situation perhaps drafting a motion, Memo of law and affidavit (declaration) of a witness. I passed all three bars on my first attempt. In restrospect, the Hawaii bar was the most difficult because the long essays on many subjects required more comprehensive knowledge of several subjects. The Washington Bar was the easiest because the examinees were allowed only 1 1/2 legal size piece of paper to write the answer. The California Bar was intermediate in difficulty for me.

It seemed to me that the examinees in California were the most stressed out examinees of the three bars. The year I passed the California and the Washington Bars, the Washington Bar pass rate was nearly the same as the California rate. The bar review materials for the California bar at that time filled the kind of box which carries 10 reams of paper. The same company's bar review books for the Washington bar was only about twice the number of pages for the Con Law study materials for the California bar.

For the past several years I have been following the decline in passing rates of the California Bar with some interest and alarm. I am in favor of lowering the cut score because I feel that if a student has successfully weathered the curriculum at an accredited school, they have the foundation of understanding "the law" and should know where to find it! The bar exam is a very artificial situation very unlike real life -- in actual law practice, the attorney has available to him all written law on the internet and perhaps a hard copy library. The competent lawyer should not be relying on things he learned two or three years ago or on rote memory.

Anonymous

The cut score needs to be lowered. If there is a lower cut score that is being considered for the standard cut score post July 2017, I believe that lower cut score should be considered for the July 2017 applicants as well. The wait time for bar exam results should also be shortened because it impedes the ability for the applicants to find employment or to start studying again if they do not pass the exam. California needs to change its bar exam to facilitate students and their success in the profession in this state. It is egregious that California has set such stringent standards that the pass rates have fallen to such low numbers while essentially every other state in the nation has higher pass rates and lower cut scores.

Gabriela Lamond - Optimist, Inc.

I believe the cut score should be lower than 1414.

Mollie Chadwick

I truly believe that the CA Bar Exam does not prepare students for becoming lawyers. It draws a necessary line in the sand, however the experiences and internships prepare students far greater than a brute memorization test. The Bar Exam has become an unattainable race horse exam in which no one wins. I am happy for the future of the CA Bar Exam and I hope to see the cut score lowered and students judged on their character, work ethic, and experience rather than an arbitrary test that expects too much.

Anonymous

I am a recent graduate from University of California, Berkeley School of Law, and I will be working in California. I recently took the July 2017 Bar and was faced with the threat of falling pass rates and the knowledge that the California is the most difficult in the United States. This caused me a great deal of stress, as I knew that many students who worked hard and committed to a full-time course of Bar study would still fail to pass the exam. I am emerging from law school with debts of almost $200,000 even after living relatively frugally, and the prospect of not passing the Bar causes undue stress and the threat of not being able to keep a good job despite all my efforts.

Unfortunately, the truth about California's Bar passage rates is only really known by the legal community. In many cases, the difficulty of the exam does not translate into greater prestige for the California legal community with regard to potential future clients. I have also heard that, given the difficulty of building a course of practice, the Bar Exam is no guarantee of competence over time, whatever the difficulty of the exam may be. Such competence may be ensured instead through strict enforecement of ABA rules and robust continuing legal education programs.

In the absence of greater prestige or competence, the stressors and uncertainty that the current passage rate places on young law students like myself is not justified. I humbly request that the passage cut score be lowered, consistent with the study recommendations.

Graciela Olivarez

I disagree with option 1. Although the format of the California bar exam has changed from three days to two days, the minimum number of points has not. In the past, there was room for error because there were more essays and MBE was worth 35% overall, not 50% as it is now. It is unreasonable to keep the same score when the exam has changed. If the passing percentage has declined how can the State Bar justify keeping te same amount of points and increasing the weight of the MBE. If anything, the passing score should be lowered to at least 1414 until you can account for essays that have been eliminated. Also, the MBE weight should be reevaluated. I have not read anything that logically explains the reason for increasing the MBE weight. The lower points is at least a step in the right direction. But it should not be the final answer.

Anonymous

The bar exam does not maintain the integrity of the profession. on the other hand, the profession is being tarnished in the media, as the public has begun to understand the extent to which the state bar is out of touch with reality and slow to adapt to change. Keeping the cut score at the current arbitrary level does little to assure the public that CA attorneys are somehow more qualified than attorneys from other states. It goes without saying that the state bar should make its methodology more transparent and revisit the cut score once again.

Anonymous

I feel the cut score should be lowered, specifically to increase legal aid to underserved populations, and so that the cut score is more in line with the rest of the country. At this point, the cut score in CA is arbitrarily high.

Anonymous

I believe that the current cut score does not adequately reflect my competence, skill or knowledge as a future attorney. I have taken this exam before and I believe that considering the other factors that come into play with taking this exam including but not limited to, the time constraints, and the level of stress endured on that occasion the cut sheet should be reduced to 1414. My knowledge of the law and applying it to the facts are limited to me solving an issue under pressure in under an hour. This doesn't reflect nor measure my capabilities and qualifications of becoming a great attorney.

I also strongly agree that it is important to maintain the integrity of the bar exam. However, this must be balanced against the fact that many qualified attorneys are incapable of passing because of factors not relating to their competency, such as being poor exam takers in general rather than lacking the skill to write a legal memo for instance.

Anonymous

California's cut score is unfair and crushing to both potential attorneys, existing attorneys who move to the state, and the large population of potential clients in California who cannot afford legal services.

I was a PhD student at the University of Washington before leaving to attend law school at UCLA Law. I did not pass the bar exam after law school, but had to leave the country to work internationally with my wife. Because I did not pass, I relied on statistical skills I gained from the PhD program to work as a statistical analyst. I have since worked as a manager for large companies, doing very well because I work well with people.

Despite a constantly busy work schedule I eventually took the Uniform Bar Exam and passed with a very high score. My score allows me to waive into any state that has adopted the UBE, even New York. It is ridiculous to think that I am not qualified enough to practice law in California but am qualified enough to practice in New York, Colorado, Oregon, and any other UBE state.

Not having a California bar license has been emotionally devasting to me and it has prevented me from helping family and friends who come to me for legal advice. It is arbitrary and destructive for everyone but a small group of lawyers in California.

Please do what is statistically and morally right and accords with common sense, and lower the cut score.

Bastiaan Vandenberg - Advocus Law Group

Modification of the cut score does not change the fact that the grading of the test is extremely subjective. The modification will help bring in new attorneys that are moderately affected by their individual grader. But this does not fix the issue. When a tester's score is close to passing, their essays get re-graded. I have personally seen the re-graded essays that first received 70 points with a re-grade of 50 points. This is unacceptable. Graders are not adequately calibrated, and I'm not sure if it is ever possible to do so. Making the MBEs worth 50% of the grade helps make the grading more objective, but this is not enough. Especially when the cut score of the MBEs is second highest in the nation. That means the only way to pass is to perform well while also receiving a fair grader on the essays. This test is overly subjective and that needs to be fixed.

Sharise Grote

The issue that I have with the current score is the almost impossible hurdle it creates for recent law school graduates. Graduating law school alone is a great accomplishment. I have yet to find a reason why the cut score in California needs to be so much higher than the rest of the nation. Do the bar examiners honestly believe that the rest of the country consists of incompetent lawyers because other states' cut scores are lower than ours? Do the bar examiners really believe the high cut score is weeding out the incompetent to protect the public and maintain the integrity of the profession? A huge issue I have with the exam is that not everyone is a good test taker. I have always struggled with multiple choice questions and then the bar examiners revised the bar and made those questions worth 50%. If I fail, does this mean I am not competent to be a lawyer? No. Simply no. There are many factors that go into an applicant's exam day performance and setting a high cut score is essentially setting up a majority for failure - which is evidenced by the recent pass rates in California that are nothing short of embarrassing. The problem is not that the schools are not preparing us adequately for the bar exam or the profession, the problem lies with the bar exam itself. There are plenty of other avenues in place to ensure the integrity of the profession and our individual competence upon admission to the bar, such as the MCLEs and employer performance reviews. If applicants are that incompetent, they will be unable to keep a job. There is no reason the cut score should not be lowered to reflect that of the rest of the country.

Anonymous

I would have the pass score lowered to the standard used by other large states such as New York, Michigan, Florida, and Texas. There is no justification for California to have the second highest passing score requirement especially when the subjects tested are largely similar to other states. This is especially true for the MBE. Having such a high score harms the public by depriving low income communities from the much needed influx of new attorneys.

Anonymous

The comments from many law school Deans a few months ago should provide an incentive to fix the CBX. It is very expensive to attend any law school - as it was for me in the 1970s. Also a factor is: the people graduated with JD degrees after spending over 4+ years of their lives selecting to become an Attorney. What does that mean? It means a person has made a decision to DEDICATE their lives to helping others as an attorney, they study diligently, attend law school (seen Paper Chase?) and then graduate ONLY to NOT pass this difficult high reach of 1440 in the Exam.

Some may never pass, but many of those who are marginal are not stupid (to get thorough the 1L you cannot be stupid) and are likely NOT unqualified, but they are dedicated. These marginal people, who may pass and enter our profession with 1414 and not 1440 might just be poor test-takers. They might be nervous that day. They must be able to at least pass on a second try. In my day (1979) one could re-take the PART not passed, so I re-took just the multistate and passed on the second time. Now i have practices for over 37 years, helped 100s of people and companies, minorities, people in trouble. GIVE THEM A CHANCE to do the same. ALLOW them the dignity to pass with a reasonable exam. I know people who mover to NY to take their exam when they could not pass the CBX, and passed it there, to the frustration of all those who expected them to live in CA.

CHANGE THIS TO 1414 and you will not be sorry. You will include more of those who just had a bad day that day, and will make great attorneys.

Danielle Diggins

Option 2 provides a short-term remedy to the problem of identifying the appropriate cut score for the bar exam. Respectfully, I believe that until the Committee of Bar Examiners is able to conduct a full-scale investigation into the complete exam (one that includes the multistate portion of the exam) and provide clear evidence that a cut score on par with other comparable legal markets in the nation (at or near 135) does not serve its purposes, it seems most appropriate to continue grading exams with a cut score that is no higher than that which is suggested with Option 2.

Anonymous

The score should be lowered to balance out the market, there are too many attorney's and not enough jobs. The market is too saturated and cutting the score is the only to balance it.

Anonymous

I passed the Bar exam several years ago in Illinois and New York, as well as the Structural Engineer's exam in Illinois. I have engaged in the professional practice of both law and structural engineering.

Based on this experience, it is my view that the licensing exams in both disciplines are far too difficult and therefore unfairly prevent qualified people from practicing a profession they are adequately trained for. Further, they do not materially protect the public from malpractice because the material tested on is so far removed from the reality of professional practice.

With regard to the bar exam:

The MBE tests one's preparation for the MBE and the resultant ability to answer what most people would call trick questions. It is certainly challenging, and requires some knowledge of the law as well as logical reasoning, but it bears so little resemblance to the actual practice of law that the public does not benefit (and indeed is harmed) when law school graduates who struggle with the MBE are prevented from practicing.

The essay questions are of greater value because they do require legal analysis and communication, but the emphasis in the essay questions on the examinee's ability to regurgitate elements and factors related to legal issues that most will never face in practice means that the essay questions, too, are not well-tailored to protect the public.

I believe the MPT is a good way of testing for competence and screening out those who, despite graduating from law school, are not sufficiently trained to commence practicing law.

Overall, I believe the bar exam should test for basic competence and serve as backstop against very poor quality law schools, rather than its current status as a final (high) hurdle unto itself.

In light of these issues with the current exam, the cut score should be lowered to 1414 or less until a more sensible test can be developed, so that individuals who have completed a J.D. degree and done reasonably well on the current form of the bar exam are not (1) unfairly prevented from practicing law and (2) forced to pay to retake the test (potentially along with an expensive prep course). The harm to the public will be minimal or nonexistent, because there are other ways for clients to screen out unqualified attorneys (e.g. online reviews, years in practice, affiliation with an established firm). Meanwhile, the public will have access to those attorneys who, except for being unable to pass the bar exam in its current form, would be excellent counselors and representatives.

Anonymous

While I understand and respect the prerogative of the State Bar in protecting the public from persons who may not be minimally competent lawyers, the California passing rates lead the public to believe that less than half of all applicants taking the state bar examination are not minimally competent. This passing percentage is immensely lower than many other states and cannot adequately reflect the plethora of talented law school graduates wishing to be licensed in California, but end up failing the examination. "Minimal competency" should not be a threshold so unrealistically high that a vast majority of your applicants fail your examination. The State Bar, it appears, by virtue of its embarrassingly low passing percentage, affirmatively tries to fail applicants versus actually testing for minimal competency. Frankly, as the examination stands now, the State Bar is committing a disservice to California by "cutting" a vast group of prospective legal talent in favor, it seems, of controlling the supply of licensed attorneys.

Anonymous

I went to Southwestern Law School.
i was graduated cum laude
I was admitted in December 1981, taking the exam just once. As I recall, the pass rate for the July 1981 bar exam was far less than 47%. My first employer took the bar exam earlier than I did and the pass rate was 39%, I seem to recall. I also took the NY bar exam in July 1984 and passed the first time. I was admitted in NY in March 1985.

In NY - at the NY City Bar Association, they offer a Bridge The Gap program.
It's for new admitees and very helpful. I recall taking that course over a few days.
As far as public protection, I am not overly concerned about that factor because :
1- a client can ask lawyers about their years of experience - a sole practitioner with only a year experience should be questioned about whether an experienced mentor will be consulted.
2- the State Bar can have a special category of admitees - those in what you're calling the 43-47 range -- and call those lawyers in to go over their exams and point out the errors, so as to help these lawyers learn in what areas they must focus to get up to speed.
3- I subscribe to LAWLINE - the online classes - for about $300 for a 2 year period.
It's so easy nowadays to have this sort of lifelong learning. It's easy enough to let the borderline lawyers know that they really need to continue studying and let them know the areas where their performance was poor.
4- I personally think that the public is better served by lowering the pass rate -- the sooner these lawyers pass the bar, the sooner they can take more practical course on line. And the sooner, they can build a network of colleagues to turn to, without the stigma of flunking the bar, which is very debilitating.

Part of being a lawyer is engaging in self-assessment. What you're good at and what you're not good at. So reviewing the exam questions with the borderline test-takers would be helpful. Part of being a lawyer is learning how to handle clients and how to bill them. The cut off rate has little to do with that. I am in favor of lowering the cut off rate.

I applaud you for reaching out to members about this topic.

Saad Hilo

I believe the cut score should be lowered even further. The pass rates in July 2016 followed by February 2017 were incredibly low, pointing to some sort of inconsistency in the administration and scoring of the exam. Further, given that the format of the exam has changed, allowing for the MBE to count even more than it did before, and given the notorious difficulty of the MBE, this further justifies the lowering of the cut score.

Aside from that, many low income individuals, myself included, have been improperly and disproportionately affected by the California Bar Exam cut score. Furthermore, people of color are affected by said score, leaving the legal profession lacking in diversity and thereby leaving a disproportionate population unrepresented.

The inability to find gainful employment with the onset of crippling student debt renders somebody who dedicated 7 years to his profession with nothing to show for it. Truly, with every bar exam that i do not pass, I feel more like I've wasted my time and money on higher education. This lack of trust cannot fare well for future generations who stop valuing education for what it truly is: an opener of doors.

For the foregoing reasons, I truly and firmly believe that the cut score should be lowered.

Christopher Butler

The current bar passage rate speaks to illicit economic protectionism rather than a minimum competency test. There is no justification for why the CA bar score should be higher than any other state except Delaware. None has been offered. The bar itself exam is a waste of time and resources and does not measure competency. That is the fundamental problem. Arguments that the pass score is slightly too high or too low aside the test is only valuable to test preparation companies and current CA barred lawyers to create an obstacle for potential lawyers looking to practice here. So the result we have now is schools such as Loyola Marymount and UC Hastings teaching their students 3 years of worthless bar exam preparation. Meanwhile at elite law schools students take real classes only to find that they are supposed to cram and then instantly forget 9 weeks of largely useless common law rules- with the knowledge that the entire exercise is a waste of time and they will probably never use any of this information at work.

The pass score should be much lower that 1414 in recognition of the fact that the test has been abused and that it does not measure competency but rather is an expensive waste of time.

Furthermore, all CA barred attorneys should be required to retake the bar exam every few years. This is standard practice for the doctors. This ensures that the test is relevant, streamlined, and not designed as an obstacle to entry.

Anonymous

The 2016 Bar Passage statistics at http://www.ncbex.org/pdfviewer/?file=%2Fdmsdocument%2F205 indicate that only 40% of California bar takers passed the bar exam. Beside the territory of Puerto Rico, this is the lowest bar passage rate in any state or territory. The question is why is this happening?

Is there a fundamental disconnect between the quality of legal education in law schools versus the bar exam? No, assuming that all ABA-approved law schools adhere to the same general requirements and that these requirements are intended to produce competent attorneys among all the states, the statistics do not lead to this conclusion. If this were the case, ABA-Approved law school examinees in other states would suffer the same low bar passage rate as California, but they do not. The truth of the matter is that the California Bar Exam is extremely difficult and torturous to pass. It certainly was when I took the exams in February 2004, July 2004, and finally passed in February 2005. During this time, the exam was a grueling three-day marathon. I recall during my first examination that my essay scores went from 90 to 80, to 70 on the first day, then down to 70 and 60s on the third day. Did I suddenly become incompetent within two days? No, by the third day of testing, I was so completely exhausted that I simply couldn't even think straight.

The majority of my colleagues and fiends that I met in law school had to endure taking the CA Bar Exam multiple times. Many of them eventually passed the exam and are now successful attorneys providing legal services to their community. So, I truly do not believe that the 3-day marathon testing method was a legitimate way to assess competency to practice law especially since it is rare that the practice of law would require such an intense and sustained effort. I certainly support the modification to make the Bar Exam a 2-day test; however, I would not necessarily condone simultaneously lowering the cut score until the effect of reducing the bar exam to a 2-day test has been fully examined. Apparently, the 2-day testing method has only been in effect since July 2017. If the 2-day exam has the desired positive effect, then lowering the cut score will not be necessary.

Anonymous

The data clearly indicates that California's current bar passage rate disproportionately excludes minority and female Bar applicants. At a time when California seeks to make its bar membership reflect the rich diversity of this state, adjusting the cut score such that it reflects that of other states including New York, would go a long way towards addressing this historical disparity in passage rates. Additionally, adjusting the cut score to 1414 would ensure that women and minority applicants-- who disproportionately go into the practice of public interest law-- are able to serve Californians who currently have very little access to the courts. As an attorney and Californian, I strongly urge the State Bar of California to enact Option 2 (lower the cut score to 1414) to diversify the bar and ensure that low-income Californians have access to justice.

Isaac Bresnick - Liquidmetal Technologies Inc.

I did not pass the California Bar Exam in February 2017. I would have passed if the cut score was 1414, but not by much. My MBE score placed me above the 93rd percentile of test-takers, nationally. Clearly, my essay-writing skills needed improvement. But over the course of taking the exam, I befriended other applicants who found themselves in similar situations. Of the five or six people I met, all intelligent and thoughtful, and half of whom out-of-state attorneys already, only two passed. Their livelihoods have been affected.

Fortunately, I am currently in a stable career that does not require a law degree, though my salary have been affected by failing to pass the bar. But more important to me, I have a young family, and studying to retake the test has put a strain on my relationship with my spouse and cost me time with my young son. It has required that my extended family make sacrifices to assist me while I have been, in essence, an absent father while in study. But I consider myself lucky to have been able to make it through, pass or fail. There are others, I'm sure, who don't benefit from circumstances like mine. They need to pass the bar in order to have a livelihood that supports their student loan payments. They may lack the immediate funds to finance the cost of bar preparation courses on top of the nearly $1,000 fee to sit for the examination, let alone travel and hotel accomodation. They may be less able to rely on friends and family.

There are financial and social hurdles to passing the bar. And maybe they're justified by cultivating the legal profession, or by financing the examination itself. But the current cut score appears to be nothing more than an arbitrary barrier to entry. The trends of pass-rates and MBE averages are impossible to ignore. So, yes, lower the cut score. Lower it to 1414. Lower it past that. Reduce the fees. Offer state-funded bar preparation courses. Do everything you can to ensure that the exam's only filter is that of competence.

Anonymous

To continue to keep the California Bar as the most difficult Bar in the country to pass does not serve the community or residents of the state.

Jeremy Simmons

Although certainly I agree that we should continue a bar exam to ensure that the public is protected from unqualified attorneys, I think that the test is not primary geared in this direction at this time and the cut score should be lowered. Currently the bar exam seems largely focused on your ability to memorize the elements of various legal principles. Many folks (including me) do not possess great memorization skills. However, we have excellent research and writing skills and can easily and quickly find the elements and draft briefs accordingly. I am now 17 years out of law school and have been practicing for a long time. Nearly all of the things I was forced to memorize to pass the exam I have never used again in my legal career. Conversely, often new graduates who pass the bar seem unable to demonstrate effective research skills and legal analysis after we hire them. As a mid-career professional, I think it is far more important for the bar to protect the public from attorneys who do not know how to do legal research or apply that knowledge through the drafting of legal opinions and briefs. Demonstrating their ability to memorize a bunch of elements is not, by itself, an effective means of protecting the public from incompetent attorneys. Since the bar weighs the memorization of elements so heavily and this is not tied directly to protection of the public, I think that the cut score should be reduced.

Anonymous

The modified cut score is a minor decrease, and there is no adequate justification for the cut score to remain at 1440 (or 1414). The published study indicates that lawyers in California were chosen to grade prior bar exams to determine whether they were to be deemed to be of a "competent" standard. The findings established that the cut score indicating competence was 1440. This is fundamentally flawed, as the majority of other states maintain lower cut scores. In other words, the study is effectively asserting that attorneys in all other jurisdictions (besides Delaware), may be barred without achieving a minimum level of competence.

It does not appear from the information contained within the study that there is any form of foundation for this assertion, as there are no alleged increased occurrences of malpractice in these other states. Therefore, although the score of 1414 represents a decrease, the decreased cut score remains far above the national average. Without adequate justification to impose this elevated standard, as there have been no studies conducted establishing the lower cut scores breed incompetence, the cut score should be lowered to align with the other states.

Anonymous

If the bar exam actually tested prospective lawyers on skills and knowledge they will need in the practice of law, I would be in favor of maintaining a higher passing score. However, the bar exam is simply a test of mental endurance and memorization whereby candidates regurgitate oversimplified legal principles that they will likely quickly forget anyway. In the absence of any serious tangible benefits of having a higher passing score than nearly every other jurisdiction, it should be lowered. Law students have taken on crushing amounts of debt and needlessly failing students who would be qualified in any other state is simply unjustified. Not to mention the damage that failing one or more administrations of the exam might have on a candidate's job prospects, or the strain it puts on their relationships.

California ought to to do a wholesale re-evaluation of how it tests/prepares law graduates to practice in the state that includes a broader test/monitoring of skills and training involving oral communication skills, written communication skills, practical lawyering, and a standard number of hours of supervised professional training in a work setting (like nearly all other professional occupations).

A law license should not be contingent on memorizing vast amounts of basic legal principles and applying them in an elementary fashion. Nor is it necessary that the exam be a "sprint". The current exam is for robots, if we want law robots. I would prefer thinking and thoughtful attorneys.

Lower the cut score and/or change the exam.

Anonymous

As someone who has failed the exam twice I advocate changing the cut score OR in the alternative take away the subjective grading. The only completely accurate and fair grader is a machine.

Alexandra Apodaca - Law Offices of Freeman & Freeman

Our rules of Professional Conduct require us to not let a non-lawyer influence our practice of law. We are to remain independent in our representation--which makes sense. What does NOT make sense is that the Committee of bar examiners, who are largely non-lawyers, are the ones who dictate whether or not an applicant is competent to practice law. This seems to contradict our duty to remain independent from outside influence. It does not seem ethical for a non-lawyer to be the one to determine whether an applicant is competent.

Stuart Hill - Potential Lawyer

I think option 2 is a good solution. 1400 to 1414 is a good cut rate. Other states have the same or lower score and they do not have issues protecting the public from unqualified attorneys. Look, that is what a law school education and exams are for.

If there is not a workable solution soon, there is going to be a bottleneck backup in the testing system and the people harmed (besides the attorneys to be with the load of debt) is going to be the CA public, especially the lower middle class and the poor who will not have enough attorneys flowing into the system.

And it will be a domino effect. Law schools will feel the effect: indeed they already are. I qualified and was accepted to a Florida ABA accredited law school. I would have stayed home had I known CA had such an arbitrarily high score.

I made it to a second read last July on the 1440 score. I passed the MBE twice (July and Feb) with CA's very high cut score. My crim law score was at the top 99 percentile. And yet because I cannot write an essay to someone subjective standard, I failed by 10 points. I would have passed in any other state.

There is no rational reason why a person with a professional degree should be tested on essay writing. It is ridiculous. I passed this in law school. I passed my PTs on my bar exam, and I scored 146 raw on my MBE. I should be a practicing attorney. But all I can do is keep testing and paying these fees. And the entire testing industry is a bit hypocritical. The ABA will not accredit online law schools, yet the entire testing prep industry is offered online. Hello? For tens of thousands of dollars with the ABAs tacit approval.

It is enough to sour someone if they were not so determined. And I do applaud going to the two day testing format. But the score needs to be dropped in line with other states. Both the MBE and the essay-writing sections. My overall score on the MBE was in the upper 74 percentile yet I could not pass the overall exam? Something is wrong with that picture. It is arbitrary. One last thing, the testing software is very tenuous with Windows 10 (which I have). I could not even get it to stop while uploading unless I clicked it again and stopped it this past July (2017). Something needs to be done about that. Who knows what uploaded? Win 10 has been out for almost 4 years.

Frank Langben - N/A

While the overall pass rate is going down, this should be analyzed based on the different pass rates of ABA grads, and non-ABA grads. In the past, non-ABA grads have had a much lower pass rate.
If the number of non-ABA grads taking the exam, or re-taking it multiple times, is increasing, THAT itself will lower the overall pass rate, without regard to whether the same percentage of ABA grads are passing the exam.
If the percentage of ABA grads who pass is changing, that might be due to an older student population with more distractions from study, or perhaps a change in the curriculum, or even the possibility the test is getting more difficult. If appropriate, non-ABA schools should need to fully disclose their pass rate (both initial test pass rate, and percentage of those who eventually pass), and the percentage of graduates who are able to achieve employment as lawyers, to students prior to enrollment, and perhaps in their advertising.

Anonymous

The CA Bar Exam is, generally speaking, in my opinion an unfair and unrealistic assessment of an applicant's proficiency and potential. The exam does not take into account individuals, such as myself, who have a significant amount of practical, and successful, experience working in the legal field as a case manager and/or paralegal.

Furthermore, the exam, particularly the essay portions, require an immensely broad knowledge of many areas of law and yet generally tests only a few very narrow and specific topics. An applicant could have a very solid and broad knowledge base of the law, and yet fail because of not possessing the very narrow and specifically tested topics on that given day.

In my opinion there is also a disconnect between law schools and the Bar exam. Why should students be dependent on commercial Bar exam prep classes to pass the exam? Shouldn't graduating from law school after 3 or 4 years carry far greater weight? Why is the Bar exam given such an extraordinary amount of power in determining whether an individual should practice law? The Bar exam should be secondary, and a much lower cut score would reflect this. The Bar exam is allowing good, and maybe a little lucky, test takers to practice law, and maybe keeping out quality individuals who are ill suited for the stress and narrow expectations of a 2 day exam.

Anonymous

The cut score is arbitrary as the test takers repeat testing ''questions'' that previously exemplified qualifications to Practice.

Anonymous

The essay is also graded by a machine so its objective.

Anonymous

The Bar is an exceptionally difficult test-as it should be. However, the cut score makes it prohibitively difficult without justification as to the difference between say California's and New York's cut score-two similarly saturated legal markets. Additionally, the score's cutoff is especially absurd since the bar itself isn't testing lawyering skills-the only portion that does this is arguably the PT and unfortunately the value of the PT has been diminished in the new format. Students from very good schools pay an absurd amount in tuition taking on incredible debt, working very hard for 3 years, then for the Bar, only to be faced with an unjustifiable cut score. The cut score exists only to fuel the money making machine that is Bar costs and Bar prep. It not only should but MUST be lowered.

Mary Skinner

The essay questions of the Bar Examination are aimed to evaluate the knowledge of general legal principles and the state's own laws. At least, that is the intent of the bar exam. However, the California Bar Exam appears to be testing more specific principles. I should know. I've taken the exam several times in recent years. Let's look at it another way, the bar exam, with the exception of the Performance Test, would be considered malpractice in a real world situation. Never should an attorney speak to a client's needs without verifying the law because laws change. General principles are the foundation, and held out to the client. A competent attorney will look up the law to ensure nothing was missed, but this is not an option during the exam because it's an exam. Certainly I am not suggesting the bar exam be some sort of open book exam, but the bar committee's definition of "general knowledge" is broadening. Now that the exam is two days, which I have taken, I can attest to the fact that the bar examiners have truly attempted to shove two essay/PT days into one. If this is the bar examiners goal, then you've succeeded.

Additionally, there's the grading. From my own experience, it appears there is great subjectivity to the grading. I have had attorneys and tutors go over my own essays and be confused over the grade given. An applicant assigned a grade of 60 though the essay addressed the majority of issues, does not exemplify objectivity across exam graders. I have read the Bar's website blurb on grading, scaling information, and phased grading. Personally, I have read and understood quantum theory equations more easily than understanding the bar's grading process.

If I may comment on testing facilities: I understand delays occur and dismissals are not going to occur right away because of collecting exams etc., but my experience in Santa Clara for the July 2017 session is not only unacceptable, but disgraceful on the bar committee's behalf. On the first testing day, the morning session was 45 minutes behind in its testing time (the exam began being timed at 9:45am). By the time the group was dismissed, applicants barely had 40 minutes for a lunch break and to recharge. Let's not mention proctors did not really get a lunch because they were still working when applicants were returning for the afternoon session. The afternoon session frustratingly began being timed at approximately 3:30pm. Dismissal occurred at 7pm. Not much time to travel back to one's housing to recharge for another grueling testing session the following day.

Furthermore, my section was not provided with working outlets to plug in laptops. Although the bar's website explicitly states that during a power failure an applicant will be required to handwrite the exam, applicants pay a consideration for the benefit of using a laptop. A benefit not only to the applicant who does not have to write the exam, but to the examiners who do not have to decipher an applicant's handwriting. From what I was told at the testing center, there was no power failure, but a failure in ensuring that power was, at a minimum, initially provided because no one double checked the cords to see if they were operating properly. Thus no power in my section and apparently, this problem existed throughout the entire testing center. The bar exam's website implies that power will be provided because there is a warning regarding what to do in the event of a power failure. However, here, there was no power failure because power was not initially provided. I would further point out that if there is a "power failure", this could include no light sources. So how shall an applicant handwrite their exam in a facility with no lights?

Anonymous

The main thing we have to keep in our mind that this exam is established to check minimum competency of the new members of the bar. We should treat this exam such similar to other professional exams like USMLE, CPA exams which have also the same idea to test minimal competency. However, those exams have much higher passing scores nearly 80% and the applicants in those exams have similar study opportunity and background.

The state bar has the regulations for law schools' curriculum and other activity but still, State Bar doesn't believe the law graduate coming out of this process of law school. It shall NOT be wise for State Bar to find all solutions through Bar Exam scoring. The scoring is just to test the basic skill of legal writing and basic knowledge of the legal topics it tests. However, instead of testing, this exam has been involved in actually the competition between the applicants which was not the purpose or way to check the minimal competency. It has just become the matter of the pride that which state's bar exam is hardest instead of focusing on the main goal.

Many existing members of the bar feel that some lawyers who got the law license are not equipped with knowledge of filings, procedure, or oral advocacy skills. However, these skills cannot be tested in highly timed condition because these are mostly practical skills which in real practice you have at least more than 1 hour most of the time to formulate the answer to the argument. So the bar exam is not the appropriate place to find solutions to these problems. These problems can best be solved through residency requirements after law school, so the students are equipped with practical knowledge of these activities.

The cut score should actually be equivalent to the majority of the state like around 135. These applicant's from other states are similarly qualified and practicing in other states after they meet minimal competency in law. So it will not make sense then why California should have a higher score just to check same minimal competency, otherwise, it will be fair to assume that California State Bar has a motive to just have the higher score to reduce the number of the new bar members to protect existing bar members from competition. This reduction scheme is hurting the indigent public who are not able to get the representation. The legal professionals are becoming more and more out of reach of the public.

At this moment, the State Bar can lower the score to proposed 1414 score for July 2017 to check it effects. But State Bar have to consider different solutions to the problems of lack of practical knowledge of the procedure through residency, student debt, laws school curriculum separately. It will not be good to find answers of these issues in legal education and transition to the legal profession through bar exam alone.

In conclusion, again I want to reiterate, the goal of the Bar Exam is to test the minimal competency to enter the profession like other professions.

Anonymous

The baby bar should be lowered also by half that amount. Which would be 18 lower

Anonymous

States across the country, in fact all but one, have lower cut scores than California. Yet, these states still provide adequate legal services. Keeping the cut score at 1440, while simultaneously increasing the amount of subjects tested and increasing the weight of the MBE, does not serve to ensure that California provides better legal representation to the people of the state. It simply makes the test more difficult than the test that many practicing lawyers took ten years ago.

Anonymous

If there can be research shown why 1414 is an effective cut off score, then there should be no issue. However, arbitrary reasons such as preventing the certification of unqualified lawyers should not be used without empirical evidence to support that assertion. Many states have easier exams and lower score thresholds, but there doesn't seem to be an issue of having too many incompetent lawyers in any of those states. It is counterproductive to keep the score high for the sake of the legal community if the score impedes competent lawyers from practicing in the state. There is much at stake for both the state and law school graduates in this exam. Therefore, decisions to deny applicants their licenses should not be made without sufficient empirical evidence to support such decisions.

Anonymous

The cut score should definitely be lowered to ensure more qualified individuals can enter the profession. I don't believe the bar exam at its current state adequately reflects the skills necessary to be a proficient attorney. Additionally, the CA bar exam is by far the most difficult to pass so the cut score should at least be lowered to match the rest of the country. It seems illogical that many applicants in CA will be now to pass other states' bar exams. I believe the cut score should be lowered in the interim until further studies recommend another course of action.

Anonymous

The current cut score of 1440 is protectionist and has a disproportionate impact on minority applicants.

The State Bar of California has resisted requests to release data relating to minority pass rates on the bar exam. Regardless, it is generally known that the California attorney population is overwhelmingly white and Asian. The attorney demographics of California are wildly out of step with the demographics of the general population. With an unreasonably high cut score, California ensures that applicants from privileged and prestigious backgrounds pass at high rates, while the vast majority (i.e., more than 70%) of those from underserved and less privileged backgrounds fail.

The State Bar has a multitude of other options for regulating the competence of practitioners and the integrity of the profession, including regulation of California-approved schools and the first year exam, disciplinary actions against admitted practitioners, and appeal to the American Bar Association for regulation of ABA-approved law schools.

The cut score for the California bar exam should be lowered to match that of other large states such as Texas and New York. The current score of 1440 is unjustified and directly impacts access to legal services for poorer communities.

The proposed score of 1414 is still significantly higher than other large states. To generate this proposed score, the State Bar empaneled 20 admitted attorneys to read and critique essays from past bar exams. These attorneys rated these exams as above or below competence.

This approach was psychometrically flawed. These experienced attorneys mostly serve wealthier clients. The "minimum competence" for such clientele is not the minimum competence that California should expect as a matter of public policy. The California bar exam is purported to be one of minimum competence. There is certainly an argument that applicants who pass with a 1440 or greater score are, on average, more qualified. The people of California deserve the opportunity to select less qualified, but still competent, counsel. The alternative for so many millions of citizens is no legal representation at all.

Amanda O. - Emory Law

I am a recent Emory Law graduate (out of state accredited) and sat for the July 2017 CA bar exam. I graduated in the top 12% of my class with Honors and have obtained a job as an associate at a firm in San Francisco starting in Fall 2017. I am excited to finally achieve my dream of becoming a practicing attorney.

I am writing this public comment to respectfully express my strong support of Option 2 (cut score of 1414).

There are numerous reasons for lowering CA's current cut score such as increasing the number of qualified attorneys to provide legal services to low income individuals and increasing diversity in the legal field. I believe that these factors alone should be compelling.

However, as a recent test taker, I want to express my personal concern that the current cut score seems to make the bar exam seem less like an objective, professional measure of competency and more of an act of needless "hazing." The bar is not funny. It is not a fraternity. There is no glory in disqualifying thousands of competent students from practicing law every single year.

It is extremely disheartening to hear colleagues recall the two, three, or even four times they had to sit for the bar, some having missed the cut off by mere points. One of my colleagues, also a good friend, has just taken the bar for the third time and has lost multiple job offers as a result of the current cut score. My colleague is not incompetent by any means. In fact, all of his past scores were high enough to earn a passing score in almost every single other state in the US. He is now planning on taking the bar exam in another state this February. CA will be missing out on his extreme dedication to public interest work.

Each year, thousands of law students graduate in debt and terrified of the consequences of an oversaturated market. Still, I firmly believe that this phenomenon is the result of the many "for profit" and unaccredited law schools who prey on students each year. Although I do not dispute that there are many students who are ill-fitted to practice law, it is not the primary goal of the State Bar to manipulate the market. It is the job of the State Bar to determine baseline competency.

Promulgating the view that a higher cut score is necessary to protect the public from bad lawyers is a hyperbolic and misleading. All other 48 states have continued to maintain the integrity of their lawyers with a lower cut score. Having an unnecessarily high cut score is not a perfect prophylactic measure that will ensure all lawyers are great. In fact, it undermines the role that employers play in shaping the legal field.

Let me personally assure readers that employers are not giving out jobs like candy. Employers are acutely aware of the increasingly high expectations of their clients and pass those high expectations to their job candidates. Employers are not eager to hire incompetent lawyers and turn them lose on the public. Most of the legal job postings that I have seen require that the applicant have a degree from a tier 1 school and an individual rank of at least the top 30% of his class. Employers also seem to have no issue terminating incompetent attorneys. In other words, there are numerous other factors which impact the legal market and the quality of a state's attorneys.

The CA bar exam does not have to be terrifying and notorious to achieve its goal of determining competency. If CA continues to maintain its current cut score, it will lose out on hundreds of qualified lawyers twice each year. The current approach harms both CA citizens and the hundreds of qualified law students who unwillingly become victims of an arbitrarily high cut score.

I urge you to implement Option 2.

Hyung Park - Abraham Lincoln University, school of law

Law school provides foundational skills and knowledge to practice law. As long as they pass the minimum level, individual attorney will take care of additional knowledge to practitioner successfully. Thus there is no need of initial high barrier. Few more points in multiple choice questions and in essay writing will not produce better practitioners. Success in practice depends on continuous efforts to improve , not several more points in exam. Higher barrier may be more harmful to society as a whole rather than beneficial. We may need some survey to find whether there is any difference between top 10% and top 20%. Self development has made better lawyer than better grades in law school as long as they pass minimum baseline.

Christine Acampora

The cut score should be lowered beyond 1414 to reflect the national standard. There is no data to support the current cut score. California lawyers are not better or less disciplined because we have one of the highest cut scores in the Nation.

Shuchee Shah - USC Law School Graduate

The score should be lowered even further.

Anonymous

A person from my law school killed himself after finding out he had not passed the bar. The high cut score does not help anyone--not the students taking the exam nor the underserved populations who are definitely in need of more practicing attorneys. Prolonged denial of entry to the profession forces students to carry insurmountable pressure and student loans, all the while unable to help even friends and family in need of legal assistance.

I urge the State Bar to at least use the July 2017 exam as a test run for the 1414 score to see the raise in passage rates. I do wish to preserve the integrity of the legal profession in California, however, using the 1414 score on one cycle will certainly not hurt overall quality of attorneys entering the profession. In the first place, it is questionable whether a thirty-point difference in score is actually determinative of how a person will perform once in practice.

Thank you for your time.

Eric Weaver

In my 33 years experience I have never believed that success on the bar exam was an indicator of ultimate success. I passed on the first attempt in 1984. A friend from law school took it three times. He is an extremely successful litigator and is very highly regarded. To really insure the integrity of the bar, complaints to the bar need to be taken more seriously and discipline for incompetent performance needs to be beefed up.

Will Gorenfeld - retired

I have in my 40 years of practice that too many good trial attorneys have a hard time writing two complete sentences, but can think quickly on their feet and have an uncanny ability to sway juries. The bar exam as presently given tends to reward budding appellate and corporate attorneys, but eliminates too many potentially gifted trial lawyers. I would like to see California conjure a system that is somewhat similar to use of barristers and solicitors as practiced in England.

Anonymous

The concept that lower the cut score will result in less qualified attorneys being admitted to practice in California is flawed and not based on any evidence. By that argument states with lower cut scores are overrun with unqualified attorneys, which is clearly not the case. Additionally, the concept of a higher cut score equals superior attorneys operates on the presumption that California has superior attorneys than those in all other states and little to no incompetent/unethical/unqualified attorneys practicing in the state, which is obviously not true. Anyone who has taken the exam knows that the PT is the only part of the exam that even remotely resembles what it is like to be a lawyer. As such, the bar exam is not a true indicator of who will be a good lawyer; it a hurdle that we all have to jump to make it to the finish line of becoming a lawyer. Everyone sitting for the bar exam successfully made it through law school. If lowering the cut score means unqualified attorneys, then maybe the problem runs deeper than the cut score. But

The cut score being so high only helps the bottom line of the State Bar by forcing repeat takers to pay several hundred dollars every time they have to retake the test.

Richard Oja - Retired

I received my JD from Western State University in June 1975 and was at the top 10% of my class. I failed the 1st Bar Exam by just a couple of points which I attributed to 1 low score on a Criminal Law question (one of my best classes at WSU. I had prepared my own acronym chart for Criminal Law which I could write down in less than 60 seconds. I always remember one line; BAFKRAM (Burglary, Arson, False imprisonment, Kidnapping, Rape, Assault, and Mahem). I also remember my short definition for each one. I never practiced Criminal Law. I still believe my failure was due to "tension".

It was a major financial hardship to have delayed my admission to the Bar for one year to June 1976 (after the 2nd test when I felt less stress).

I worked in Aerospace Contracts during my career primarily working for an Aerospace Company and then as a aerospace contracts consultant for a few years until I retired. I went to night law school for 5 years starting in 1970, when I was 40, and am now 83 years old.

It is important to note that dropping the cut from 1440 to 1414 (-26 points) only reduces the number 1.81%, but it would have had a major impact for myself and current students. The 1.8% difference has an even bigger financial impact for most students today.

Larry Tucker - Grant Tucker Properties LLC

I have not been an active member of the bar for 18+ years and so I have no concerns about more lawyers meaning more competition. I have no opinion about the scoring of the essay part of the exam. But the MBE part of the exam ought to have a cut score comparable to the average cut score throughout the country. To me, the better question to ask is: What is the justification for having the second highest cut score in the country on the MBE?

Jennifer Eichenmuller - U.S.Navy, Judge Advocate General's Corps, Retired

I believe there are inherent flaws that result in an in-state bias in the California bar exam essay scoring methodology. I believe the methodology is not an accurate assessment tool for determining which bar candidates know and can apply the law.

I have been a practicing attorney in good standing in another state (Maryland) since December 1993, and worked as a federal government attorney for 20 years before I sat for the CA bar exam for the first time in February 2016. I spent over a 15 of my 20 years working as a criminal lawyer in a wide variety of roles that forced me to consider the admissibility of evidence daily, including 1 year prosecuting, 5 years defending, 5 years serving as an attorney for a felony-level equivalent charging authority (drafting appropriate charging documents, and directing prosecutions), 3 years as a supervisor of trial defense attorneys, 3 years as a training head and appellate criminal defense lawyer, including capital litigation, and periodically conducted probable cause investigations for felony-equivalent prosecutions. My point in relaying my background in this level of detail is that I FAILED THE EVIDENCE ESSAY!!! And, as I think you can imagine from my jobs, I have an in-depth understanding of the subject of evidence. I think I can site the Supreme Court case law in my sleep. And I had studied the California Evidence Code differences diligently. And, yet, I was unable to write a passing evidence essay on the February 2016 bar exam (it did involve a civil case), but my point is, I KNOW this subject, I've applied almost every evidentiary rule there is at some point in my practice of law, and yet I could not write a passing evidence essay. Now I can understand me not being able to write a passing property or trust essay, but to get the same failing score on the evidence essay made NO sense to me and should make no sense to those attempting to improve this exam. This essay score did not accurately assess or reflect either my knowledge or my ability to apply the law.

I knew when I received my scores that I did not fail the evidence essay because I did not understand the law, but I honestly did not know how and why I had failed until I took a better bar exam prep course. I did not fail that essay because I could not apply the rules of evidence; I failed that essay only because I did not understand the TEST and how the CA bar essay tests were graded.

I absolutely conclude that the essay grading rubric has less to do with assessing a bar candidate's competence and more to do with studying the "TEST." The points I missed were such obvious points of law that it did not even occur to me to discuss them. After taking a better prep course, I now presume I missed points for failing to discuss some issues that were not issues, such as why some hearsay exceptions were not applicable, (even though the bar exam instructions indicate that points will not be given for discussing law that is inapplicable). And I presume that I missed many points for not repeatedly defining the concepts of logical and legal relevance which I now understand the scoring rubric gives points for for each and every piece of evidence discussed. The points I missed were not points of law I did not understand. I gather from my experience writing practice essays that the scoring rubrics being used have over the years become biased in favor of the attorneys who have taken the "right" CA bar review prep courses that are teaching to the test, and the test has ultimately become biased in favor of CA trained law students who are being groomed throughout law school to write the types of answers that can get a passing score on a CA bar essay.

In short, I feel the essay scoring method being used by California is not accurately assessing competence and has come to reflect an in-state bias that has likely slowly crept and grown, unwittingly. I opted to re-take the MBE exam when I sat for the bar again this July, in the hopes of countering what I fear may still be too low essay scores. I am sure lowering the cut-off score may help improve the problem and selfishly benefits MY interests. But it may not help CA continue to maintain a high bar on attorney competence. I feel the root of the problem is not addressed simply by lowering the cut-off score, but by changing the essay scoring rubrics. I appreciate that the state lowered its number of essays, but I do not feel that really reaches the problem either. Perhaps more or shorter essays with more subjects but better rubrics would have be the better change than simply lowering the number of essays or lowering the cut-off score.

Thank you for your time.

Mark Zavidow - Retired alternate public defender, LA County

I don't think the standards and the quality of attorneys in California will be radically different if the cut score is lowered allowing 47% as opposed to 43% to pass the bar. The fact that 48 other states have a lower cut score is an indication that California's cut score is falsely inflated. Law students now pay $50,000 a year plus living e lenses to attend law school. It is grossly unfair that. They should be saddled with a bar exam that is more difficult than anywhere else in the country. I do feel that the law schools In California could be regulated more closely.

Anonymous

First I want to express my appreciation and gratitude that the California state bar is taking remedial steps and opening itself up to discussion in light of the recent passage rates.

I believe the cut score should be 1414 or lower, with particular attention being paid toward the grading standards of the essays. This belief stems from several red flags that have been raised after taking the exam itself as well as dealing with the consequences of not passing.

The Exam Itself

I have taken the New York (July 2016) and California (Feb. 2017/July 2017) bar exams. I was significantly more prepared for the California bar exams than I was for the New York exam last year, and yet I was still able to pass New York on my first attempt but not California. Next, I looked very carefully at my Evidence, Business Associations, and Professional Responsibility essays from February 2017 and the model answers posted for February 2017. I honestly could not see any real discrepancies between my answers and the model answers. Although my Evidence essay alone may not have been enough to pass, on balance the standards by which my essays were graded seemed absurdly high compared to the grading standards of the NCBE. California seems to have forgotten that this is a test of minimum competency, not maximum competency; and I cannot contest the fickle grading scheme because of the policies of the state bar. It begs the question: who will guard the guards themselves?

I also do not believe that the standards associated with the administration of the California bar exam compared to the New York exam has any bearing on the quality of attorneys being admitted to either state. The fact that the New York exam is "easier" or that the California exam is "harder" says nothing about the attorneys practicing in both states, nor does the exam have much to do with an attorney's fitness to practice law. Ask a seasoned attorney the specific rules regarding proxy voting or the elements of res ipsa loquitur and they will likely give a blank stare.

The Consequences

Not only does there seem to be an issue with the exam itself, but the effect of failing has enormous consequences for a candidate, the public, and the state. It is exceedingly frustrating that nearly an entire class of graduates cannot reasonably seek employment because the state bar's seemingly arbitrary standards. Delaying employment makes substantial financial hardships much more likely. From the $1000 entry fee to merely sit for the exam, to being precluded from paying off colossal student loans, there is an extremely high financial cost to not passing. Not only that, being unemployed for extended periods of time is associated with nontrivial emotional difficulties. I personally have experienced months of depression, sleep difficulties, and anxiety stemming from the fact that I cannot move on to the next phase of my life and set out to do I legitimately hoped when I went to law school: to be an attorney in my home state of California and use the skills I acquired in law school to help people. Instead, I have been living under a veil of doubt and uncertainty and in professional limbo for over a year, which could extend even longer if I do not pass the July 2017 examination. Others have certainly been through much worse.

It is curious what the California State Bar hopes to gain by maintaining the previous standards. Perhaps it stems from a perverted sense of custodianship to the public. Although this is certainly a valid concern, does the the

California bar truly believe that a state like New York, which maintains arguably the largest legal market in the country, fails to protect its public from malpractice because their bar exam is easier?

When I was sitting for the exam this past July I was surrounded on both sides by retakers. The gentleman to my immediate left was taking the exam for his fourth time. He had mentioned he scored in the 90+ percentile on the MBE. I was deeply saddened that he was legitimately considering moving to another state or choosing another profession after his several attempts - and he graduated from the very respectable Loyola Law School in Los Angeles. My two friends from law school also failed the California exam on their first attempts. Thankfully they each passed on their second attempts, but both expressed their deep dissatisfaction with the state bar. I believe this jaded sentiment to be pervasive among many candidates, even some of those who eventually become admitted. Is this a sentiment we want to perpetuate?

Although it would be an enormous victory and a true relief to pass, I felt compelled to share my experiences regardless of the outcome. And while I cannot speak for my peers, I do think having to take the exam over and over again does little more than contribute to a sense of disaffectedness, bitterness, and frustration toward the state bar, and is a unfortunate attitude with which to enter into the legal profession. If the exam felt more fair, perhaps newly minted attorneys will be better able to represent their clients with a sense of hope, optimism, and fairness that is desperately needed in the legal profession if justice is to be adequately upheld.

I truly hope the California state bar is sympathetic to the fact that perfectly qualified candidates are often forced to remain perpetual bar students because of the unnecessary difficulty of the California bar exam, instead of being able to work in a state whose public deserves more widespread legal assistance.

Thank you for your time.

Richard Karlsson

When I took the bar exam, in 1976, if you passed the written exam, the multistate was not graded. In my view, that was a good system, as the multistate was a multiple question nightmare that had little or nothing to do with one's ability to practice law. In my career, quite frankly. I was very successful and I believe the written exam tested my future abilities. In contrast, I believed that the multistate exam was a farse and had nothing to do with determining ability to practice law. Thus, my recommendation would be to return to the practices of 1976.

Alice Kaswan - USF School of Law

As a law professor in the state of California, I believe the cut score should be modified because maintaining the high cut score creates a somewhat arbitrary filter for entry into the profession, deprives the state of the lawyers it needs, and may be harming, not helping, legal education.

If the bar exam measured the applicant's likely contribution to the profession and tested materials necessary to be a competent attorney, I would be more likely to favor the current cut rate. However, the Bar exam measures only a narrow slice of the test-takers' skills. It requires mastery of the minutia of a wide range of legal doctrines, whether or not the test-taker will practice in the covered areas. And it requires out-thinking complex multiple choice questions in a very time-pressured environment. Memorization and very fast analysis are good skills, but they represent only a fraction of the skills a competent lawyer must exercise. In my experience, I have seen many students fail the Bar who are likely to be excellent attorneys. They work hard, have the capacity to master a field (even if they don't have instant recall of a huge body of material) and are able to work through difficult problems carefully, thoughtfully, and accurately (even if they can't crunch through a long multiple-choice question in less than two minutes). And so many factors affect the capacity to be a good attorney - thoroughness, diligence, loyalty, common sense, compassion, communication, and many more skills not tested on the Bar. And note - I do not say every single student I've ever had would be a great attorney; I simply note that the Bar, with the current cut-rate, provides a somewhat arbitrary screen; it screens out test-takers who would be excellent attorneys even if they aren't the best test takers.

I also note that, although I am concerned about whether graduates will find employment and about their debt burden, I don't think the problem is that there are too many lawyers. Instead, the problem is that the legal profession is in a time of change, where law firms charge (and pay) so much that they no longer absorb the number of law graduates exiting law schools. But there remains a huge gap between the number of lawyers and access to representation. The challenge is to develop new modes of lawyering that increase access to legal services while providing a living wage to attorneys. So, concern about the number of lawyers and about debt burden does not provide a reason to maintain the current cut score.

In addition, as a law professor committed to helping my students gain access to the profession by passing the Bar exam, I am concerned that having a high cut score in driving legal education to focus on the Bar, rather than on the wider range of skills and knowledge necessary to be effective lawyers and leaders. A grounding in the Bar subjects is important, and deserves its place in the curriculum. But the Bar exam requires mastery of the details of a wide range of subjects, not all of which are "essential" knowledge. In order to fulfill our duty to help the students pass the Bar, we are shifting the curriculum to provide greater emphasis on Bar subjects and Bar exam skills, with more units offered and required in core Bar subjects and new classes focused on multiple choice skills. These classes come at the expense of substantive knowledge that is not tested on the Bar. For example, in my Property class, I feel compelled to teach doctrines tested on the Bar, and spend less time on the areas that are of critical importance to practicing lawyers and society, like the foreclosure crisis or gentrification. Similarly, I will soon begin teaching an upper-level property class that will cover more property subjects (that only a few students are likely to actually practice), and know that that class will crowd out the opportunity to take classes that expose and prepare students for the current practice of law, like environmental or energy law. Similarly, with the current cut rate, students would be wise to take classes that help prepare them for multiple choice questions - but then they lessen their opportunities to take classes testing actual lawyering skills or experiential opportunities.

I fully support the Bar's role as a gatekeeper into the profession. A lower cut rate would continue to serve as a screen, but would allow more intelligent, committed, and competent graduates to enter the profession and provide much-needed services to the citizens of California.

Anonymous

I understand the need to maintain the high levels of CA attorneys. Maintaining an abnormally cut rate is the wrong tool to do so. The result in declining pass rates and enrollment, the burden on new entrants - all the other qualitative concerns - show that this change is long overdue.
I think 1414 does not go far enough.

John Koeppel - RMKB

Option 2 is a good start. But the current cut score is too high and option 2 does not reduce it enough. The median cut score nationwide is 135. And the state bars in all those states are not out of the State bars in those many states are not out of control, nor are there wide scale reports of lawyer incompetence or members of the public being taken advantage of by incompetent lawyers.
taken advantage of. This indicates a cut score of 135 is probably reasonable and more study by our state bar is warranted.

Anonymous

I am extremely worried about fairness to law students from ALL A.B.A accredited law schools in California, in terms of the State Bar giving all of those students a fair shot at passing the Bar Exam. I read a news article in 2016 which said that on a recent Bar Exam only Berkeley Law, Stanford Law, UCLA Law, USC Law and Irvine Law had a 50+% bar pass rate. I found that extremely shocking since in my 25 years of practicing law in West L.A. I met perfectly competent lawyers from Hastings, UC Davis, Loyola, Southwestern and Pepperdine.

I took the LSAT in 1974, and found that my math and English comprehension skills were more than adequate to get a decent score. I was admitted to Duke and Georgetown, and several other East Coast law schools. I went to Georgetown because at that time it had the biggest and best real estate law program in the USA.

Going into the July 1978 Bar Exam I knew that Georgetown Law had an 85% pass rate on the California Bar. I knew I had to study hard and I did. I passed the Bar Exam on the first try. The people from Georgetown Law who failed that particular bar exam were the people I expected would, because didn't participate in law school class discussions probably because they were having trouble understanding what was going on in class.

When I practiced law I was picked by my firms to be a mentor to "summer clerks". Once I became a partner in a real estate and business litigation firm the young associates would be assigned to me as the real estate department's training partner. As a result, over the years through 2002, I got a good look at young people who "unexpectedly" failed the California Bar Exam. My conclusion over the years was that the men and women who failed were the "over-confident" types who felt they didn't need to study.

Everything I though I knew about young people studying law was completely shot to hell when one of my extremely well educated nephews took the LSAT in 2015. He is a very articulate person, did well in business law class and a paralegal certification course he took. Every California lawyer who knows the young man has said "He will make a good lawyer" from the time he was about 12. He studied like crazy for the LSAT and I thought he would get an LSAT score high enough to get him into a law school like UCLA Law or USC Law. I was shocked to my core when he only got a 150 on the LSAT. He was very upset and we had a detailed discussion and the told me the "logic problems" were almost incomprehensible to him.

I took a look at the logic questions in the LSAT study books. I could not make heads or tails out of the logic problems on the LSAT, yet I successfully practiced law for 25 years and was never sued for malpractice.

I have been told that the people who do well on the LSAT's "logic problems" are math and computer majors in college. I have been told that the group which runs the LSAT insists that a person who gets a good score on their current version of the LSAT is indicative of a person who will do well in the practice of law. I have also been told that people who teach logic in university level courses say that the LSAT's logic problems are not logical and that instead they are pure garbage.

As to the "math and computer nerds" who allegedly do well on the LSAT's logic problems, bringing up their LSAT scores, based on my 20+ years of supervising and training young lawyers I have found that "math and computer nerds" generally make mediocre lawyers because they do not write well, do not speak well, and do not relate to ordinary people who are clients very well. I think the group who design the LSAT are dead wrong in their claim that a person who gets a good score on the LSAT is likely to be a success in practicing law. They are all wet.

Based on my personal experiences training young lawyers, I think that the "modern day" LSAT scores are sending

the wrong people to law school and that is why the "pass rate" is cratering. .

The State Bar of California probably will not be able to "fix" the falling Bar Exam pass rates unless the content of the LSAT goes back to what it was in the late 1970's, getting rid of the "logic problems".

p.s. Based on my experiences as a "training partner", I also want to draw the State Bar's attention to the FACT that the Los Angeles Unified School District does a terrible job of teaching mathematics to working class and poor black, Hispanic and white students. The vast majority of LAUSD's high school graduates are utterly unprepared to do university level math when they graduate from high school and as a result tend to take only the minimum required mass course in college.

As a result, because of the LSAT's reliance on its "logic problems" those LAUSD are discriminated against when they seek to go to law school, where admissions are driven by LSAT scores. As a result, the number of truly poor and working class students from LAUSD, and perhaps other school districts, who are admitted to the top 8 law schools in California are very limited. In turn the number of poor and working class students who are properly trained to practice law is quite limited, and perhaps that demographic of law student also has a far lower Bar Exam pass rate as upper middle class and affluent students from the suburbs and from expensive cities.

As a result, the State Bar of California ends up being an organization where there are very few lawyers from poor and working class backgrounds, and thus a racist and class-ist organization. To serve the vast majority of California's population in the future, California needs lawyers who can relate to poor and working class people. Those kind of lawyers are not math and computer nerds who get into top-ranked California law schools. They are smart young people "from the community".

All in all I advocate that the State Bar of California FORBID law schools in California using the LSAT to determine who is admitted to law school, and that law school admissions be based on personal interviews and the student's college grades. To increase the number of young lawyers from poor and working class communities where the public schools stink, in terms of being able to teach math, I also encourage you to eliminate all mathematics based questions from the Bar Exam, i.e . the Multistate multiple choice questions which have ABSOLUTELY NO correlation to a person's ability to practice law.

Anonymous

Please lower the score further to be consistent with the national median.

When 65% of the candidates that have obtained a JD and have passed the 3 years of Law school fail the bar exam, you have to ask the question, is it really testing a candidate's ability to practice law or is it testing just their memorizing skills? Memorizing skills have nothing to do with the ability to practice law. Which lawyer in real life has given an immediate memorized answer to any question you ask? They always do the research and get back to you. The vetting and screening of law students should happen before entering law school like medical school. Once a student is accepted into law school, every effort should be made to ensure the student becomes a licensed professional. Alas, in California every effort is made by certain vested interests to minimize the number of lawyers! I hope the review is fair and objective and the score is lowered so that it is closer to the national median.
Thank you for your consideration

Anonymous

California should get the same kind of Bar exam with the rest of the Country. Further, the old lawyer Boys club should immediately stop deciding how many people will pass the exam. This is not fair at all.

Anonymous The score should be below 1414 since it is still higher than the national average. CA should consider lowering the score to be comparable to national average.
Anonymous The cut score is unreasonably high. Until CA Bar can provide an explanation as to why the cut score needs to be higher than other jurisdictions, the cut score should be lowered to a similar score as what is used for New York, a jurisdiction most equal to CA and that produces new attorneys at a lower cut score without any apparent detriment.
Marco Marcella - Self The cut score needs to be lowered even further. A mere 1.81% decrease is statistically insignificant by almost an order of magnitude so as to be a de facto no decrease at all. The failure rate of the Bar Exam in California has risen to catastrophic levels to the point where individuals are choosing to not pursue a legal career. This puts the public at risk of not being adequately served by the legal profession. Also, the Bar Exam fees received by the Committee of Bar Examiners ("Committee") has fallen off a cliff due to individuals refusing to pay the exorbitant fees required when they are more likely than not to fail the exam. This hamstrings the Committee in reducing the financial resources to further serve the legal community and the public at large.
Anonymous The cut score should be reduced to 1350, like New York
Anonymous Reduce the cut score to 1330. I believe that is the NY cut score. Nevada just reduced their cut score.

Anonymous

Is it possible to be too good at legal analysis? I failed the July 2016 and February 2017 bar exams. My total scaled scores were 1387.1063 and 1427.8855, respectively. I failed not because I didn't study, but because I didn't have time to finish my writing. There are many like me who feel hopeless after walking out of an exam knowing that they know all the issues and the rules but did not have sufficient time to type the same.

Can one competently represent a client by rushing through their case? I think not. I refuse to breeze through a bar essay by vaguely mentioning trigger terms for the eyes of the hungry graders who'll skim through my essay hunting for those trigger terms so that they can add points and jump to the next essay.

If the point of the bar exam is to protect the public from incompetent attorneys, then the strict timing requirements of the bar exam have long breached the shield that protects the public from attorneys who see in their clients nothing more than dollars.

If every bar exam preparation program teaches law school graduates not what is needed to be a good lawyer, but only what is necessary to pass the bar, then who does this test benefit in reality?

And what about the one who goes through law school teaching his friends how the law works, only to realize that he was the only one out of his friends who didn't pass. What happens to him?

He tries to get a job while he studies for the next exam. He pays again thousand of dollars for a bar preparation program. He then pays close to a thousand dollars to once again take the bar exam. In the meantime, nobody wants to hire him because nobody wants a law clerk who might pass the bar exam and leave them or, even worse, demand the salary of an attorney.

In the meantime, the quarter-million dollar student loan comes knocking on his door demanding monthly payments in amounts he has never earned before. He calls to beg for them to qualify him for low-income status so that he won't have to pay his loans until he gets a job. But interest on that gigantic debt never stop growing. Unable to pay his apartment rent, he moves back to his parents' house.

He studies hard, he takes the test, and he fails again. The results that he gets tell him that he scored in the MBE section higher than the ninety percent of test takers nationwide. He becomes even more frustrated, but he is too proud to quit. So the cycle continues.

Robert Buch - Seyfarth Shaw

California should consider joining other states for one national exam

Anonymous

As an attorney who passed the NY bar on the first time and has been practicing law for almost 20 years now, I think it is very unfair to graduate so many law students in California who are unable to pass the bar exam because the test is much harder than in other states. The passing score should be lowered, preferably to 1410, to make it in line with other bar exams across the country and to give recent graduates (and practicing attorneys) who want to practice in California a realistic and fair opportunity to pass.

Anonymous

In my nearly 30 years of practicing law, I come to believe that passing the test is not a reliable indicator of someone's actual ability to practice law in the courtroom. That takes not just knowledge but a skill set that you cannot test for. I've know many attorneys who had to take the test 2 or 3 times that are remarkable advocates while more than a few who passed the first time that are anything but a credit to our profession. If 1414 is good enough, why not just 1400? Afterall, the grading itself is subjective and those that simply pass the multi-state can practice in Washington D.C.

Elizabeth Beazley - Keesal, Young & Logan

I would be interested to know how many people who have scored 1414 ultimately pass the second time. We do not know if the 1414 score was a fluke or if the second time they took the bar, they scored at that level or even higher. Said another way, did the end up passing the next time or was this 1414 score the best they could do.

Anonymous

The exam has changed considerably over time. Many people question whether the state is reviewing all of the factors involved in the declining pass rates such as additional subjects that have been added to both the essay and MBE portions of the exam, the number of working professionals taking the exam who do not have the time or money to study full time as traditional test takers have done in the past, and the grading system itself. There are many rumors that the exam is graded on a curve based on the group of students in the testing pool for each administration of the exam. Rather, many believe each individual should pass or fail on their merits alone. Additionally, the exam is not a good indicator of whether a person will be a good attorney, much less an honest attorney. It is widely accepted that most cases are won or lost on paper and that such writings are carefully crafted, researched, and deliberated upon. This is in sharp contrast to the Bar examination which requires mostly wrote memorization and issue spotting under strict time constraints. Additionally, the exams are graded hastily by examiners who apply their own subjective views rather than score an individual based on a clear standard.My criminal law professor told us that he barely passed criminal law with a C when he was in law school. However, he is now one of the most respected Assistant District Attorney's in our home county. His performance on the written exams in law school, and subsequently on the Bar exam were simply not an accurate reflection of his ability or integrity. Therefore I encourage the court, not only to lower the current cut score, but to order a review of those who were within 25 points of passing in the past three administrations of the exam, if they have not already passed, and grant them admission to practice so long as they have satisfied the other requirements for admission to practice law. The financial, emotional, and professional toll associated with failing the exam is far to high for a state to engage in the practice of what appears to be the arbitrary failure of so many test takers. This is especially troubling when you take the time to reflect on the quality of individual who has not only gained acceptance into law school, but who has satisfied the requirements to graduate and take the Bar. Only the best and brightest students are afforded such opportunities, and to have so many suffer in repeated failure is quite troubling. If the law schools in our state adhere to the requirements for accreditation, how are so many students who have time and again exhibited satisfactory performance in similar exams failing unless the standard has been set too high. Another problem with the exam is the quality of the sample answers produced by the committee. Nobody ever sees what a "perfect" exam looks like so the true standard to which we all aspire is unknown. In the military, we always set high standards for our performance. However, our superiors always made sure we understood what was expected of us, and how we could achieve those standards to be successful. This is in clear contrast to the Bar. As I am sure the court has seen, there are many exam prep courses, tutors, and others who purport to know how to write the exams and what the examiners are looking for. The problem is nobody can be sure. It is almost as if the standard is constantly in flux. How can students hit a mark when they are not sure where it is, or the standard by which their performance is measured?

Anonymous

The rule of law should not be arbitrary, nor should a passing score on an exceptionally difficult exam be arbitrarily decided. California has no logical reason to keep its cut score at 1440.

Anonymous

The State Bar of California should lower the cut score to enable more public interest lawyers to enter the profession and serve underrepresented communities.

Anonymous

It would be interesting to see if there is a correlation between lower cut scores and more unethical/less prepared attorneys.

Qualitative evidence would suggest that professionalism is not correlated to bar scores. Are there quantitative studies showing states with lower cut scores have higher incidents of legal malpractice?

That would be your answer for dropping the cut score or keeping it at 1440.

Dave Barela - N/A

The Attorney Bar Exam should be modified. Prior to implementing the performance part of the exam, the bar exam consisted only of essays and multi-state. The introduction of the Performance Exam was presumably an attempt to create a balance between students who were strong in writing essays and answering multiple choice questions, with those students who might be strong in applying legal principles in a hypothetical situation. This was an improvement. However, the bar exam, as it presently exists, is unfair to attorneys who are either out-of-state attorneys or attorneys who have been disbarred or resigned, and are taking the bar exam as a condition of reinstatement to satisfy the requirement of "current knowledge of the law."

The bar exam for attorneys should be different than the bar exam taken by graduating students. The inequality stems from the fact that students are better prepared to take a bar exam because the bar exam consists of similar questions, both essay and multi-state, that students take in law school. The unfairness arises because once a student becomes a practicing attorney, the attorney no longer "thinks" like a law student - he thinks and acts like an attorney. Therefore, as the years go by, it would become increasingly difficult for an attorney to "think" or "rethink" like a law student in taking a bar exam. A better gauge as to whether or not a disbarred or resigned attorney can satisfy the requirement of "current knowledge of the law" in seeking reinstatement would be to have these "attorneys" take an exam that also tests their practical knowledge and ability in practicing law. A suggestion would be to have the bar exam consist of the two following sections - (1) Essays and (2) Attorney Practical Exam: The exam would take either two full days or a day and a half. [It would be doubtful if this could be accomplished in a one-day day.]

DAY 1: Two "3-hour" sessions consisting of shorter essays that would cover ALL subject matters. Each session would consist of six essay questions in which it would be estimated that each essay could be completed in 30 minutes. [Total of 12 essay questions]

DAY 2: Either two "3-hour" sessions or one "3-hour" session consisting of an Attorney Practical Exam designed to test or gauge an attorney's practical knowledge and experience in the practice of law. This type of exam would be different than the existing Performance Exam which is a theoretical exam.
The Attorney Practical Exam would consist of "everyday" realistic hypothetical scenarios in which the Attorney would be asked to resolve the matter using his legal knowledge and experience. One scenario might test an Attorney's ability in his office - drafting a simple trust; drafting a simple will; drafting a simple contract; drafting a motion; and/or drafting an opposition to a motion. Another scenario might test an Attorney's ability in court - conducting voire dire; conducting direct examination; conducting cross-examination; and/or conducting a closing argument.

In every bar exam, there are only approximately 25 applicants who are disbarred or resigned attorneys taking the bar exam as a condition for reinstatement. As an alternative, It is conceivable that the bar examiners might be able to formulate such a Attorney Practical Exam so that it can be taken orally in such a manner that the applicant can be asked hypothetical questions in front of a panel. With 25 applicants, perhaps this can be accomplished over a 2-3 day period.

I freely admit that I am a resigned attorney who has been unable to pass the attorney bar exam. I resigned due to trust account issues which have long since been resolved. I never had a complaint from any client regarding an issue of incompetence. I consider myself to have vast knowledge and experience in the practice of law, including

conducting many jury trials, however, when it comes to taking the bar exam, I have repeatedly failed. I do not believe my repeated failures are due to the fact that I do not have a current knowledge of the law, but rather to the fact that I have been unable to put myself back into the role of a "student" who is taking the bar exam. Too many years have gone by. I believe that designing an Attorney Practical Exam in the manner I have suggested, might be more fair to those class of applicants who are in my situation.

Thank you for your time and consideration.

Dave M. Barela
SBN: 102601

Cyrus R

The types of essays that were provided for during the 1970s-1990s, generally speaking, were rule based and element based and had very few, if any, cross-over subjects. This has, probably, contributed to a declining passing score as well. The requirement to use computer software puts an extra burden on the applicant and the reader, who is grading it, presumably, by reviewing the essays without much deference to it and very little time....If one looks at the model essays from the 1980s, for example, most were hand-written and the writer was able to use a standard method on a single subject to demonstrate knowledge of that particular subject. It seems apparently obvious to me and many of my colleagues that the California Bar Exam when compared to those earlier model answers simply are NOT requiring knowledge of the tested subject. Instead what is it testing? In comparison to the UBE, for example, an amorphous blend of this and that, with questions at the end of the fact pattern doesn't give an applicant any real structure. It comes down to probably who can type faster, although that is just a conjecture. In addition, why is the CA MPRE score required to be higher than other states? Why are law schools using a 65%-75% set of standards to grade exams. Therefore it seems harsh and over-burdensome to be honest....Further, why doesn't the under served areas of this state, which are desperate, in a lot of locals, be allowed to have practicum options for law school graduates to practice there? Debt, and other issues like not passing the bar, when financial pressures are so important that if someone is a repeater, then s/he can no longer fixate on preparing in a standard way, due to pressing needs like paying that debt back immediately within the grace period in a non-law related job. This again, further alienates these examinees from the law and becomes a kind of self-fulfilling prophecy of failure, etc. Time passes and motivation lapses. I have seen this happen to many excellent law graduates, some of whom either give-up needlessly, or move to another state, immediately pass the bar and end up practicing there.

Anonymous

I am extremely worried about fairness to law students from ALL A.B.A accredited law schools in California, in terms of the State Bar giving all of those students a fair shot at passing the Bar Exam. I read a news article in 2016 which said that on a recent Bar Exam only Berkeley Law, Stanford Law, UCLA Law, USC Law and Irvine Law had a 50+% bar pass rate. I found that extremely shocking since in my 25 years of practicing law in West L.A. I met perfectly competent lawyers from Hastings, UC Davis, Loyola, Southwestern and Pepperdine.

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Anonymous

The current cut score of 1440 is preventing legal access by low-income and underprivileged populations within California. With low bar passage rates, attorneys will be able to choose only affluent clients such as corporations and the wealthy, ignoring the poor who may also need legal support. I believe in a just California. Please lower the cut score to 1414.

Anonymous

Although maintaining the integrity of the profession is highly crucial, keeping the cut score of 1440 will not solve the problem. We are facing a bigger problem. One could argue that lowering the cut score to 1414 or even lower will endanger the interest of the public from potentially unqualified attorneys, and most of the proponents are probably the bar prep companies, because the more law students fail the bar exam, the more clients they get over and over. However, if they are genuinely worried about the integrity of the profession, then further steps must be taken since keeping the score of 1440 is like putting a band aid on the deep cut. It will not ensure protecting the public from potentially unqualified attorneys.

The score is not determinative of whether an applicant can potentially become a successful attorney or vice versa. One could be great in theory and pass the Bar exam on the first try, but not be competent in practice. Thus, to better solve the bigger problem, we should go back to the bone of the problem, the law schools. The law schools should make sure to cover thoroughly all the subjects and topics being tested on the Bar exam. They should engage all the students in different hypotheticals rather than just going over cases and see what the law is. So many law students, including myself, had not been exposed to so many of the topics tested on the Bar exam until Bar prep. How about the students who cannot afford to take a Bar prep course? How is that fair? They are deprived of having the opportunity to learn the subjects being tested...yet we are surprised that most of the applicants fail, .. even more surprised, after having such high cut score, we still do not have as competent attorneys as expected.

Human potential is limitless. Thus, it is the approach that matters and makes a huge difference. If the law schools do not take it seriously and do not provide competent education for the law students in 3-4 years, then mere 2 months of bar prep definitely is not enough to be able to think like an attorney. Three years of law school has been like a preview of the subjects and the topics, rather than getting to the bone of it and analyze, and learn all the skills necessary for the future. How is it that after taking a bar prep course a couple of times, the same person finally passes? It is not that the person is not competent, it is the approach. It takes time, so if the law schools do what they are supposed to do, or make some changes in the education system or the internships, 3-4 years is more than enough to make an applicant competent to pass the bar exam on the first try.

So many people who could potentially become successful attorneys refrain from applying to law school because of the outcome. They are afraid that like so many other applicants, they will have to spend 3-4 years of their lives, undertake a mountain of loan, and not be able to pay off the loans because they keep failing the bar exam over and over again.

I, myself, saw a huge difference, in the different method and approach that I was taught in my bar prep course. It was different than the way it was taught in law school and although it was within such short period of time (2 months), so many of the topics that did not make sense in law school, finally did here. I am the same person, so what changed, was the approach.

The point I am trying to make is that to make a difference in the outcome and to see more potentially successful and competent attorneys in the future, the education system in law schools should be changed, not keeping the same system after seeing no different results than failure of so many of the applicants over the years. Making changes in the educational system in law school and lowering the cut score, not only could potentially solve the problem, it could further attract more potential people who refrain from applying to law school due to the obstacles we are currently faced with.

Therefore, the cut score should be lowered.

Joel Markowitz

I have practiced for 47 years in New York. For more than 30 of those years, I have enjoyed an "AV Preeminent" peer rating by Martindale-Hubbell. I moved to CA in June to be closer to my children and grandchildren in the hope of continuing to practice in this state. Because I have been a member in good standing of the bar of another state for a continuous period of way more than 4 years, I was excused from the MBE portion of the bar exam, but I was required to submit to and pass the essay portion of the exam in order to practice here. I took the essay exam in July and, despite my professional achievements and my effort to absorb vast quantities of CA law in numerous procedural and substantive areas, I am not at all confident in the outcome. I graduated from Georgetown University Law Center in 1968 and took and passed the NY bar exam that year. Given the remoteness in time of my legal education and my last written competency test, I do not believe that a written examination of any kind can serve as a true measure of my current qualification to practice law in this or any other state. I strongly recommend that some means other than a written exam designed to measure the study habits of recent law school graduates be devised to allow someone in my circumstances to make available in this state her or his vast experience and legal ability.

Manuel Ramos - retired

Im a retired Latino Cuban American lawyer who graduated magna cum laude from Yale and University of Virginia Law School in 1978. My son is starting his 3rd year of law school at Thomas Jefferson in San Diego. I started at Procopio and then cofounded the San Diego office of Lewis, Brisbois, Bisgaard and Smith, one of CA largest law firms. I've hired and supervised about a hundred mostly young lawyers of color. I taught also full time at Tulane, USD, Thomas Jefferson, Santa Clara and Stetson. My specialty was legal maloractice: first defense then plaintiff including both as a solo practioner and then suing professionals of failed banks for the FDIC. Sadly, the legal profession and legal education has not changed for the 42 yesrs since I started law school. It is still way too male, way too white, way too much unmet legal needs for the poor and middle class and way too expensive where the student lloans are way too high and keep most away from public service. Before going to UVA I heard that a bunch of young PhDs who took the bar review course but never went to law school passed the CA bar. Back then at UVA they let you drop one of your first semester first year classes. So I dropped them all and just took seminars. I took the bar review course and passed the bar review very seriously and passed the first time. We need less law school semesters and less emphasis on passing the bar. Both are highly overrated and too expensive. So I am for anything that makes the bar exam one less barrier to anyone especially poor students of color become lawyers to help serve their communities. A recent study found that 75% of civil litigants did not have lawyers and the average judgment was $2500. The law schools and the bar exam still have very little to do with how successful one will be as a lawyer. So, yes, let us make both of them easier and not just for the very few students whose parents and family can afford to make them lawyers.

Scott Radford - Radford Law Firm, P.C.

I have a BA in History from UCLA (1972). I attended Southwestern School of Law 1973-1974 and did not pass the first year. I attended and graduated from Northrop University School of Law (a CA accredited night law school from 1974 to 1978). I passed the CA Bar Exam in 1981 after six tries and the MT Bar Exam in 1981 after two tries. I have practiced law in Montana since 1981.

I was diagnosed in the early 1990s by a psychologist (here in Montana) with mild to moderate learning disorders (dyslexia, ADD and maybe others). Most likely the result of an illness I contracted when I was five. During the times I attended law school and took the Bar Exams in CA and MT there were no accommodations provided to persons with learning disorders. I personally believe that with accommodations provided for my learning disorders (such as additional time to take tests) I would have gotten my CA Bar License back in 1976.

No Bar Association (CA and MT) has ever taken ethical proceeding against me and I can show that I have provided 100s (if not 1,000s) of hours of pro bono service (in an effort to repay the privilege of being an attorney). Without the huge and continuous support from my Parents (who believed in me) I would never have become an attorney.

How many thousands of individuals would have passed the CA Bar Exam and provided legal assistance to the public if appropriate accommodations for learning disorders had been provided?

Kim Murphy - n/a

I agree with Option 2 to lower the cut score to 1414. However, I think the cut score should be further lowered, if lowering it would bring CA in line with the rest of the nation.

Having worked in a courtroom for 10 years, there are many attorneys in the marketplace who are 'book smart' but function as attorneys at a level falling below the standard the profession demands. I believe that there are many applicants out there who will make excellent attorneys and should be given the chance to practice. An attorneys' inability to practice competently will be discovered eventually as evidenced by the number of disbarments and disciplines the CA Bar Associations publishes on the website.

Thank you.
Kim Murphy

John Collins

The score does not have any objective connection with the ability of a lawyer. Accordingly, I would like to see us set the required score at a lower point (below 1414) that would allow more people to pass. Cutting the pass rate to below 50% is just unacceptable and silly. We need lawyers to help people; keeping out lawyers is bad practice.

Anonymous

Lower score to be consistent with the national median

Anonymous

The bar exam is intended to ensure minimum competence, and is not a reflection on one's potentional in the field. That being so, it is important to lower the score so that we'll-qualified candidates may enter the field—as deserved.

Natasha Machado - CDCR

Many competent individuals are going to committee multiple times but not making the cut because of the steep passing line. I don't think it will diminish the profession to lower the line, I think it will be a great step towards passing competent and deserving individuals.

Barbara Toy

I have been a practicing attorney since 1976, and over the years have worked with a number of people who were knowledgeable and capable and by all the indicators of the work they were doing while preparing for and taking the bar exam would have been been good attorneys but were not superlative exam takers and, though they came very close, they were not able to pass the bar exam. Based on what other states have found works for them in protecting the quality of attorneys practicing in their states with much lower cut scores, and from what I have seen over the years of well-qualified candidates who were not able to pass the bar with our very high cut score, it seems to me that it would be fairer to all concerned to reduce our cut score at least somewhat pending further study to determine if it should be brought more in line with the cut score used in other states.

Anonymous

The current score of 1440 is unrealistic and unattainable for most people. Please lower the score to 1414.

Stephen Burdoin - Retired

When I took the Bar Exam in the summer of 1985, the pass rate was the lowest in had been in many years and was somewhere around 45%. At that time the exam was a possible of 1800 points and one needed a score of 70 percent, or 1260, to pass. There was no such thing as a "cut score" or a re-scoring gimmick. If the current bar exam is just as difficult as it was then, the passing score should still be 70% or 1400 points. This "cut score" and re-scoring gimmick is just the State Bar's way of fixing something that was never really broken in the first place.

The Committee of Bar Examiners should be dedicated to ensuring the integrity of the profession and protecting the public from unqualified, unethical, and incompetent attorneys. They (The Committee of Bar Examiners) should not be concerned with the diversity of the Bar or those candidates with outstanding student loans.

What California is doing wrong, and has been for many years, is allowing law schools to exist and operate that are not accredited by the American Bar Association. Most states do not do this.These law schools have lower acceptance standards. As a result they tend to accept many students that are not of the necessary quality or, indeed, even worthy of the profession. Before retiring, I had practiced for thirty years. If I was up against another attorney or worked with an attorney, I would almost always check his or her Law School. I consistently found that there was a true and solid difference between the intellectualism and quality of the attorneys that had come from ABA approved law schools and those who had not. I do not believe that California has too difficult a Bar Exam. The fail rate is high because, unlike most other states, California has more unqualified candidates from their non ABA accredited schools taking the Bar Exam. The proof of this is in the numbers. Candidates from ABA accredited Law Schools consistently have higher pass rates on the the Bar Exam than those from non ABA accredited Law Schools.

In conclusion, the Bar Exam pass rate should be set no lower than 70%, or 1400 points, as long as this state allows non ABA accredited law schools to exist and operate. In addition there should be no "cut score" or re-scoring gimmick.

Philip Crawford - Law Office of Philip J. Crawford

You should also reconsider the wisdom of having each essay question of the exam crafted by private attorneys, some who have told me that they based the drafting of essay question on the toughest case that walked into their office or said it was important to make the essay questions difficult because we have a surplus of attorneys in California and so should only let the scrappiest through.

Anonymous

Give more weight to the PT where candidates can display actual legal skills as opposed to regurgitating rules on essays.
The grading system for the essays is flawed if different graders can give the same essay a 15-point difference.

Anonymous

There is no logical reason to keep the cut score at 1440. No other state has such an unreasonable bar, no pun intended. Are California's attorneys more qualified or more prepared than attorneys in the other forty-nine states? Of course not! Lower the cut score to 1414, and enable our bright, motivated attorneys-to-be to begin their careers.

Anonymous

Has any on ever thought that doctors should be allowed to take an easier exam or pass with a lower score? Would you want a doctor performing surgery on you who took an easy professional exam or passed with a low score? Of course not. So, why would we want attorneys to take an easy exam or pass with a lower score to be able to practice in California? If a law graduate wants an easy exam, they can go to DC. An exam should be rigid and have a reasonable passing threshold to uphold its professional standards. It is possible that the law schools should be held more responsible for educating its entering students as to the difficulties or this profession and of some state entrance exams, such as California's, New York's, and Florida's. Current Californian attorneys deserve to have cohorts of reasonable capability. Lowering the cut rate will lower standards in California.

Jayme Staten - Cooley LLP

Like so many other facets of the legal profession, the CBX cut score of 1440 is a no-longer-welcome vestige of elitism and classism. The arguments for keeping the pass rate high are perplexing: (1) protect the public from unqualified lawyers; (2) protecting lawyers themselves from an influx of new lawyers to the profession; (3) maintain the integrity of the profession.

(1) "Protecting the public from unqualified lawyers"
While it is undoubtedly important to protect the public from unqualified lawyers, there is a false equivalency being drawn between lowering the pass score and admitting unqualified lawyers. As noted by critics and proponents alike, the CBX cut score is the second highest in the country. Meaning the overwhelming majority of other states have cut scores lower than that of California. Yet these states are not fearful that their lower cut score admits "unqualified lawyers." Proponents of maintaining the CBX cut score at 1440 use public protection as a veil to uphold the unnecessary and elitism that comes with being able to "pass the bar on the first try." There is not evidence that lowering the cut score will lead to "unqualified lawyers." Seeing as the California Bar Examiners determine what is qualifying, this argument seems moot.

(2) Protecting the Legal Market
Lowering the cut score would also do nothing to threaten the job market in California. Many proponents of maintaining the CBX cut score cite to reasons related to market saturation of lawyers. However, the free market will decide precisely the number of lawyers it can handle and jobs will increase or decline accordingly.

(3) "Integrity" of the Profession
In the survey sent to lawyers and recent bar applicants, "maintaining the integrity of the legal profession" was posed in the survey as being important or not important to the survey-taker. But I'm not sure how maintaining the integrity of the legal profession is related to the cut score. There is a false sense of elitism that comes with having such a high pass score, and being able to say that I passed the California bar the first time. However, as we all have faced at some point or another, standardized testing is not indicative of integrity or other character traits. This is what the character and moral fitness component of the bar is about. And while admitting "unqualified" lawyers could compromise the integrity of the profession, there is no indication that lowering the cut score would lead to a lack of integrity of the legal profession.

Anonymous

The Supreme Court should consider the fact that law school graduates incur substantial debt to finance their legal education and afterwards they face the most difficult bar exam in the country and most of them fail it only to find themselves in debt and without gainful employment. Further, the recent passage rates in California have been in the 40% and 30%, and most bar takers are graduates of California ABA-accredited law schools, which means that only about one third of ABA-law schools graduates have the minimum competency to practice law in California (given that the bar exam is a minimum competency test). Does that make any sense? I do not think that the California bar exam serves its purpose of admitting graduates who have minimum competency to practice law in California, since it only admits about one third of them. I do not think that all of California law schools combined do such a poor job training their graduates to be attorneys. The more likely explanation is that the California bar exam is unnecessarily unreasonably difficult to pass. Option 2 of lowering the cut score should be adopted, but the cut score must be lowered further than 1414.

Anonymous

I strongly feel that the CA Bar Exam cut score should be lowered. While I understand the need to maintain the integrity of the profession, the integrity comes from the people and their abilities and passion, not from an arbitrarily high cut score. Students graduating from ABA accredited law schools who have seriously studied, whether through a bar review course or otherwise, should have a fighting chance to pass the bar.

Lisa Mccreadie

Needs to be lower, at least in line with New York. Statistics show CA Bar applicants are just as capable, if not more so, than those in other states and this ability is not reflected in the pass rates. This fact almost completely invalidates the much-cited argument that the CA cut score should be kept high to protect the legal field from incompetent lawyers.

Anonymous

I'm concerned about access to the bar. The exam is too difficult and the content (with the notable and excellent exception of the MPT!) has very little to do with whether one would be a successful lawyer. I want to equip more people with the access to help themselves and their communities in the legal sphere.

Theodore Stroll - retired

I used to grade the bar exam. It's a conundrum. On the one hand, some of the bar examiners exuded self-importance. I would worry they would grade the essays too harshly in part to look stern to others and/or out of a superiority complex. Moreover, I felt pressure not to deviate too much from the other examiners' consensus about an essay's score, and so I myself may have been susceptible to a kind of subtle groupthink.

On the other hand, the lackluster quality of many applicants' writing was jarring. It was routine to see "waiver" written as "waver." It was a rare pleasure to read an essay that showed a lively mind and subtlety of thinking.

I wouldn't lower the score too much. I worked on a case in which a criminal defendant received what I thought was inadequate representation from counsel. I wondered if he'd barely squeaked by the bar exam.

William Patton

I disagree with both option 1 and option 2. The current144 cut score is not based on sufficient empirical evidence, but was, rather based on Stephen Klein's and the State Bar's general notion that minimal competency means that an applicant should at least score 70% on the test. That 70% passage level has been debunked by numerous psychometricians because the passage percentage rate alone is irrelevant unless it is tied with the difficulty level of the actual examination questions.

I also disagree with the 141 cut score because it was derived from Dr. Buckendaul's severly flawed cut score study. Many of the critical methodological flaws were illustrated in Mary J. Pitoniak's study.

The State Bar needs more cut score studies in order to determine with reliable empirical evidence what the proper cut score is to balance consumer safety, access to justice, and diversity in the bar.

Oscar Lopez

The cut score clearly has to be lowered, but 1414 seems arbitrary and may not be low enough. The only information I have is that lowering the cut score to 1414 would increase the pass rate from 43% to 47%. First, that number still seems far too low. Second, I have no indication of how that cut score would increase the diversity of our legal profession.

It is completely unfair that people pay so much money to go to law school expecting that they will be prepared to pass the bar, only to learn that you have to take a summer course to actually prepare for the bar. Clearly, there is something very wrong with the law school pedagogy that is disproportionately falling on students of color. Merely asking attorneys whether we should lower the cut score is insufficient. Attorneys are likely to vote in their self-interest, which means they will vote to keep the legal profession small so that they can have more business.

Lowering the cut score is an okay start, but there are larger structural issues that need to be addressed.

Anonymous

Lowering the cut score by just 26 points may not make a material difference. A greater lowering should be strongly considered.

Gael Gallant

When I took the bar exam it was graded in three sections. I had trouble with one part only - the multiple choice. I have always had problems with this type of question.

What I would suggest, is having the bar exam again divide up the sections. If you pass the essay, leave it off your test the next time so you can concentrate on the part you do need to pass.

How many of the now practicing attorneys would be attorneys without this type of exam?

Alan Stancombe

We've lost too many examinees to other states.

Anonymous

I agree with Option 2 if modified to potentially lower the cut score a little bit more.

I took the July 2017 bar exam last month and of course have not received my results yet. I was a serious law student and took bar preparation seriously, and I felt confident after taking the exam. Nevertheless, I wish to comment on the arbitariness and unreliability of the California bar exam as demonstrated by the evidence (or lack thereof).

In theory, the bar exam is supposed to protect the public from incompetent attorneys. However, the State Bar of California can cite to no study indicating that states with far lower cut scores than California suffer from higher incidents of malpractice. Also, if the pass rate were in fact indicative of competence, that would mean that less than half of law school graduates in recent years in California are competent. Of course, there is absolutley no evidence to support this. This leads many people, including myself, to deduce that the State Bar is really just trying to control the supply of lawyers in California by setting an unreasonably high cut score. This is not something the State Bar should aim to do. Whether there are too many lawyers in California is something for the free market to decide, not a trade union such as the State Bar. In this respect, I would submit the State Bar is exceeding its proper function.

I also would like to comment briefly on the costs of the bar exam. First the economic costs. Law students have to pay for and take an LSAT course, pay for and take the LSAT, pay law school tuition and living expenses (since it is impossible to be gainfully employed as a full time law student), pay thousands of dollars for a bar prep course, and then pay over a thousand dollars to take the bar exam (exam fees plus hotel and travel costs). And of course, during the 10 weeks of bar prep, it is impossible to be gainfully employed. These costs are an exteme burden, which makes the high cut score even more absurd and unduly harsh. Additionally, many applicants who studied for the bar exam seriously and were excellent students in school end up losing job offers when they get their results and learn they have failed. This leads to further economic hardship as well as shame and embarrassment. Also, it would be irresponsible to ignore the psychological stress that comes with having to take the exam over again, especially for someone who worked hard and responsibily studied for the exam the first time.

I could go on about the unreasonableness of the California bar exam. But I would like to close by saying that, before I entered law school, I naively believed that if you worked hard in law school and got good grades and took bar preparation seriously, you would be virtually guaranteed to pass. However, this is not the case. Hundreds if not thousands of applicants every year who were outstanding students in school and took bar preparation seriously end up failing for no justifiable reason. Respectfully, I believe this is a shame and to our noble profession, and it is something that the honorable members of the State Bar should take action on to change once and for all.

Sincerely,

Applicant

Terrie Sullivan

It is significant that the Study found no evidence that a higher cut score correlates to a higher degree of competency among California lawyers. Instead, it appears that having the second-highest cut score in the nation only serves to reduce the number of competent lawyers joining the profession, who may be technically qualified but who did not test well for any number of reasons. If the cut score is not intended to be a predictor of competence or professional success, as stated in the Study, then it is unreasonable to continue using an artificially high cut score when a pass line range as low as 1388 (and as high as 1504) provides 95% confidence. Furthermore, as California has one of the most diverse populations in the nation, one can infer that maintaining a higher-than-necessary cut score will disproportionately impact people of color, thus contributing to a lack of diversity in the profession. The continued health of the legal profession requires not only minimal competence, but a variety of diverse perspectives and backgrounds in order to best serve the public.

I agree with the decision to lower the cut score to 1414 in the interim; however, I would also support lowering the score even further if the conclusion of the four studies continues to support a pass line range as low as 1388.

Souren Davoodiian

Given the fact of declining passing rate in California, it is necessary to lower the cut the passing score to a number lower than 1414, because the purposed 1414 lowers the cut score by only 26 points. I think it should be lowered to 1200 points. After all, 50% of the bar exam is graded subjectively by essay graders, and the other 50% is the MBE. Therefore, lowering the cut score will provide the bar applicants a fair chance to pass the exam.

Lindsey Williams - UC Davis School of Law

I believe that the bar pass rate needs to be lowered. As a law student at a top tier school, it's devastating to know that I only have around a 72% chance of passing the bar, despite attending one of the nation's highest ranked schools and paying $50,000 a year to receive this education. The fact that my specific school's bar pass rate has dropped 14% in about 3 years, and other highly ranked schools' pass rates have dropped even more significantly demonstrates that there is a significant problem with what is going on. It should never be the case that only 34.5% of test takers pass a test when every single person who takes it studies 8-12 hours a day for it, 7 days a week, for 2 months. To effectively say that only 68% of students who attend an ABA accredited law school are qualified to work as lawyers in CA is ridiculous and unfair. Along with this, not being able to pass the bar only leads more people attempting to become lawyers to not receive an income for more months at a time and to have to pay to retake a bar prep course and pay to take the bar exam again. I truly hope that passing the bar can become a more attainable goal for students who have worked their entire lives to get into law schools and who have sacrificed so much to make it to make this dream happen.

Joy Lesperance

I would like to see it lowered even below the 1414 score. California's score level is still far above all the other states.

Anonymous

California's cut score should be in line with the rest of the country. Neither of the recommendations accomplishes that. I strongly recommend a move to 135 or at the very least 138.

Anonymous

There is absolutely no valid reason for California to keep the higher cut score. This is an outdated and elitist method of maintaining the bar's status quo and it must stop. We cannot continue to proffer an image of California as a bastion of progressive governance when we continue to adhere to these antiquated methods of admitting people to the practice of law.

Mark Kirkorsky - Mark A. Kirkorsky, P.C.

While I believe that maintaining integrity of the profession is very important, a number score on an exam is not indicative of competence to practice. Competence comes from good training and experience, not from studying for a single exam. Many topics covered on bar exam will never again be seen throughout the career of a practicing lawyer. Most lawyers today focus in a limited range or areas of practice and expertise follows practice, repetition, and experience. A somewhat arbitrary cut score on a bar exam prevents many good candidates from gaining what will REALLY make them good or great lawyers, and that is EXPERIENCE. Instead of bogging people down with an artificial indicator of competence, give them the opportunity to gain REAL COMPETENCE by doing. The few that might get through and never achieve a level of competence, just like some that do achieve the higher cut scores even though they may not prove to be so competent, will be exposed by the marketplace, poorly served clients, the courts and the State Bar, where their lack of competence can be addressed in a direct and meaning way, rather than an arbitrary roadblock.

Anonymous

The cut score should be lowered, probably below the recommended score of 1414. The results of the standard setting study are nearly useless. Much was made of the fact that the study produced a median recommended passing score that is almost identical to the current cut score of 1440. On the contrary, this result should cause the committee and the Supreme Court to pause and consider the reliability of a study that produces a number that is exactly in line with the score currently in use by the very body that commissioned the study and approved the current score. This result is particularly suspect in light of the fact that the recommended score greatly exceeds the score deemed adequate by 48 other states.

More importantly, the standard error on the study output is enormous. The results are 95 percent confident that the "true" cut score is somewhere between 1388 and 1504. This range has a difference in passing rate of approximately 30 percent. This is an incredibly unreliable result and makes the choice of any specific point within the wide range essentially arbitrary. The study has done the statistical equivalent of throwing its hands in the air and admitting the test cannot reliably predict competence except above a bare minimum threshold.

Nevra Azerkan

I agree that the cut score should be lowered. However, it should be lowered further than 1414 to somewhere closer to the 1300s like other states. Since the exam is now equally weighed between essays and MBEs, the exam does not allow much cushion for any mistakes or weaknesses like the previous bar exam did. Therefore, there should be more of an allowance in the cut score. This does not undermine the integrity of the profession or put out unqualified lawyers because the majority of law students have done a clerkship where they experienced first hand how to successfully accomplish legal tasks and to use the resources available to them to do their research. This cannot always be shown in a standardized test.

Furthermore, new attorneys generally begin working under veteran attorneys and are able to learn and prove themselves more than what the bar exam tells the reader. Law students have put in the work during their years in law school and many are very successful in their clerkships, but with California's cut score being so high even some of the brightest students do not pass. In many cases, these students would have passed the majority of other state bar exams.

As it is, the grading of the essays is a very subjective matter and with the flexibility of a lower cut score those that deserve, but may have been on the border of passing in the past, would be able to succeed. The national average score is lower than California and there is no epidemic of unqualified attorneys in the nation. Instead of retaining a reputation of having the hardest bar exam, we should be looking to nurture the legal community with attorneys who have studied hard and are committed to the profession.

Anonymous

I come into the category of a law student who did not initially pass the Bar, yet was someone who worked in a firm with one of the top attorneys in the field. He was training me to take over and promote up in the firm. I was doing extremely well and bringing in top clients, including multimillion dollar organizations. Then, I did not pass the Bar because I was a few points shy of the cut off score. It was over. I had to leave the firm in order to find a position that could make pay me enough to remain here in Los Angeles. The loan I took out to pay for law school was immense and it has been a struggle to maintain. I had to rewrite my life to survive. I understand the rationale of the Bar, but there are a persons who pass the test and in practice are not the best or even good. Then, there are those like me who may not have passed yet, but are excellent in real life practice. There are many areas for an attorney to practice and some are not tested on the Bar. I think lowering the cut off score will not harm the public. Once you are in practice, it is a sink or swim environment, especially if you are a sole practitioner and there are checks and balances in place to protect the public through the complaint system.

Jeffrey Kosbie

As a current member of the California bar, I am aware of the arguments on both sides of this issue. I think our profession does a deep disservice to underserved communities when there are not lawyers to work there, and many of the lawyers that would work there are the same lawyers that would benefit from a lower bar exam passing score. I don't want to dismiss concerns with making sure lawyers are adequately trained and are competent to represent the public. However, I'm not convinced that the bar exam is the proper tool to do this. Many lawyers pass the bar who fail in their duties to protect their clients; and many potential lawyers who fail to pass the bar would succeed at these duties. In particular, the skills measured on the bar exam are not that relevant to the skills required for representing low-income clients before administrative agencies and in other similar settings, far from the traditional image of the courtroom. Much of the legal profession works in these other spheres.

Anonymous

The cut score should be even lower than 1414. The exam tricks well-educated students into confused mentalities intentionally, making the high cut score punitive for students with adequate knowledge to practice law in an acceptable fashion. The exam does not properly evaluate the fitness to practice law in modern society.

Anonymous

43 percent pass rate is unacceptable, the concept of the bar exam as a closed book test rewards those who can stuff as much material in their head as possible it does not help or improve the quality of attorneys. It doesn't measure how well an attorney can alayze material it rewards those who remembers the most and can articulate it. The aim should be dorected against prefatory law schools the for-profits

Anonymous

I have found that the preparation and knowledge to pass the bar exam have very little connection to the practice of law and whether or not an attorney provides the highest caliber legal service to their clients. Rather, experience, training and a desire to work hard and do their best for clients is more telling what kind of legal service an attorney will provide.

Anonymous

It is critical that justice is uphold and in the challenges USA have been facing on interference from external force which we have seen in recent weeks and months, the integrity of the judicial system need to be more robust to withstand these onslaught to undermine our judicial system,

We need to be more unified and ensure experience Attorneys and professionals from diverse backgrounds are encouraged to join the profession and strengthen the judicial system.

We need to review that Attorneys who taking the Cal Bar should have all their past result be revaluated and their best result of individual subjects are taken into consideration eg. if the experienced and diverse background Attorneys best result on individual Essays have achieved the cut 1414 they should be allowed to practice in California.

Preference should be given those of certain age bracket above 65 years thereabout their diverse background and experience should overcome the examination cut off line. We need the experience Attorneys as they do have the speed to typewritten answers to the young graduates but their experience will overcome the examination unfairness.

We are confident they have the judicial capabilities to resolve a legal problems in methodical way.

Donna Flanagan

A temporary score of 133 to 136 in February 2018, followed by additional study to compare pass rate results from July 2016 and February 2018 would seem most appropriate at this time.

In Montana, the state Supreme Court discussed the similar issue June 7, 2016, and ordered the bar exam cut score lowered, aligning Montana with states like New York, Iowa, Kansas, Wyoming, Washington, North Dakota and Minnesota.

Ed Hayden - retired

I practiced law in California for over 40 years, in a small three person firm(5yrs), in a midsize district attorneys office(9yrs), as a partner in a 30 person law firm(17yrs) and as of counsel for litigation to tax, trust and estate firms(11yrs). I can only recall one lawyer in all of this time that I felt was so incompetent in their knowledge of the law to be a harm to their clients (I was in the District Attorneys office at the time and checked with the bar as to his license). On the other hand I have experienced numerous lawyers of all skill levels who I felt were harmful to their clients because these attorneys lacked basic ethics or were more interested in their own welfare than their clients. However I do recognize and believe it to be true that there can be vast differences in intellectual skill levels that can impact legal outcomes in many ways. Of course the wise lawyer will recognize one's lack of skill and enlist help when possible, although this raises the bigger problem of legal costs in the pursuit of justice. But my point is that based on my experience I do not think that marginal changes in the cut score will impact clients and that ways to insure the personal and the professional integrity of lawyers is far more important for the benefit of clients.

Anonymous

California had not shown any justification for keeping the cut score at 144 in light of the fact that many other jurisdictions's cut scores are 135. California has not justified the score of 144 with any evidence that the higher score means less incidents of attorney competence or discipline issues arising.

What the score does do is ensure that fewer applicants are able to become licensed, and keeps the pool of practicing attorneys low. This means higher salaries for currently licensed attorneys, and a greater risk of lack of access to competent counsel because those applicants failed by just a handful of points.

Anonymous

I am of the opinion the cut score in California should mirror the cut score of New York State. Uniformity would add to the furthering of consistency regarding the nation's legal educational environment. Legal costs have made it cost prohibitive for the average Californian to obtain legal services, especially for those in the rural sections of the state. The State Bar should be proactive regarding the future supply of attorneys in California, lowering the cut score would go along way towards averting a future shortage of attorneys in the state.

Donia Davis - McGeorge School of Law

I believe that the cut score should reflect the national average of 135. Additionally, the national average coincides with the same cut score as 17 other states. Therefore I believe that the cut score should be lowered. However, I believe that it should be lowered even more than just 3 points

John D Fuchs Jr - Mitsubishi Motors N. America

I actually believe the cut score should be 1400 or 70% to pass the test. In law school 70% was always the bar mark for a passing grade. I don't understand why the bar exam should be any different. If the exam is still the same as when I passed it back in July 1982, there were a total of 2,000 points available. 70% of that number is 1400 points. I don't understand why the bar examiners go out of their way to make it harder on the test takers to score better than 70%/makes no sense to me. IN ADDITION, the traditional CA bar exam is pretty much recognized as one of the most difficult bar exams in the USA (was 2.5 days when I passed it/now it is just 2 days). I am not saying the bar exam should be made easier/just saying that the mark/grade for passing should still be 70%, just like it was in law school.

Last comment-along these same lines I could never understand why CA did not offer reciprocity. This may not be the time to bring it up but I do believe this is something that should be considered as well. No one has ever been able to explain the rationale for this rule to me (I have been asking this question for the past 34 + years).

Thank you for taking the time to read this. I appreciate it very much.

Anonymous

There are four reasons I support the interim California Bar Exam "cut-score" being lowered to 1414, or perhaps even lower:

1) The arbitrary and unfair nature of the current score as compared to other states
2) The unfairness of applying one score to the July examination and a possibly much lower score to the February examination
3) Possible anti-trust liability for the California Bar Association under North Carolina Board of Dental Examiners v. Federal Trade Commission
4) My own personal interests in a legal career in California

1) The arbitrary and unfair nature of the current score as compared to other states:

California's cut score of 144 is higher than 48 other states. New York's cut score, perhaps the most similar state to California in terms of economic output and legal activity, is a 133. Montana, a state wholly unlike California, is set to a 135. Forty three states have cut scores below 140. The more one investigates California's cut score, including the information contained in this report, the more one becomes convinced that California's current cut score of 144 is arbitrary and unfair to current and past applicants. Even lowering the interim score to 141 would still place it higher than 48 other states.

2) The unfairness of applying one score to the July examination and a possibly much lower score to the February examination

The hopes and career aspirations of those who have just completed the July 2017 California Bar Exam will be at a distinct disadvantage as compared to those who will complete the February 2018 exam as first time takers, because of the likelihood that the cut score applied to their results will be lower than the 141 interim score proposed to be applied the July exam results. Therefore, those having taken the exam in July as opposed to February will be punished for no other reason than the timing of their graduation from law school or other qualification to the take the exam. Given the high cost of taking the California bar exam, in terms of time, effort, and money, the July examinees do not deserve to be put at a disadvantage as compared to their February exam taking peers.

3) Possible anti-trust liability for the California Bar Association under North Carolina Board of Dental Examiners v. Federal Trade Commission

An interim cut score of 141 is wholly inadequate to avoid the anti-trust liability to which the California Bar Association may be exposed under North Carolina Board of Dental Examiners v. Federal Trade Commission. In Dental Examiners, a majority of the Supreme Court of the United States held that when a controlling number of the decision makers on a state licensing board are active participants in the occupation the board regulates, the board can invoke state-action immunity only if it is subject to active supervision by the state. The issue here is identical to that litigated in Dental Examiners: By retaining the arbitrarily high cut score the California Bar Association makes itself vulnerable to anti-trust liability, and all but ensures that a class action lawsuit on behalf of July California Bar Exam applicants will be filed.

4) My own personal interests in a legal career in California

The market for legal jobs has never quite recovered from the Great Recession of 2007. Those fortunate souls who wind up in the top 15-20% of their law school classes are likely assured gainful employment at top law firms. But for the rest of us with more realistic law school performances, or who like me desired to pursue public interest fields with narrow opportunities, we have to take what we can get. I was fortunate enough to find a post graduate fellowship with a non-profit organization located in California that practices exactly the type of law I always dreamed about practicing. In addition to being a California native, this was an opportunity that I could not pass up. But it was unfortunate that I was felt so discouraged by having to take what is considered the most difficult bar exam in the country (which appears to be the result of an arbitrarily high cut score rather than actual measurable

differences in difficulty as compared to other states). I firmly believe that California loses out on some considerable legal talent who would desire to live and practice here were it for its arbitrary and unfair bar exam cut score. As for myself, I put myself even farther into debt than I already was, studied for two months straight, and took the exam in July 2017. Now my prospects for a successful legal career depend on the California Bar Association taking equitable action to inject some common sense and rationality into the California Bar Exam cut score.

I am all for licensing as a means of ensuring that professionals possess the basic skills and knowledge to adequately protect the public interest. But when a regime appears to function not as a means of rational assurance, but as a barrier to entry for the purposes of protectionism, I must demand reform to that system. For this reason, and those cited above, the interim California Bar Exam cut score should be lowered to 1414, if not lower. Thank you.

Stuart Webster - Not Practicing

I favor a cut score that is not one but two standard deviations from the score identified by the Panel (viz. around 1390).

General Comments as Presented at the Public Hearing in Los Angeles on Monday August 14, 2017

1. This first issue challenges the validity of the Standard Setting Study. There appears to be a disjunct between what an exam candidate is required to do according to the preamble on the front page of the essay questions and the definition of the term "Minimally Competent Candidate" as modified and adopted by the Panel for the purposes of the Study. See numbered para 2 on page 11/27 of Dr Buckendahl's Report which suggests that the Minimally Competent Candidate should "be able to demonstrate...(2)…and identify what additional information would be helpful in making the assessment". Nowhere in the preamble/explanatory notes on the 2016 CBX is the task of identifying additional information prescribed or even mentioned obliquely. Therefore the question has to be: How is it that the the Panel can assess minimal competence on the basis of a task that a candidate has not been asked to do?

2. I accept that the current test regime is the best of a range of bad alternatives. The other methods are subjective, heavy on resources and expensive.

The essay part of the current written test calls for an unrealistic response under enormous time pressure exclusively from recall and without access to materials. That is not reflective of real legal practice except on the very rare occasion when one is required to think on their feet.

The MBE has no equivalence in practice. Life is not a series of multiple choice questions.

Much emphasis has been placed on recent graduates. Please spare a thought for attorney takers. The difficult question of finding the answer to the declining pass numbers should not ignore what is also happening with attorneys who are already qualified to practice elsewhere.

Attorney takers have presumably been unleashed on the public in other states for years (and these candidates are not distracted by having to prepare for or sit the MBE because that requirement is waived on the assumption that they have already sat and passed it somewhere else) yet the average pass rate is traditionally very low, viz. 36% in July 2016. Over a six year period from 2011 to 2016 the lowest percentage of attorney takers passing the Bar was 31% in July 2014. The highest was 54% in February 2014. For practicing attorneys declared competent in other jurisdictions you would expect a much higher pass rate. This all tends to show that perhaps older candidates or those who have been out practicing law for a number of years find the CBX especially challenging in a way that severely disadvantages them.

I should be advocating for a special cut rate for this category of candidate.

When considering the balance between access to justice and protection of the public and especially the false negative side of the equation, please bear in mind those whose approach or idiosyncratic style to written expression is slow and methodical, and who may present as keyboard challenged 50 year olds. Does that make them any less competent because they have not recently been in a learning environment where pressure tests are de riguere? How many of the sample essays reviewed by the panel were handwritten? Should the work of a recent graduate who is touch-type proficient and in 60 minutes able to cover more issues, develop more accurate rule statements and provide greater depth to their legal and factual analysis represent greater competence over someone with rudimentary typing skills but is nonetheless competent in the practice of law?

I have been practicing law without censure in a foreign jurisdiction for 30 years, at least 10 years of that at senior partner level. I have just sat the California Bar for the 5th time. Foreign attorneys are not exempted from the MBE as out of state attorneys are. My best score was 1419. My other scores have not been far behind. In virtually every other state (except Delaware) I would have been licensed. I acknowledge that I am least able to judge whether I have the level of competence required to practice in this jurisdiction but the CBX is truly difficult and takes a heavy toll financially and psychologically.

I would like to think that I would add diversity to the pool of competent advisors in California consistent with the aim of open access to justice.

The exigencies of practice, client attrition, common sense, peer supervision and effective discipline should mitigate against the worst impact of the false positive.

These factors should feature in your thinking.

3. The California Bar responsibly releases the essay questions and sample essays after each Bar round. It also goes into great detail, in the letter advising candidates that they are unsuccessful, explaining how the raw score relates to the final weighted score including a formula better suited to a calculus class. In the spirit of openness and the provision of assistance and understanding around how the essays are graded, why isn't the rubric used by graders released and shared with candidates so at least they can see what they are required to cover on each specific essay question including the full list of issues and weightings used in that process? It seems non-sensical to release the first three without the fourth. What is so special or confidential about the rubric that it is held back from disclosure? The released answers are not always correct or accurate and are often a poor example of what candidates should strive to emulate on account of their length. Someone who is able to write a passing essay in excess of 3000 words in a one hour period not only deserves to pass the Bar but should be awarded an Olympic medal for speed-typing. Please make the CBX more of a response-based test tailored to the average candidate than a speed comprehension/memorization/typing test.

Emily Allyn - Johnson, Fantl & Kennifer

I have taken the bar exam five times, and each time I have been within 1% of the points needed to pass the exam. My life has been on hold for well over 2 years while I wait for results indicating that I am just shy of becoming licensed. I continue to persist and retake this exam by telling myself that it is a hard-line (though arbitrary) number. A 1439 is not passing, but a 1441 is passing; the point difference between the two scores is negligible, but it means all the difference between practicing in my chosen profession and being subjected to another 6-month round of studying then waiting for results...while also trying to figure out how to pay rent and student loans.

I have had multiple firms want to hire me because they can see I will make an outstanding attorney, I just can't get hired until I pass the licensing exam...which I've been so close to passing so many times.

The fact that so many people have fallen victim to the scoring system indicates that the system is what is wrong, not the applicants who are taking the exam.

Further, the passing score seems to be an arbitrary number. As no one really knows how the scoring works, because the grading process has no transparency whatsoever, and there is no way to appeal your scoring, it's extremely frustrating.

I am qualified to be an attorney. It's just this exam that I keep missing by such a slight amount.

Deqi Chen

For a person at work and cannot 100% concentrate my time on the Bar Exam, it is so hard for me to gather enough time before the exam to cover all topics.

Also a good lawyer never only depends on passing the bar exam at a good score. More importantly, it depends on that after you start the practice, you select one or several specific areas where you will focus your practice, and get better and better in that (those) areas. And good lawyers will emerge from the competition.

So lowering the cut score will help more competent lawyer candidates enter the pool of this profession, and will not block those can be good but just have limitation in preparing for the bar exam.

Anonymous

Reasons to LOWER the passing score to 1414:

1. CA continually fails too many qualified, highly intelligent and articulate applicants.

2. CA continually has the 2nd highest "cut score" - enough said.

3. The unfairness to applicants with mounting student debt.

4. Applicants have a fundamental right to seek gainful employment if they are qualified, and successfully passing 3 years of law school is a good measure of their qualification.

5. Applicants taking the CA bar exam today are arguably more qualified to practice than many CURRENT law practitioners as they are being tested on more areas of the law on the MBE and other changing areas of the law on the essay portion of the exam.

6. The Passing Score, while relevant, is not the final arbiter of the competency of an applicant. While a bar/standard should exist, it should not be set SO high as to disqualify many otherwise qualified applicants.

7. A passing rate which is so excessively low suggests that current licensed practitioners enjoy an unfair oligopoly over the practice of law which violates at least in principal the intention / principles of the Sherman Anti-Trust Act which was passed to promote a competitive market.

8. Potential consumers of legal services would be benefited from increased competition among legal professionals as many consumers complain that it's too expensive to hire an affordable attorney.

9. The VAST majority of disciplinary actions from the State Bar are NOT caused by an attorney's negligence, inadvertence or mistake, but rather stem from moral turpitude and criminal activity. Thus, if the intention of the CA State Bar is to protect the public, the focus is misguided.

10. There is no reason to set CA's passing score higher than other states' average passing score simply because the applicant chooses to live and work in CA.

11. Last, several CA applicants have failed the exam, subsequently passed it, lost their license, failed the exam again upon attempting to regain admission, and then passed the exam again. This suggests that these applicants were barred from practicing, not because of their lack of qualification and/or knowledge but rather because the test itself was the bar to their admission.

Anonymous

California's Bar Exam is unfair as it prohibits many qualified, intelligent applicants from the practice of Law.

Anonymous

While I agree with option 2 that the cut score should be lowered, I am in favor of lowering it even further than the proposed 1414. I do not think a cut score of 1414 would ameliorate the issues with the CA bar and the problems presented to various applicants when they do not pass.

Anonymous

The dismal Feb 2017 passing rate is shameful. It smacks of industry collusion and professional protectionism. The incoming bar members should take up an anti-trust initiative to halt this unregulated practice.

Anonymous

Why do you want to lose perfectly good lawyers to other states with such a high cut score

Ronit Rubinoff - Legal Aid of Sonoma County

As the director of a rural legal services program, we see a disproportionate number of lower-income law students and students of color being adversely affected by the declining pass rates; they often cannot afford to take time off from work to study for the Bar repeatedly. The current scoring threatens the diversity of our Bar.

Ronit Rubinoff
Executive Director
Legal Aid of Sonoma County

M Manoch - NIOC

Every bar exam taker is well qualified, so I think a higher pass rate will be better for State Bar of California and for bar takers.

Anonymous

The cut score should be LOWERED to the same as a competitive market (e.g. New York)... approximately 1330 adjusted to similar scale.

Anonymous

Agree with lowering the cut score

Anonymous

The cut score should go even further! This is not difficult, its common sense!

Matthew Wilshire - U.S. Federal Trade Commission

Decreasing bar passage rates demonstrate that the current cut score is not serving it's intended purpose - ensuring that capable, ethical people can become California Attorneys. Instead, the cut score of 1440 appears to be serving as a barrier to entry that benefits only incumbents, and deprives lower income people of capable legal representation. I recognize that the bar must reduce some supply of legal services to protect the public from people who are dishonest or incapable, but rejecting more than half of all applicants based on the bar passage score alone is overkill.

Please note that the views I express in this comment are my own, and do not necessarily represent the views of the Federal Trade Commission or any individual Commissioner.

Michael N

I am a member in good standing of the Florida Bar, though I live in California. While I am a California native, my most affordable path to legal education led me to Florida State University College of Law, where I received my JD. I successfully took the Florida exam immediately after graduating, but living in Florida wasn't feasible for personal reasons. I moved back to California to be closer to family.

I've since spent three years representing low-income and other underserved communities in California's rural Central Valley as a legal aid attorney under the Multi-Jurisdictional Practice (MJP) rules. During these three years I've tried unsuccessfully to pass the California exam. I've also represented clients' interests in court, before administrative tribunals, in their settlement negotiations, and in their transactional work. I've made myself a resource in my office, and and even taken part in the training of newcomers. I've done all this, but the California Bar does not consider me fit to practice law in this state.

Now that my MJP period is up and I can no longer practice California law (I now do federal tax work), my job future is uncertain. I know there are many other out-of-state lawyers whose professional lives are on hold because of their difficulties with both learning a foreign state's laws, and having their knowledge subjected to the mot difficult bar exam in the country. Buried in the February 2017 numbers that garnered so much criticism from academics and the media alike, are the pass rates for out of state attorneys. It makes moving to California an significant financial undertaking, and adds a question mark to the end of employment opportunities. The difficulty of the exam falls heavily on those of us who are already full time, practicing attorneys. If you are a full time attorney and reading this, ask yourself: Can you afford to put your practice on hold to properly prepare yourself for the California Bar? Could you do it more than once?

If the State Bar is married to the concept that the exam is a valid test of legal competence, and a high cut score "protects" the public and the profession from incompetent practitioners, than it should take comfort that a score of 1414 is still significantly above the national average.

Anonymous

I am a foreign attorney with over a decade of experience at a global law firm. I took the July 2017 CBX and it was certainly one of the hardest exams I have taken. I feel that I am more than competent to act as an attorney in CA, particularly given my experience, but the fact that I, and others like me who have huge amounts of experience but are not as familiar with US exams, may not be able to do so because we do not pass the CBX due to the high cut level seems wrong.

Matthew Sferrazza - LKP Global Law, LLP

To Whom it May Concern,

I support limiting the barriers to entry into California's legal profession for people who have already completed law school. Given that lowering the so-called cut score is a current proposal that would facilitate that end, I support it. Test scores are important but seem to be given too much weight in the current bar admission process. I passed both the New York and California bar exams on my first attempt and feel strongly that my score has much less of a connection to my ability to effectively practice law than a host of other things. Given that most people who take the California bar exam do not pass, there are likely people who failed that would have contributed at least as much to the legal profession in our state than I do - if not more than I do. This is not meant to diminish my own achievements. Instead, I am concerned for the significant loss of potential the State of California faces. Thousands of highly capable people are spending a year or more studying for the bar exam (viz. retakes), when they could instead be helping the underrepresented, facilitating understaffed transactions, prosecuting crime, or otherwise helping society. But they are not. Please carefully consider the burden that California's low bar passage rate currently imposes both upon individuals and to the state when making your determination.

Thank you

-Matt Sferrazza

Dennis Schoville - Dennis A. Schoville, A.P.C.

The Ca. bar exam passing rate is ludicrous given the number of persons graduating from excellent law schools from Ca. and elsewhere who fail our state exam. It smacks of trade association protectionism and is extremely unfair. I believe our passing rate should be in line with the majority of other states' bar exams.

Paula Rockenstein

I am a law school graduate and have taken the bar multiple times without success. I currently work in City Government where I handle many of the administrative law hearings for the City. If I had my bar card I would be able to pursue this position in the Courts for various matters that we handle.

I believe that lowering the score would be beneficial to people like me who try to make a difference in the area of law whether it is in the area of public service or handling matters individually. The only thing that has held me back, and which has been my unfortunate downfall with the Bar is in the area of multistate. If the score was lowered the last time I took the bar, I probably would have passed.

Thank you for allowing me to make a statement.

Sincerely,

Paula Rockenstein

Vera Koulian - LA County Public Defender

The bar exam does not adequately prepare a person for the practice of law. Therefore, making the ability to pass the bar more difficult rather than loosening the cut score really does not further the intent of the cut score, which I presume is to make sure we have well-qualified individuals practicing law. What does matter, in my opinion, is the ability to practice law competently and ethically, which many attorneys fail to do, even if they are at the top of their class and even if they are good test-takers and therefore pass the bar easily. I realize there needs to be a system in place and I suppose the bar exam is the best system available, but the responsibility to produce excellent attorneys lies in the hands of the law schools themselves. I believe the focus of the state bar should be on making sure law schools offer the best education possible. Accountability within the schools and proper oversight is how you will produce a high caliber of practitioners. Even people who are affected by stress or who may not be able to pass the bar at the first try will eventually pass the bar. However, the psychological impact of failing the bar will stay with that person forever, not to mention the repercussions that will follow failure, such as the inability to find a job and pay back student loans. Lowering the cut score is the first step in making the system better. More stringent oversight of law schools is the second step.

Anonymous

The California Bar Exam and its low passage rates are hurting the public and those who are unable to afford an attorney. Access to justice in California is limited because law students are forced to take high paying jobs at law firms to pay student loans. Lowering the absurd bar exam cut score will allow access to justice and allow Californians of all incomes the availability of having a lawyer assist them with the legal problems.

Lauren Ghosh

In 2011, I was accepted to an ABA-approved law school in San Diego, CA. I passed all my classes and went on to graduate in June 2014. I used my school's sponsored Barbri program to prepare for the July 2014 bar exam. Unfortunately, I did not pass that exam. Although, I had put in long hours preparing for that exam, completed all my assignments, and did well on the graded assignments, I was shocked and confused as to how I could have failed that exam. After this devastating blow, I was forced to leave my graduate internship with the City Attorney's Office and became ineligible to apply for the City Attorney's position, which I had a great chance of getting had I passed the exam. I started doubting my abilities and went into depression. I had never failed at anything in my life, which made coping even harder.

From there, I began preparing for the February 2015 bar exam by enlisting the help of a highly-recommended tutor. He claimed my problem was "analysis" and tutored me for the essay portion of the exams. I took the February 2015 exam, got a second read on my essays, and failed again with a scaled written score of 1412 and a scaled MBE score of 1371 (total score 1397). In the mean time, I could not continue without work so I got a job as a law clerk at an immigration firm getting paid the salary of a legal assistant/paralegal. All the while, the interest on my student loan debt continued to accumulate. I was forced to enroll in an income-based repayment program allowing me to make lower payments, but the accruing interest that I would pay in the long run would equal tens of thousands of dollars.

Despite this second defeat, I was determined to continue taking the bar exam until I passed. I used the help of the same tutor, took a leave from work in order to study, and took the July 2015 bar exam. I failed the bar exam again with a scaled written score of 1406 and a scaled MBE score of 1346 (total score 1385). I continued working getting underpaid for my level of performance, but graciously accepted it because of my limited options in the legal field with only a J.D. I took another leave from work so I could take the the February 2016 bar exam. I failed again with a scaled written score of 1363 and a scaled MBE score of 1411 (total score 1380).

I wanted to include these details in my comment not to generate sympathy, but to explain to you the detrimental impact that failing this exam has had on my life for the past three years. I have lost job opportunities with high income-earning potential. This has prevented me from making higher payments on my student loan debt plunging me into even more debt. I have avoided interacting with my friends and colleagues from law school because of the embarrassment I feel about failing the bar exam. I doubt my abilities as a professional, despite having graduated from an ABA-approved, a high-ranking university, and even a top-rated private high school. I have excelled in all of my internship experiences and post-graduate legal work, yet this bar exam has been my Achilles' heel for the past three years.

Through much convincing from my colleagues and family members, I decided to take the July 2017 bar exam, this time enrolling in a pricey program covering the written and MBE portion of the exam. I felt more adequately prepared than ever before because this course focused on teaching methods for how to take the exam and understand the law, not with "checklists" and "memorization techniques" as many other commercial courses, tutors, and study aids claim are vital to pass the exam.

Keeping the above in mind, I highly support lowering the cut score to 1414. When reviewing my returned essays from prior exams with tutors to identity where I went wrong, they often did not understand why my scores were so low despite my identifying the key issues and analyzing effectively. This would aggravate me even more because there was no transparency in the grading and my scores seemed arbitrarily given. I suggest implementing a policy requiring graders to further explain how they make their grading decisions for each individual essay. I believe lowering the cut score will help many competent, intelligent, and hard-working students like me pass the exam. For too long, many individuals with J.D. degrees just like me have been prevented from becoming attorneys because of this exam. Lowering the cut score is the change that is needed to give us the opportunity to realize our true potential.

Anonymous Although I understand the need to "protect the integrity of the profession" and protect the public from potentially unqualified attorneys, the bar exam as designed does not necessarily do those things because the bar exam does not resemble the actual practice of law. Failing to adequately memorize the rules, exceptions, and exceptions to the exceptions for 18 different areas of law within a 2-month study period and then write a competent essay in an almost ridiculously short amount of time does not mean such an applicant would not be able to competently practice law in a real-life setting, where attorneys often practice in 1 area of law and have various research tools and other resources available to them to familiarize themselves with the law (and usually much more time to write the work product). All the current cut score achieves is preventing otherwise qualified applicants from gaining employment after taking on a student loan debt burden equivalent to a mortgage on a house. Until the bar exam itself is overhauled (e.g., by placing more emphasis on performance tests), lowering the cut score is the best option.
Anonymous 1414 is MUCH more realistic and attainable. As someone who studied relentlessly and went to a t-10 law school, there is just a ridiculous amount to memorize and a 1414 it much more More realistic while still making sure we have really qualified lawyers
Anonymous The cut score should be equivalent NY cut score of 133. This examination is for minimum competency of the lawyers and should not be treated as LSAT examination.

Salena Copeland - Legal Aid Association of California

Thank you for soliciting input on California's current cut score. I testified at the February 14, 2017 Assembly Judiciary Committee hearing on the effects of the high cut score on legal aid programs. To prepare for that testimony, I spent several days talking with legal aid leaders across the state to find out how the decreasing pass rates had affected their ability to serve low-income Californians. I heard passionate stories both from newly-admitted attorneys who had struggled financially as they re-took the test and from supervising and managing attorneys who were planning around multiple staff being out to re-take the exam. I also read many of the State Bar's own reports on the pass rate so that I would be informed and not simply just knee-jerk responding with a yes/no comment.

Below are some of the points I made in February that I would like to highlight.

The burden of the low pass rates falls disproportionately on low-income applicants. While there are some limited scholarships available, there are not enough bar prep scholarships to sustain repeat exam-takers.

Many legal aid organizations want to hire candidates from out of state, but they cannot take a gamble on attorneys who have not yet passed the *California* bar exam because they may hire an attorney who cannot practice under her own bar number for a year or more. I have also heard from out-of-state law students that they are reluctant to look for jobs in California because they are concerned they won't pass the bar exam on their first try.

The low bar passage rate affects legal aid fellowship programs. Projects are generally designed with the assumption that most fellows pass on the first try and can become barred in December, not long after starting their position. If a fellow (or worse, multiple fellows from the same organization) fails, the entire project must be redesigned to work around the fellow's inability to practice law for the Spring - and it has to be reworked to allow for a fellow to take significant time off to prepare.

I heard from some rural legal aid programs that they had a problem with recruitment because their applicant pool was shrinking. With UC Davis as the only likely exception, there are very few ABA-Accredited law schools that are close enough for rural Californians to attend in person, without leaving their communities and families behind. CA-Accredited schools are a possible solution, but so many of them have had low pass rates that are even lower now. The accreditation issue is one I don't feel qualified enough to comment on in this context, but I do think that it shows that rural Californians do not have many options if they want to attend a local law school with a high pass rate.

Some law schools have stated, including in the legislative committee hearing, that they have increased their bar prep courses. There is a real concern, then, that some schools may start "teaching to the exam" rather than providing a high-quality experiential education - with a focus on clinics rather than on bar classes. [There is room for both, but there is a concern, as there is in all levels of education, about teaching to any exam.]

Legal aid organizations try to hire from the communities they serve, actively recruiting women, people of color, and people who can speak languages other than English. The membership of the State Bar is predominantly white and male; legal aid attorneys, by contrast, are not (our 2010 Recruitment and Retention Report, available on www.LAAConline.org has demographic information). Women and people of color have lower CA bar exam pass rates. This unnecessarily postpones their careers for a year (or more) as they study for an exam, take out personal loans, and put careers and lives on hold to get a few extra points on an exam.

We are all concerned about public protection and we all want a system that allows for competent attorneys to practice law. I just don't believe that our current cut score is the right fit for California.

Basil Plastiras - Plastiras & Terrizzi APC

My practice has been , for well over 30 years, the defense of attorneys in legal malpractice actions.

The cut score utilized is an arbitrary number, and according to the figures I have seen is higher than any state but Delaware. I am not aware of any studies showing that a score of 1440 produces better practicing attorneys than a score of 1414.

While I believe that California has a surplus of attorneys, and I am unclear if the high cut score is designed to reduce the number of attorneys here, if that is the case, it would seem improper to deny the right to practice law based upon any cut score that is high just because there is a surplus.

On the other hand, California allows unaccredited law schools, and it seems to me that their pass scores are quite low. I have always wondered if the year-afer-year low pass rate justifies their existence. While a few do pass, most of those paying tuition never do so. Would it be better to save certain students money when their chances of graduating AND passing the bar are less than 10%.

Sheri

I believe that the cut score should be lowered to reflect the average cut score for the country. Otherwise, California is missing out on valuable potential competent attorneys. Those who fear that lowering the cut score will produce incompetent attorneys are mistaken. Competency cannot be measured solely by this test. Many law clerks have competently served in their desired fields who have now lost their opportunity to continue as attorneys because they couldn't meet the stringent cut score. This is because they were unable to combat nerves, unable to recall specific rules by memory, or other factors that interfered with their ability to utilize their peak performance at that specific point in time. Moreover, once a law student takes the bar, they lose their status as a certified law student and can no longer represent clients, appear before the judge, or receive other vital supervised training. Therefore, the cut score should be lowered because 1) it will not produce incompetent attorneys because the bar test is not a true competency measurement, and 2) California is being deprived of experienced potential attorneys because as law clerks, they competently assisted in the representation of clients and made valuable contributions to society.

I. Lowering the cut score will not produce incompetent attorneys because the bar test is not a true competency measurement.

Competency cannot be measured solely by what you can remember and produce under the extreme pressures of test-taking conditions. Competency for an attorney requires the "legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation." (I do remember this rule.) This is done by researching the law and cases, not trying to recite them by memory. Thoroughness and preparation for a case will take weeks or months, not an hour. Moreover, if you are presented with a case that you do not specialize in, you would consult another attorney or refer them to an attorney specializing in that area of law. You would not try to take a stab at it and hope for the best.

II. California is being deprived of experienced potential attorneys because as law clerks they competently assisted in the representation of clients and made valuable contributions to society.

Based on my personal experience and observation of other law students, there are many of us who worked as certified law clerks, actively participating in our desired fields, who are now unable to continue that service. I worked as a law clerk in the public defender's office. My passion is to represent the mentally ill, an area of law that many attorneys shy away from. I was not there to get my few internship hours and leave. I stayed there for two years as an unpaid law clerk in the Mental Health Treatment Court. I was also on the task force to implement a new law in the county for the mentally ill (California's Laura's Law). With the collaboration of the agencies, I wrote the legal protocol for the county. I also worked in Veterans Treatment Court and Veterans Stand-down Court. I have appeared on behalf of over a hundred mentally ill clients and veterans. My real life experience to be a

competent attorney is not something I gained by pouring over the BARBRI Conviser and practicing MBE questions.

I am not alone. There were several of us that passionately served in the public defender's office for several years, working overtime on files, legal research, law reviews, writing federal and county legislation, and losing bar study time. But we cared about our clients and wanted to make sure that no one slipped through the cracks. The attorneys at the public defender's office are swamped; there's not enough of them to go around, and we were an invaluable asset.

Unfortunately, we did not pass the bar the first time. (We would have been attorneys in New York or under the proposed cut rate of 1414.) Because we are no longer considered law students, we lost our certified law student status and can no longer appear before the judge. If we had passed, I'm sure most of us would have continued to work there as volunteer attorneys (an asset to the indigent community) in hopes of obtaining a permanent position. Instead, we are in limbo, missing out on opportunities which we worked so hard to build.

In conclusion, I respectfully request the decision to lower the cut rate at least to one that reflects an average of what all the other states consider to be fair. Not doing so hurts our state and the indigent community who desperately need additional competent and passionate attorneys.

Anonymous

It is well past time for the State Bar to look into -- and resolve -- the issue of the declining Bar pass rate.

First, there is no valid reason for California to have the second highest cut score in the nation. The Bar exam's purpose is to determine competency to practice, and not as a tool to reduce the number of new Bar admittees.

Second, regarding the previous questionnaire, it is unclear why promoting diversity should be a goal of a lower Bar pass rate. A law school graduate either is -- or is not -- qualified to practice law based on his or her skills, not race or gender. If diversity is increased as a result of a lower cut score, that is a positive outcome but not a reason in and of itself to reduce the cut score.

Finally, I was very disappointed that when Ms. Moeser of the NCBE defended the low MBE outcomes as being due to "less able" test takers, that the Bar committees of all 50 states did not demand a complete audit of their practices and calculations. If it was one state or one cohort of test takers, her comment may be plausible. But it is disingenuous to blame law school graduates nationwide -- of all ages, backgrounds, law schools, and competencies -- of being "less able" than prior generations.

Good luck to all of you and I look forward to a positive outcome for this year's exam takers.

Kelly Mulcahy - Sacramento District Attorney's Office

Although I passed the bar on the first attempt, I strongly advocate to the State Bar that the score to pass be LOWERED. My position is based on two different, but similar points.

I firmly believe that the California Bar needs to represent our community. Lawyers of color are still grossly underrepresented in our community.

1) The bar is currently failing too many viable candidates of color. I am in court every day and the ratio of white attorneys to non-white is still grossly disproportional. We are losing too many good potential attorneys of color on the "end" of the road to become an attorney.

2) Law school is expensive. I graduated with law school debt but I could see a path to repaying the money because the law school I attended had an 87% bar passage rate. If I graduated, I felt I could pass. That is not true today. The law school applicant today must weigh the expense of law school with their CHANCES of passing the bar and therefore, their ability to pay back borrowed money. We are losing far too many good attorney applicants on the FRONT end of the road to become an attorney in California.

In order to best serve the public, attorneys need to reflect their community. Before taking on the schooling that is needed to become an attorney -- a person must consider the likelihood of passing the bar in order to pay back what was borrowed. Someone who is just getting by but is willing to risk borrowing money to attend law school must be able to see a path to passing the bar. With the current passage rates, this path may not look viable.

I believe by lowering the bar, we will increase the number of applicants of color who will undertake the study of law and also get those who risked their financial future to PASS the bar. This one little step should drastically increase the number of attorneys of color that can practice and along with that, increase the number of attorneys with life experience and common sense.

California has always prided itself on having the hardest or one of the hardest bars to pass -- I don't believe we have "better" attorneys than other states - My guess is we may have more unethical attorneys than most other states. Some of the best criminals are overly intelligent. What we need are more attorneys with life experience, common sense and a strong moral compass and that will not occur until our bar adequately reflects the community it seeks to represent.

Please take this one little step.

Ken Klein - California Western School of Law

There's no evidence that California lawyers are more competent than those in other states; the Bar Examiners' "study" doesn't demonstrate otherwise. In fact, there's a real question whether the bar exam even gets near the question of "competence," or whether it measures other, different things. The study excluded that as a question.

Beverly Narayan

It is ridiculous to me that California, for whatever reason, takes pride in having the most difficult bar exam, and also does not provide reciprocity with other jurisdictions. It smacks of sheer arrogance, and plain stupidity. I graduated in 1987 from an ABA-accredited school, took the bar once, passed it. The latest California bar passage rates are embarrassing and I do not blame the students. My question is why is this happening? Law school graduates should take an exam which tests them on whether they will be a good lawyer: do they know the applicable law? can they analyze the law to the facts? can they argue both sides? are they clear, concise in their analysis? are they spotting the issues? can they tell the difference between the "red herrings" and the true issues? These are the fundamentals of being a good lawyer. These haven't changed.

California should not wall itself off by pretending to be "different" or "special" from any other state. The ability to practice law should not be so out-of-reach for the bulk of law school graduates. I could care less how many lawyers there are in California. There are too many issues we as a state have and much needed, especially now with who we have in the White House, are lawyers who will work in public service or pro bono. Answer the question of why is this happening, lower the cut rate to a more fair number in the interim, and then resolve the issue.

Gregory Cheadle

1) The bar exam is designed to fail test takers, hence the low passage rates. As a teacher, if I designed a test in which the majority of students failed, the school would rightfully assert the problem is not the students, it is me and the test I designed.

2) The grading of the performance tests and essays is woefully inconsistent. How is it that two graders can give different scores for the same essay? The bar exam needs to be graded 100% objectively just as the MBE.

3) The administration of the exam is archaic. In this era of being "green" and of "sustainability", it makes no sense for thousands of test takers to drive a combined tens of thousands of miles to take an exam. There is no reason why the exam cannot be administered at a testing center at times convenient for the test taker rather than for the State Bar.

4) MBE questions with answers that force you to choose the best of bad choices is nonsensical.

5) The reduction of the Bar exam to two days is an excellent start in making the exam a true exam rather than a test-taking exercise of endurance and expense.

6) I am not the least bit comfortable with the relationship between the California Bar exam and test preparation companies such as Barbri. There is something wrong when, after years of law school, one must take a bar prep course that costs thousands of dollars to have a hope of passing the bar.

7) Those who graduated from California accredited schools due to the expense and lack of close proximity to ABA schools, should be able to take the bar in other states just as those who attended ABA schools.

8) Examinees who do not pass the bar should have the same ability to practice law as certified law students

9) The problem with the bar exam is the grading and the scoring. There is no benefit to address one and not the other. You can lower the cutoff, but if the method of grading remains the same, what is the benefit?

10) The exam needs to address the basics and fundamentals of law, not trivialities and minutia.

Anonymous

As the first batch of students (or guinea pigs if you will) to have to endure the new 2 day California Bar exam, there should be some leniency in the grading process. While the natural assumption to make will be a higher pass rate all around, the results from the 2 day bar exam are needed to see the actual effect of a 2 day bar exam. Even then, multiple administrations of the two day bar exam are needed to make a qualified finding of the effect of the two day bar exam. That being said, an interim score of 1414 seems the best idea in order to give a slight cushion of safety for any individuals who may not have passed given the new format of the bar exam.

I appreciate you reading these comments and thank you for your time.

Debra Berg - California Unemployment Insurance appeal's board

I agree the bar cut score should be significantly lowered. I would like to see the passage rate at 70% or higher. I took the bar in 1979. Going through the questions with my son who recently graduated a good law school, I found the questions to be ambiguous, misleading, and purposely made to trick the test taker. Passage does not necessarily depend on how much the person studied, how well he did in law school, but rather how well he is able to ace and take the test.

Arguably, it was a hard test when I took it, but the debt to go to a good law school was a substantially lower.
I owed $10,000 when I finished, my son now owes $150,000. What other occupation, permits someone to have that much debt and get an advanced degree for three years, and than has a 40 per cent bar passage rate? How does one practice? Isn't it fairer to make passage easier, such as 70% and let those compete in the open market. Poor attorneys can be weeded out by the profession itself..

I have worked in numerous law firms, and have been an administrative law judge for 22 years. I can tell you the tricky questions on the state bar do not determinate one;s success as an attorney. This two day test is a small factor on how an attorney will perform in its occupation.

No one can disagree, that an attorney learns most about law, during the first several years at a firm or agency.

Consider revamping the test entirely.

Thank you. Debra Berg

Donald Smith - Litwin & Smith

California should set equal standards with those of other states until the new bar format has been sufficiently administered to properly quantify a passing score.

Katharine Killeen - CDWR

In view of the substantial decline in law school admissions over the past several years, those who are successfully admitted to law school, pay the exorbitant tuition, and complete the rigorous law school curricula, should theoretically be passing the exam at a higher percentage rate than when the student bodies were larger and the admissions screening was less stringent.

Cutting the score below 1414 may even be within reason, depending on what the maximum achievable score is and how the scores translate into proficiency and consumer protection.

Anonymous

The cut score should be lowered even further. There is still insufficient evidence to show that a cut score even of 1414 is the proper threshold. New York's cut score is 133 - does that mean that a significant portion of New York attorneys would be deemed incapable of practicing good law in California? It's absurd.

Furthermore, I think Dean Faigman from UC Hastings School of Law has posed perhaps the most important argument for lowering the cut score:

"Most of those who fail their first attempt eventually pass the bar on the second or third try. After each attempt, however, these graduates do not learn to be better lawyers, they simply learn how to beat the test. And the damage done from the initial failure can be great. In addition to the financial costs, they may find themselves timed out of promising professional opportunities that never reappear. Finally, there are the emotional and psychological costs that are possibly the most overwhelming consequence of even one failed attempt."

Adding on to Dean Faigman's argument, it is reasonable to believe that the lost economic opportunities from hopeful attorneys who fail the bar exam due to an arbitrarily high cut score also results in a lower number of attorneys practicing in the public sector.

Temporarily lower the cut score to 135 until a proper study can be conducted to determine a fair and proper cut score for California.

Joanna Shihadeh - The Davis Firm PLLC

There are plenty of qualified out-of-state attorneys that are required under California to take the CA bar exam, despite having successful careers as attorneys. The cut score should be lowered so as to allow these attorneys to pass the bar exam who are unquestionably qualified to practice law in California, but whom might not have the opportunity to study like a recent law school graduate. As a result of not being able to study because of their existing practices, any of the attorneys do not pass the California bar exam even though they are qualified because of California's cut score. This cut score should be lowered, effective as of the July 2017 CA bar examination.

Leonard Steiner

The Bar Exam does not test how effective someone will be as a lawyer. Rather, it merely tests how effective someone is in passing the Bar Exam. Virtually all seasoned lawyers will tell you that what they learned in law school was largely irrelevant to their professional lives and has little to do with the actual practice of law, which is learned, so to speak, on the job. Hard work, determination and a willingness to fight for a client are much more important skill sets than the ability to pass an exam. Keeping the Bar Exam passage rates so low only serves to make debt slaves out of thousands of people who would make fine lawyers if given the opportunity. There is no reason that California's pass rates should differ markedly from those in other states. Let's bring California in line with the rest of the country.

Anonymous

The Bar has embarked upon a path of punishing the test takers and not addressing the schools and the test until now. As we know pass rates have diminished across the system. Even high pass score states like New Mexico who enjoyed a 81 % first time pass rate has diminished to 68 %. Why? Seemingly, the bar examiners have taken on a position that the student population is "dumber" than years past and they owe no responsibility for this change.

Graduating law school and acquiring your JD is a remarkable accomplishment that is diminished by the bar exam. I make such a statement because graduating from Michigan state with your JD satisfies admittance. The bar exam program of California relegates this professional educational process to little more than a trade school and or civil service testing mentality of "pass the test" and you are wholly "good to go".

If the California bar is failing 65 % of the test takers the Cali bar examiners have failed and not the test takers....unless 51 % of all takers pass the exam per test session the test is UNFAIR as administered.

Imagine if the LA's sanitation workers civil service test had a 65 % fail rate would the test takers be punished like we are for the California Bar exam ?

Anonymous

The cut score should be lowered at least to 1414. Ideally, the cut score should be lowered to 135-136, which is consistent with most states in the U.S. Since the MBE is now worth 50% of the score, and CA examinees historically score higher than the majority of the nation on that portion of the test, it is a great injustice to allow examinees in other states with lower MBE and/or overall scores to practice law while CA examinees with higher scores are declined licenses to practice. In addition, although the bar exam is a strong indicator of an applicant's knowledge of the law, there are many other factors outside of the test that are critical to becoming an effective and successful attorney. Social skills, work ethic, ability to communicate effectively, assertiveness and desire to zealously advocate for clients are equally important. Even if an examinee receives a high score on the bar exam, it does not necessarily translate into being a successful attorney. Indeed, many "would-be" successful attorneys are held back from practice simply because they are unable to achieve an arbitrarily high score on the bar. In addition, it's worth noting that nearly all attorneys end up finding a niche or specialty area of practice, and having to score very highly on an exam that tests approximately 15 different subjects creates an unnecessary and insurmountable hurdle for many ambitious, hard-working and intelligent individuals who would be excellent attorneys.

Anonymous

California's bar exam passage rates are abhorrent, and the score needs lowered. There is nothing unique about practicing law within California itself that warrants a cut score that is so much higher than others in the country.

Maintaining a cut score of 1440 both denies legal services to thousands, if not millions, of individuals in need and lessens diversity among new lawyers.

The simple fact is that the bar exam itself is a poor indicator of applicants' ability to practice law. Students cram information for the two test days only to forget it in the days and weeks after. Applicants are forced to memorize law that will likely serve little to no practical use in the actual practice of law (for example, as a future litigator, the future use I will derive from memorizing wills and trusts will be nonexistent). Moreover, applicants are forced to "learn the test" through learning how to write to appease the examiners - quantity of issues spotted, in IRAC form, is prioritized over actual quality of legal analysis. Additionally, many fellow applicants and I discussed in bar preparation how we could maximize points by allocating an extra 5-10 minutes to the performance test instead of individual essays, since the performance test is worth twice as much as an individual essay. There has to be a better system of testing for minimal competency to practice law.

Lowering the cut score will not result in a flood of lawyers who are unqualified to practice law. When, in the case of some ABA accredited, top 100 schools in California, almost one-half of first time takers are failing the bar exam, we have to question whether the exam is an appropriate indicator of minimal competency. These students demonstrated over three years that they have what it takes to practice law. A 12-hour test, consisting of "randomly" selected essays and 200 multiple choice questions, should not impose a barrier that results in such high numbers of takers failing.

Unless the California Board of Bar Examiners can demonstrate specific facts which indicate that California needs a cut score that is so much higher than any other in the country, the cut score should be lowered. It is recommended that California make its cut score equivalent with that of New York.

Thank you for your time and consideration.

Paul Larsen

A significant assumption in assessing the cut score is that the level of competence is measured broadly over all of the subjects that are tested on the exam. This assumption does not reflect the diversity of abilities of attorneys as is readily reflected in how students typically do better in some courses than in others and do not generally have uniform grades across all subjects except at the very top and very bottom. The consequence of the assumption is, on the margin, to fail those who would pass (or excel) in some areas but not in others. In an earlier time, where all lawyers would be expected to be able to practice in all areas, this assumption made sense. In the present, however, it has the effect of removing from the practice of law those who would be adequately competent in the area in which they would actually practice where such attorneys are needed to serve underserved populations. Assuming that the cut score remains as a single score, a higher cut score puts such persons at a disadvantage where there is no corresponding danger to the public from incompetent lawyering. A lower cut score is therefore more appropriate.

On a different dimension, there is considerable doubt in my mind that the cut score is a valid proxy for lawyer competency. Lawyer competency is a multifaceted issue of which the Bar exam necessarily tests only a small part. In my experience, for example, many superb trial lawyers are poor transactional lawyers. The skills that make a competent (or superlative) lawyer in one area of practice do not necessarily translate well into another area of practice. The competence problem, especially over time, exists more starkly where lawyers practice outside the areas in which they are experienced. Backing up, lawyers just entering the profession after passing the Bar are frequently unable to practice law competently because of the lack of experience in how to practice notwithstanding a strong knowledge of the law. Again, to the extent that the Bar exam cut score is a proxy for lawyer competence, by representing an average (or median), it necessarily under serves significant populations that would be competently served by those who under the present system may not exhibit sufficiently high proficiency in areas not necessary to their intended practice.

Accordingly, I advocate for a cut score that is closer to the scores of those states with large diverse populations.

Anonymous

While I agree with lowering the cut score, I feel it is insufficiently addressing the major issues of the CA Bar Exam. The exam does a poor job of
determining the quality or ability of an attorney, since there is a heavy emphasis on the rote memorization of common law and state rules. Many qualified and skillful applicants have failed the bar exam in this state, which could address the issue by weighing the PT more heavily since it focuses more on the analytical ability and writing competency of a candidate, rather than the knowledge of rules.

Lani Ho - Santa Clara University School of Law

California's arbitrarily high cut score has resulted in undue financial and psychological burdens to potential attorneys. The cut score has been the same since 1986. As such, the score is outdated and requires investigation. I applaud you for taking public comment and conducting a comprehensive review of the exam. It shocks the conscience that a large majority of graduates from accredited law schools are unable to pass the current exam. Retaking the exam causes students to lose out on employment opportunities and incur substantial financial burdens. Additionally, the high cut score limits the number of attorneys available to take on public-interest work and serve marginalized or underrepresented clients and causes in our state.

Michael Kim - Emory University School of Law

The CA Bar Exam tests on many subjects that attorneys will never encounter in their careers. It tests on many obscure rules, exceptions to exceptions, and there are many people who are failing the exam that could have made great attorneys. The pass rate is getting lower and lower each year, and I've taken the test three times already. By lowering the cut score to 1414 or even lower, I would have a much better chance at passing. My score on my second attempt was around 1415. Modifying the cut score would be extremely helpful for me and for many other law student graduates who are unemployed, with law school debt.

Abigail Coursolle - National Health Law Program

In addition to lowering the cut score, I urge the Bar to further study ways to ensure that bar passage is correlated with successful passage, and to consider reducing the number of non-ABA-approved law schools in the state.

Anonymous

California state bar committee,

It is an honor and a privilege to present my unique perspective. I am the son of Mexican immigrants, a juris doctor of Southwestern Law School, a former juvenile delinquent; a product of the California juvenile detention centers who also earned a bachelor's degree from the University of California, Berkeley. Prior to my law school education I worked as a paralegal for seven years. In that time I worked for three law firms, a large corporate litigation law firm in San Francisco, CA., second as an in-house paralegal to a global medical device company in Sylmar, CA., and for a large workers' compensation firm in Orange CA. So what does my personal information have to do with the matter?

Today I present a case in favor of lowering the bar cut score. I use my own experience in order to support the relevant factors used by the committee to determine an appropriate bar cut score. Because not only is my experience unique it also represents both what the average person in my community experiences and what it systematically does not experience. The majority of my community experiences many systematic inequities like incarceration, poverty, lack of education, a gross disparity in the bar passage rate and in the practice of law. I am a representative of my community's concerns in which the bar committee should use to factor into their decision in lowering the cut score, even lower than the 1414 propositioned.

The bar committee has determined that the following seven factors as relevant to make a score determination:
1.Increasing diversity of attorneys from different backgrounds
2.Increasing access to legal services for under-served populations
3.The fact that the cut score in California is the second highest in the nation
4.Maintaining the integrity of the profession
5.Protecting the interest of the public from potentially unqualified attorneys
6.Declining bar exam pass rates in California
7.The burden of student loan debt for law-school graduates unable to find gainful employment after failing the bar exam

In light of today's injustices against people of color the issue central to my thesis is restorative justice. Specifically to diversity in the profession, competency of attorneys in practice to under-served populations, furthering the access to legal services to those under-served populations, and integrity of the profession to serve diverse array clients. Furthermore, because the strong emphasis on these factors I will sway the committee to lower the cut score to protect the interest of the public from unqualified attorneys who are adverse to the needs of a diverse society we are living in today.

Diversity in the profession

Currently, there are 249,696 attorneys (including judges) in California. Latinos make up 6.5 percent of California's licensed attorneys. That means there is a staggering 32.5 percentage point disparity between Latino lawyer representation in the state bar and the general Latino population. This gap (or canyon, if you prefer) is unacceptable, especially when we consider that Latinos are over-represented in California's jails and prisons. Of course to be fair with any major population shift there is an adjustment or "catching-up" period where, after a surge in one population group, it takes time for members of that group to infiltrate all areas of the populace. But Latinos represented nearly one fifth of California's population back in 1980 – and in 2014 Latinos were only 6.5 percent of lawyers. Justice and fairness demand that we do better -http://greenlining.org/blog/2014/cuellar-first-mexican-born-justice-californias-highest-court-progress/

If diversity is a top factor in lowering the cut score then 6.5 percent of Latino lawyers are conclusive to move for a systematic change in the cut score in order to correct historical inequity. Nevertheless according to California Governor Jerry Brown's new state budget, Latinos are the largest single racial/ethnic group in the state, making up 39% of the state's population. The data is clear that diversity in seriously lacking in the legal practice. Therefore, because California's cut score second highest in the nation it only perpetuates the disproportional diversity lessening the chances of nearly half of California residence from practicing law.

Competency

An attorney has a duty to render competent service to their client. The ABA defines competence as: using the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation. CA only subjects you to discipline if you fail to perform legal services with competence. Areas of law that currently of important interest, and will remain of interest for at least the next four years, are in Criminal law, Criminal procedure, Immigration, and workers' compensation.

Because Latinos are grossly represented in these areas of law competent representation is vital to their cases. Clients are not fact sheets neatly created, laid out on an exam, for one to issue spot, apply rules, an analysis and conclusion. Clients must be helped to organize their thoughts and facts. Competency is not only knowing the law but knowing the client, his/her facts, and obtain full transparency through the client's trust. Without the client's trust, an attorney lacks the most integral pieces of a case to competently represent their clients. As an experienced paralegal, who has worked on several cases in these areas, the majority of my supervising attorneys would not have prepared a fact file as thoroughly if it was not for my background and understanding of the clients whom represented the statistical numbers of the population. Furthermore the statistics speak for themselves when it comes to the disproportionate numbers of Latinos who are in prisons, immigration proceedings, and worker compensation claims. Therefore, it is vital that the forty percent of California's population be competently represented by competent attorneys who can relate to their particular cases, experiences, and situations.

Access to legal services

There is no arguing that a majority of Californians both citizens and undocumented people lack the access to legal services. Upon graduation law schools stress the importance of becoming a voice to the voice-less. The ABA actively promotes pro-bono work for indigent people in criminal proceedings. According a report by the California Coalition for Universal Representation just in the area of immigration law alone 68% of detained immigrants in California are unrepresented. Furthermore, the same data shows that detained immigrants who had counsel succeeded more than five times as often as did their unrepresented counterparts. There were approximately 7,400 detained and unrepresented immigrants who had their cases heard in California immigration courts in 2015. This means that there were not enough attorneys or they are unwilling to represent or because they lack the competency. As a law clerk for both immigration and criminal law matters I saw firsthand people who could not afford a lawyer or who were representing themselves because they distrusted a court appointed attorney. Access to proper legal representation is the most important fundamental right there is even in immigration where having an attorney is not a right. Therefore, the cut score must be lowered in order to alleviate the access problem and continue to open the access to legal representation.

Integrity of the profession

The word integrity evolved from the Latin adjective integer, meaning whole or complete. In this context, integrity is the inner sense of "wholeness" deriving from qualities such as honesty and consistency of character. In ethics, integrity is regarded by many as the honesty and truthfulness or accuracy of one's actions.

Law schools, law firms, and the state bar pride themselves in serving diverse people and including diverse people as attorneys. However, the numbers are not representative of the objective. As stated above Latinos today are only 6.5 percent in a state where 40 percent of the public is Latino. Because integrity demands that we must be honest and wholeness the current state of the profession is not. When half the state is represented by a single digit number there is no wholeness in the profession. The committee must honestly reassess the situation if it decides to continue in the same path it will adversely affect half of the state's population in both participating in the legal realm and access to legal representation by under-served communities. Therefore integrity of the profession demands that the cut score be lowered in order to preserve the whole of the profession.

In conclusion, as a representative of the Latino community I am calling on the committee to restore justice and equality to the legal community. Way too long have our voices not been heard nor have we as a people been properly represented in the courts. If we continue down the same path of declining bar passage rates we will soon see depleted numbers of diverse attorneys. The lower number of diversity the more risk of incompetency of representation, less access to legal representation and less integrity of the profession there will be. I urge the committee to move for progressive change, restorative justice, and to move forward in lowering the cut score.

Kimberly Johnson - Bar taker

I also feel that the way the BAR is given should be changed. If a person passes the multiple choice but not the essay they should not have to take it again. If lawyers from out of state only have to take it once for a pass, why do california residents have to take it multiple times just for not passing the essay. That doesn't make since, those who fail the essay should just have to take the essay portion again.

Anonymous

It should be reduced to 133.

Anonymous

The lower the score the better; the embarrassingly low pass rate in the state of California is not something to be proud of

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Frank Chica - Yoosefian Law Firm, P.C.

If provided for, I would recommend lowering the cut score to the national average: 1350. This will provide the sufficient amount of recipients to be admitted, without jeopardizing the integrity of the profession.

Anonymous

The California Bar Committee seems to be in a completion with no one but themselves. They are generally trying to one up large states such as New York but even New York has made vast changes to aid their passing discrepancies. The bar passing rate should be notified to at the very least 141 if not even closer to the national average of 135.

Chase Silvius - BOFI Federal Bank

I believe lowering will the cut score will allow more leeway for law school graduates to accomplish their goals and contribute to society in a positive manner, without compromising the integrity of the profession. I imagine there are some who score exceptionally high on the bar exam, yet they may not necessarily be exceptional attorneys. Similarly, I feel there are plenty of exceptional lawyers (or potential attorneys) who may not necessarily score high on the bar exam (or pass the bar exam). The cut-throat nature of the job market will regulate the profession, as it always has. I am a strong proponent of option #2, lowering the passing score, for the aforementioned reasons.

Anonymous

I strongly believe the cut score should be lowered to 1414, and that this should be done immediately and retroactive to the July 2017 Bar Exam. I took the bar and passed on the first time, but know many other law students who are well qualified and just as smart or smarter, from just as good or better schools, who would be great to meet the public need for qualified and ethical legal representation, but who may not have passed just because they are not as good test takers, especially when the score required in California is higher than any other state. The higher rate is actually depriving our public from access to qualified and diverse legal services to choose from to serve their needs, besides really hurting - and driving away - good people who would make great lawyers. Many just miss the bar pass rate by a little bit, but would pass within the lower, and more normal score of 1414. I believe that the higher score is arbitrary and mean, and rather than increasing the quality of the individuals entering the legal profession, is skewed against diversity in the legal profession. This is causing a chilling effect on such persons even thinking about applying to law school, and this, in turn, is hurting the overall quality of the profession, and will only get worse the longer it is before it is adjusted to the lower and normal score of 1414. It is especially hurting people who cannot afford to wait to take the bar over again and again, and can't afford expensive tutors, while they are supposed to be paying off high student loans, and are unable to get a job in the profession. This is unfairly putting a burden on especially women, and other people from lower economic backgrounds, no matter how smart they are and how well they do in law school, cutting out good people from the California Bar. Many of the people who took the July 2016 bar and fell between 1414 and 1440 had to take the retake the July 2017 bar, after a year spent mostly unemployed, depressed, and accruing student debt, so let's please change this for the July 2017 bar, so they don't have to be tortured again, or many wonderfully qualified, accredited law school graduates, especially those most economically vulnerable who strive to be in the legal profession, will be forced to give up and find other jobs. Let's stop discriminating and keep great lawyers in California, so we may have a large and diverse, qualified legal community, and lower the cut score immediately to 1414. As someone who has been there and survived, I knows it is not fair or sane or helpful to the legal community or the public it serves, to have the arbitrarily higher cut rate. It doesn't make us better. It's wrong and should be changed. Thank you.

Blanca Rodriguez - Superior Court of California County of Alameda

I am very pleased that the State Bar of California is considering different options for the bar exam cut score. So many students successfully obtain their undergraduate degrees, graduate from law school, complete all other requirements to be admitted to the bar, but cannot actually be admitted due to failing the bar exam. These students often face enormous debt from their years of education, and they need to be employed in order to pay their debt. However, employment for law graduates is difficult to obtain without a license to practice law.

Lowering the cut score is one way to increase the CA pass rates. In addition, it would be helpful to examine the ways that law schools are preparing students for the bar exam. There should be required curriculum during the third year of law school that focuses on preparing students for the bar exam, including practicing past bar exam questions under timed, simulated conditions. Currently, most students must cram their preparation into a two-month period after graduation. That simply is not enough time to thoroughly prepare.

I graduated from the University of San Francisco School of Law 14 years ago, in 2003. However, I am not an attorney because I have not yet passed the bar exam.

I am part of the first generation in my family to be born in the U.S. and I was the first member of my family to attend college, let alone law school. I have raised four children on my own. I have been very fortunate to have had wonderful employment positions with the Superior Court of California County of Alameda, providing legal information to self-represented litigants through the court's Self-Help Services Program. I plan to continue to serve the public for the rest of my career. However, I will be able to provide even more service as a licensed attorney once I reach the goal I set for myself many years ago.

If any additional information is needed, I may be reached by phone or email. Thank you very much!

Stewart Katzen

While modifying the cut score to 1414 is a step in the right direction, it is not enough. At 1414, the cut score is still over 60 points higher than the national average of 1350. In July of 2016, over 20% of test takers scored between 135-140 on the MBE portion of the bar. Extrapolating this figure to the exam at large, this means that over 1500 test takers (and over 600 graduates of ABA-accredited schools) failed in California despite achieving scores that would be considered passing in 36 other states. This is unconscionable.

Anonymous

The question the California State Bar Examiners have to answer to justify having a substantially higher cut score than the majority of the states in the country is do these higher cut scores lead to better outcomes for clients?

I am I practicing attorney from the State of New York. As I am sure this board is aware, New York uses a substantially lower cut score than the State of California (reports I have seen put the New York cut score at approximately 1300). Based on my experience, there is no substantial difference between practicing attorneys in the State of New York versus the State of California. I have not found the average attorney to be more intelligent in the state of California or legal clients from the state of California to be more pleased with the services provided by their attorneys. I am not aware of any substantial difference in ethical disciplinary rates between the two states. In sum, I am not aware of any concrete proof that the attorneys of these two states, who service two of the largest legal markets in the country, are of substantially different quality.

However, the damage caused by this substantially higher cut score is clear. Applicants who fail, particularly applicants who are not already admitted in another state, are often not be able to find jobs out of law school. This problem is amplified by the fact that many of these applicants have substantial student loans that cannot be paid without a steady source of income. Finally, there is substantial psychological harm that comes from the stigma of failing the bar exam (even if the applicant would have passed the test in other states). This is my perspective as a recent former law student who has seen friends and colleagues both pass and fail the bar examination in my home state of New York.

Without a satisfactory answer, supported by concrete evidence, to the original question above- explaining why California requires such a substantially higher cut score than states like New York - I do not see how this Board can justify the cut score not being lowered beyond 1414.

In my opinion, the cut score should be lowered beyond 1414 to the same cut score as New York State.

John Ludwig

Please lower the cut score. 2/3 failure rate is unacceptable.

Anonymous

The score should certainly be lowered in order to allow more people who are qualified to become attorneys. Moreover, if California is truly concerned about limiting its profession to qualified individuals, it should do away with the bar exam's current format, since last I checked, being an expert at memorizing information is pretty useless in regard to being a quality attorney.

Rachel Garcia

The State Bar of CA should lower the cut score to the proposed 1414, if not lower.

The current score of 1440 may be justified by keeping the number of inadequate attorneys out of practicing law in the state of CA, or preserving the ethical standards for attorneys who are admitted to practice. Or it may be so high so as to keep CA a competitive state when it comes to practicing law.

However, what having a higher score fails to accomplish is to admit attorneys who are otherwise perfectly competent, if not excellent, from practicing based on an arbitrary number on a test that is already exceedingly difficult. It does not account for the hours of honest preparation prospective attorneys put in, only to fall slightly short. It does not account for the financial hardship students who are saddled with debt from law school have to further incur in order to take the exam time, and possibly, time again.

Because of this, the cut score should be lowered.

Having a higher number does not keep out bad' or inadequate attorneys. Many high-achieving students are simply good at test-taking, but have no practical knowledge or skills that will aid them in the practice of law. Many students who do have those skills but fail to meet arbitrary scoring criteria are barred from practicing in the state of their choice, and from allowing the legal profession from benefiting from their contribution.

Allow the hiring/firing process to do its work. Lowering the score marginally will allow more people to pass and become attorneys, sure, but it is my belief that more young attorneys will be given the opportunity to shine, or to fall, in the actual working world. But they should have the chance first to do so.

Because of this, the cut score should be lowered.

Anonymous

I believe the cut score should be reduced even further than 1414. A cut score of 1414 would have have only changed the passage rate for the July 2016 bar from 43% to 47%. That difference is insufficient.

The state should consider that the expense to attend law school is exorbitant and the decreasing passage rate is causing extreme financial difficulties for those that fail. Today, law school roughly runs about $200,000. The amount of student loan debt newly graduating students are entering the work force with is obscene and makes it very difficult for passionate students to commit to serving the under-privileged population. Those that fail the test and are unable to practice, after committing to three to four years of dedicated study, not only suffer a mental blow but are financially devastated as they find themselves unable to pay the loans as they become due. Such hardship, not only may burden the state with possible dependence on social services, but may lead to depression (note the Hastings student who committed suicide after failing the July 2016 bar), fear, and anxiety, or cause qualified candidates to find employment outside the field saddled with a debt the size of a home mortgage they will never be able to pay off. Those students that find a job or two outside the field in order to keep above water in paying their loans, may not be financially capable to efficiently prepare for the following bar exam. Furthermore, the state should consider how the increasingly low passage rate and high probability to not be able to pay one's loans may deter future potential candidates from entering law school thereby affecting the profession as a whole in future generations.

The state's high cut score is arbitrarily keeping otherwise qualified candidates from practicing and providing quality legal services. I do not believe that by lowering the cut score, the state is undermining the integrity of the profession or putting the public's interest in harms way. The test is a grueling rite of passage that serious students prepare very hard for, and that fact will not change because the cut score is lowered. Nevertheless, the test is not an indication of how well one will perform on the job rather, as we all have experienced, everyone learns ON THE JOB. The bar exam is a standardized test -- it is no secret that certain demographics tend to perform very well on standardized tests while other demographics do not. The fact that people learn differently and have varying degrees of strength in regards to test taking should not restrict their ability to practice in the field they are passionate enough about to suffer through law school and bar preparation. Lowering the cut score will allow for highly qualified candidates, who perhaps happen to learn and take tests differently, to enter the work force, providing the citizens of California more options in their legal representation. The old school mentality lawyers have of torturing the newbies because they were tortured is not helpful on the job and it is not helpful with regards to the bar exam. Those that argue new lawyers must pass with a 144 cut score because they had to, are taking a very selfish and narrow view of the issue at hand and should consider the general health of the profession now and in the future, and what most benefits the public.

At minimum, I support the 1414 cut score be applied to the July 2017 bar exam, but would prefer to see an even lower cut score be applied.

Lawrence Nelson - Santa Clara University

The lowering of the cut score will provide some relief for those who are very close to the present cut score of 1440, and I very much doubt it will allow many, if any, incompetent persons into the bar. I urge you not to listen to the cries of the deans of California law schools who are lamenting their students' inability to pass the bar exam and desperately want the cut score lowered more. Many of these deans and schools are taking the money of too many students in order to keep their doors open (and to keep heir jobs and the jobs of their [now] largely overpaid and inefficient faculty) and not suffer the embarrassment of closing their doors like Whittier. For example, I admire Jesuit education and values, but the University of San Francisco should close its law school with its pathetic 36% passage rate as it can no longer educate and train persons to be practicing lawyers. The law school of my employer, Santa Clara University, is doing better that USF, but is still slowly failing. The law school industry in California is bloated, inefficient, and as a whole is no longer performing a public service. BTW, I am a lawyer who passed the bar exam here 26 years ago and am a pre-law advisor to undergraduates.

Rick

I agree that the cut score of 1440 should be lowered, but somewhere closer to the national average of 1350. I think a lower score will be able to complete the purpose of protecting the public while taking the interest of the applicant into consideration. Many professionals (both young and old) are stuck in this limbo, where they cannot pass the bar and their lives are getting ruined, both emotionally and financially. Many of these applicants are more than minimally competent professionals who are trying to earn a living working for law clerk pay but burdened with law school loans. Thanks for your consideration.

Anonymous

Lower score should be 1400.
Representing a solid C grade

Becky Scott - AAM Management

this needs to happen - lower the score to 1414

Judith Logan

The most important issue facing the state of California is having highly ethical attorneys representing clients. The scores and how difficult the bar exam is; really has no meaning. If there is a concern about producing unqualified attorneys, then it should be addressed with the law schools. A graduate from law school should be automatically qualified to practice law. If they can pass law school they should be qualified to practice in the State of California. The test does not prove someone will be a good attorney. It may only prove that they are good at taking tests. A good internship which teaches the practical side of working as a professional attorney is what is needed; not more testing. The fact that California is more concerned with having "the hardest bar exam" than producing highly ethical and well practiced attorneys is a disappointment.

There are many examples of graduate schools who require internships in their last year where students learn to actually practice their trade before branching out on their own. This would be a practical approach. In addition, their board exams are passed at 90 plus rates; meaning most of their students study for and pass the exams. I do not suggest internships in order to make the task of getting licensed in California more burdensome for students. The testing that is done currently is both expensive for students and burdensome with extremely low pass rates. My daughter is currently finishing her third rotation in her final year of receiving her doctorate in physical therapy. The students are burdened with loans, but almost all of the students pass their boards and are required in their third year to rotate into three different work settings. This is both practical and less burdensome on students. We could learn something from this.

Lee Mckenna

Law schools do an incredibly poor job of preparing individuals to practice law. You can learn everything that you need in 2 years of school. Instead of a third year, there should be a mandatory internship so that newly minted attorneys are apprenticed to experienced, good practitioners to learn how to ethically, competently, and civilly practice law. Law is the only profession that I can think of where, upon graduation and admission to the bar, wholly unprepared individuals are left to sink or swim, particularly since one can no longer rely on employment in a firm and the training that goes with that. I think that bar exams are pointless. To me, they are simply revenue raising devices and a final barrier, causing additional delay and expense, before debt-ridden students can legally work as attorneys. The bar exam does not prevent unqualified people from practicing law. Those people should be flunking out of law school long before they get to the bar exam. However, since these exams have become so entrenched, it is unlikely that they will go away. Given that reality, I support lowering the score and requiring some sort of apprenticeship for admission.

Anonymous

I passed the Texas bar exam on the first try with a score of 700 out of 1000. This would not have been a passing score in California, but I am gainfully employed as a competent attorney in Texas. I believe California's cut score should be lowered to either 1414 or below.

Erin Coleman - City of San Jose, Independent Police Auditor

Hello,

I have taken the Bar Exam a few times, and have nearly passed each time. My exams have been read by two graders, and the grades received by each grader are often very different. Had I taken the higher score from each grader, I would have passed by now. It is incredibly frustrating. After my first failed attempt, I had to get a full-time job to pay student loans, housing, etc. I haven't been able to afford to take the exam consecutively, and I have never been able to take an extended time off from work to study.

Life goes on, and I have since married and had a baby. The rest of my life doesn't stop because my dream of becoming a lawyer hasn't been realized. These added responsibilities makes studying for another exam incredibly difficult.

I attended law school out-of-state and I am licensed in that jurisdiction. Clearly, one state believes I'm minimally competent to practice law. The exceedingly high cut score and the subjective nature of the grading has ended many dreams of practicing law without a clear reason. I hope the Committee of Bar Examiners re-examines it's grading practices to make the grading more in-line with other jurisdictions.

Thank you.

Michael Vogler - Vogler Law Offices, PC

It appears that this lowered cut score will only increase the pass rate by 2%, (in July 2016 from approximately 45% to 47%). This is a negligible change.

I believe the cut score should be more curve oriented (variable) whereby more than have pass.

If a fixed cut score is used, then something like 1350 seems more reasonable.

Anonymous

I read the study that the suggested score of 1414 was based on, and its complete nonsense. Its clear that states that have much lower cutting scores do not have any more competency problems with their attorneys than does California, so why the unnecessarily high cutting score?

The California Supreme Court gave the state bar the opportunity to fix what was broken (the cutting score), and instead of concentrating on that, the bar merely set out to justify its current unreasonably high score by using a flawed study.

I read with interest as the Ca. Supreme Court recently stripped the bar of its authority to set bar exam content, which gave me pause to wonder why. However, based on your new suggested cutting score, I can see why the Court has lost confidence in your ability run a fair and reasonable bar exam.

If protection of the public is what you're really after, then the score should be set at no higher than 133 - 136. That would be fair and reasonable and allow the "public" the opportunity of being able to hire an attorney at a price they could afford due to the new market conditions. As it stands now, even with the suggested lower score of 1414, the vast majority of Californians cannot afford an attorney due to the artificial lid that has been placed on aspiring test takers.

If, on the other hand, protection of those attorneys that have already been admitted to the bar is what you're really after (read illegal monopoly), then lower the score to 1414, that way California attorneys can continue to charge $300 or more per hour for their services without having to be concerned with competition.

It’s really quite simple folks, the cutting score should be set at 133 - 136, and no higher!

Anonymous

A lower cut-off score is appropriate because CA would then match the passage rates of other competitive legal markets like NYC. In NYC, first-time takers from in-state AA law schools was 81%. CA's is nearly 20% lower.

Anonymous

The cut score should be decreased to 1414, or lower; but the scaling metric should not be altered to make scoring a 1414 as hard or even harder than before.

Cristina Kinsella - Disability Rights California

I took the July 2014 bar, which seemed to be the beginning of a significant decline in the California Bar pass rate. I studied with two individuals who are smart, dedicated, intelligent, and did not pass the bar. Had the cut score been lower, they might have. Now, California has been deprived of the dedication and service of one of those individuals because properly studying for the bar is cost prohibitive for her. I understand the desire to keep the prestige of having the hardest bar in the country, but what is that really accomplishing? I'm still paying off debt I incurred to prep for the bar. Low income individuals cannot effectively prep for the California bar without some kind of prep course, which cost thousands of dollars. Individuals who come from more affluent backgrounds, who are predominately white and male, are able to afford the prep courses, and can have the bar taught to them. Keep the cut score where it is, and law schools may start teaching to the exam instead of the profession based curriculum that prepares students to be attorneys rather than teaching students how to pass a test. Realistically, none of us have to remember 16 unique areas of law, and the federal/California distinctions of those laws, off the top of our heads in our day to day practice. But the legal writing, analysis, and research skills, learning how to "think like a lawyer" are invaluable. And it would be a great detriment to our profession for those skills to be lost, versus keeping a higher cut score. So, as a person who passed the bar on my first try, I say lower the score. So I can work with a more diverse, more dedicated, and better educated field of professionals. Because I'd rather have colleagues who can think like lawyers than those who can memorize the distinctions between Cal and Fed civ pro.

Ernesto Rodriguez - Santa Barbara Colleges of Law Alumni

I strongly believe the Bar pass score should be 139. I obtained my law degree in the fall of 2015 and have spent the last 2 ½ years of my life arduously studying, anxiously waiting for the exam results and continuously taking the bar exam. Unfortunately, as a result I feel that my life is on hold. During this time I have lost the opportunity to spend valuable time with my newborn daughter due to the unreasonable amount of time it takes to receive the bar exam results. Furthermore, family events, vacations and holidays are non-existent because I am either preparing for the bar exam or taking the exam. Additionally, it has been an extreme financial burden as I have spent over $20,000 dollars in bar fees, accommodations, and resources to prepare for the bar. Moreover, my employment opportunities and earning potential are on standby until I pass the bar.

In addition the current bar exam process is unreasonable for the following reasons:

1) Although the bar exam is now 2 days instead of 3 it still takes the same unreasonable amount of time (about 3 months) to receive the test scores, giving a person who will retake the exam only a limited amount of time to study and prepare. Furthermore, it still costs the same amount of money to take the bar even though fees are being saved on proctors, and location.

2) The exam grader does not provide any comments, feedback, or an answer checklist attached to the graded bar exam essays, which makes it almost impossible for a test taker to know how to improve or what areas he or she needs to work on.

3) Licensed attorneys from other states should not be allowed to take the exam and compete with non-attorneys. On the contrary, licensed attorneys should be held to a higher standard since they have already practiced for X amount of years and should compete against other out of state licensed attorneys to earn their California License.

In addition, adjusting the pass line will positively impact the diversity of the profession. The State Bar has long recognized diversity within the legal profession as one of its main objectives. (See Report and Recommendation of the Diversity Pipeline Taskforce, State Bar of California, August 2006). Nevertheless, according to the California State Bar Association, Hispanics or Latinos comprise only 4.2 of California Attorneys. As a Latino exam taker, I feel the Bar is designed for a privileged few of affluent backgrounds, nevertheless, I am determined to continue to take the exam until I pass it because my background and personal experiences have taught me to never give up and continue fighting.

In sum, the Committee of Bar Examiner's Staff Report states "[t]here is no empirical evidence available that would

support a statement that as a result of its high pass line California lawyers are more competent than in other states, nor is there any data that suggest that there are fewer attorney discipline cases per attorney capita in this state." For the above-mentioned reasons, I strongly believe the Bar pass score should be 139.

Ira Shafiroff - Southwestern Law School

I have been a practicing lawyer since 1980 and a law school professor since 1982. The exam cut score should be lowered because the cut score as it now stands is fully arbitrary. So says even a high level state bar official (I cannot recall her name). Consistent with the view that the high cut score is arbitrary is the fact that half of all New York licensed lawyers who take the California bar exam fail it. Are we to believe that fully one-half of all New York lawyers who are competent in New York would not be competent in California? We all know the answer to this question, which must be answered in the negative.

Separately, anyone who has practiced law for even a short period of time knows that the bar exam itself does not in anyway measure an applicant's competency to practice law. Never in my decades of practice have I ever had to give an answer to a new problem off the top of my head--in writing and within one hour. As to the MBE let me just state what I have written in the Daily Journal: "Never in the history of Anglo-American jurisprudence has a judge ever asked a lawyer: 'Counsel, is it A, B, C, or D.'" The bar stresses memorization. Anyone who thinks that it measures "analysis" in any significant way has never studied the bar exam and has never practiced law.

What a competent lawyer needs to know is how to (not necessarily in any order):

--Research applicable law
--Solve problems (aka think)
--Write well
--Speak well
--Relate to people
--Be morally upright (virtually all discipline cases deal with some version of theft, and let us not get started on the MPRE)
--Zealously represent a client within the bounds of the law (or seek a good faith change in the law)

The bar exam as it presently exists barely--barely!--touches on the first three points and fails to measure the final four in any manner.

Still, if California is going to have a bar exam in its present format, it should be one which is not so difficult in nature and scoring that the majority of takers fail. Indeed, if I gave a law school exam where the majority of the class failed, it would on its face be an invalid exam.

Thank you for reading this.

Martha Whetstone

I would like for it to be even lower. The test does not reflect an indicator of quality as I have seen in my experience as a practicing attorney. In fact, I have been quite shocked by the lack of quality in practice, particularly in smaller communities such as Monterey and Salinas, where many attorneys there in areas such as family law have gone to non-accredited schools, yet have passed the Bar. In those communities it has been my experience that the local non-accredited law schools are putting out the majority of these lower quality attorneys. While practicing in San Francisco, I did not ever encounter the low quality attorneys that I experienced in the Monterey area.

These days it is very expensive to go to law school. I know a recent graduate from Georgetown Law School, who has almost $300,000 in debt. Others also have sizable debt. It is not right to have so many go to law school, incur debt, and then not be able to pass the Bar and not be able to practice. I think you should eliminate non-accredited law schools and regulate the law schools and their admission standards on the front end rather than do so on the back in with a rigid Bar exam. These students have invested so much time and financial resources into the process not to be able to practice.

Also, the Bar could change to be more flexible. If you pass the Multi-State than you should not have to take that part again. If you pass the Contracts essay but not the Torts essay, why not just have them take another Torts question? The CPA exam works this way and that is more civilized in my opinion. Let's get creative with the exam and use it to be a base indicator not an arduous stamina and memorization exercise. Also, it is not right that it takes so ling for them to get the results when jobs and other plans hinge on them.

Students who pass a respected credited rigorous law school curriculum should not have to endure such a heinous exam that would exclude 60% of those taking it. I think that reflects something is wrong with the exam - not those who take it.

Thanks.

Ida Gravich

The Bar exam doesn't bring experience or knowledge of the subject in the court room, neither it maintain integrity of the profession.

Anonymous

I am not an attorney in California or an applicant for the California bar. However, it is clear to many of us outside the state that the high threshold is not intended to keep standards for attorneys high - as indicated by the lack of stringent ongoing standards for already admitted members. Rather, the high threshold is an attempt to artificially restrict the available labor pool and drive up prices in the California legal market. This benefits the wealthiest partners while further eliminating access to legal services by the poor.

California is a competitive market with many law students seeking to practice there. That means it should have a relatively high standard. But that selectiveness can be accomplished without the erroneously high score currently in place

Anonymous

The bar passage score should be lowered. While it is important to make sure individuals who enter the profession are competent, the bar exam in and of itself is not a good indicator of whether someone will be a good attorney. If the state bar wants to ensure competent lawyers, it needs to make admittance to law school and law school itself more difficult -- not the bar exam.

Hamideh Roohbakhsh - Law Offices of Cyrus Meshki APC

To whom it may concern,

In my opinion the issue is not weather the CA Bar Association has enough attorney or not, the issue is the noticeable graduated crowed from law school. It is really burdensome to pay back the student loan while there is no well paid job! Moreover, I am the only person responsible for may household's financial issues. I CAN NOT ISOLATE MYSELF FOR ENTIRE 2 MONTHS LIKE A 25 YEAR OLD GUY BEFORE THE BAR EXAM TO SATISFY THE UNREASONABLE REQUIREMENTS. It is absolutely unfair to prohibit me from my ideal job just because I was so close to passing score!!! The definition of MINIMUM COMPETENCE is not score of 1440 out of 2000!!! Thus, if you did not change the passing rate, please kindly ask academic staff to revise this statement!

Thalia Hayden - News Anchor for KMIR News/Riverside County DA's Office

My fiance, Patrick Farrell, was a distinguished prosecutor in NY with 15+ years experience. The Riverside County DA's office was holding a spot for him because he is so good at what he does. Unfortunately, he ranged between 1400 to 1426 on the 2016-2017 bar exams. With the proposed score, he would've passed 2 out of 3 times.
My coworker did a TV news story on him yesterday, and we're willing to be a spokesperson/voice for those looking to have the passing score lowered.
Please contact me if you'd like to see the news clip.
Thank you,
Thalia Hayden
Anchor
(201) 981-1659
thaliahayden@hotmail.com

Michelle Eaton - J.D.

The purpose of the California Bar Exam (CBX) is to ensure that examinees have a minimum competence level in regard to their respective knowledge of California state law and certain federal law. However, I believe in recent years the CBX has instead become a barrier to entry to the profession for hundreds of otherwise qualified candidates who are unable to pass the test because of an unreasonably high cut score. Further, the current score of 1440 is for an exam that appears to be unnecessarily difficult and has been shown to have little correlation to the actual practice of law. I agree that there needs to be a rigorous licensing protocol in place in order to ensure that those who become licensed attorneys are capable of doing the work. But my suggestion would be to bring the CBX more in line with other states in order to bring fairness and equity to the process.

Marianna Nersesyan - n/a

I agree with Option 2 only if the level of difficulty to earn the raw scores is not raised. For example, if previously spotting an X number of issues would land you a raw score of 65 on an essay, the number must stay the same after the modification of the general cut score. If the bar to getting the required minimum raw score is raised, the modification will serve no practical purpose.

Additional Comments: Passing the MBE section.

If a repeat applicant passed the MBE section in the previous exam, that applicant should not be required to take it again and must have the option to transfer that score to the subsequent administration of the exam if he or she chooses to do so. The rationale behind this suggestion is that lawyers who have been admitted to the bar in other jurisdictions are not required to take the MBE section because they once took it and passed it. There is no reason to differentiate between an admitted to the bar of another state and a non-attorney applicant who previously passed the MBE portion. In fact both the attorney and non-attorney applicants are treated the same when it comes to the essay and performance test portions. This goes to show, that these two types of applicants are treated the same for the purposes of being admitted to the CA Bar. So, if one of them is not required to take the MBE portion again because he or she has previously passed it, why should the other applicant, who has also previously passed it, be required to retake it? After all, admission to another state's bar should not, and, in fact, does not have any bearing on being admitted to the CA bar.

Godson Ekwegh

Speed reading was a crucial factor. Timing was the greatest factor.

Anonymous

According to the NCBE,"California had the lowest pass rate in the country by far last year." While at the same time the State continues to have among the highest passing score requirements in the country.

Although further studies are necessary to determine the underlying factors affecting the lower pass rate, nonetheless, there appears based on raw scores to be a possible correlation between the higher passing score requirement and the lower pass rate among the Cal Bar exam takers which disadvantages them compare to bar exam takers in sister states.

This disparity must be addressed to allow qualified candidates who would have passed other states' bar exams to be deemed qualified and licensed in California in order to alleviate the shortage of attorneys that the State is experiencing outside the major urban areas.

Ralph Munoz - Muñoz and Muñoz attorneys at law

As previous multiple bar participant, I can only comment on my experience. I took the bar exam and received a 1431. This experience not only took a emotional toll on my family but also finacially. Was a emotional challenge on my family but a financial one as well. My raw MBE was a 149 and only to come to realize that I failed the bar due to deviations in my essay scores by more than 20 points in rereads
.
This method of grading by the committee of. Examiners proved to be why I failed the bar exam. In any event I feel that my MBE score being in the top 20 percent of the nation should have played a more important role in knowledge and competency of the law. Therefore I would prefer to see a lower pass score.

With the caveat that a passing MBE score be preserved as in my opinion is the only true none subjective measurement of ones knowledge and application of the law
Ralph Munoz

Vernon Tweedie

I have never commented before because I doubted that the State Bar paid any attention to those outside its leadership cliques. In the hope that that is no longer the case (and that those with the power to effect change are not all in those leadership cliques or even limited to the State Bar,) I submit some comments.

Before we change the bar exam yet again, we need to question the purposes of the bar exam in the light of our newly-discovered interest in protecting the public. Many observers have suggested that the high failure rates reflect far less protection of the public and far more parochial anti-competitive protection for established firms. I practiced for over a decade in a state which has a bar exam pass rate of over 90%. The number of lawyer errors that hurt the public, comparing the number of lawyers in that state with the number in California, seemed to me about comparable. The same factors were largely responsible in both states: substance abuse and mental health problems, overwork and burn-out, and outright dishonesty. Keeping a high percentage of applicants out of the profession via the bar exam essentially addresses none of these factors. The Ponzi scheme operators, the thieves from clients' funds, and all the other lawyers who deservedly attract the public's alarm all passed the bar exam and went on to do what they did. Has anyone else ever wondered about this or conducted a well-financed study of harm done by lawyers in states with low exam pass rates like California and in other states with high pass rates or even no bar exam whatsoever as in the District of Columbia (admittedly somewhat atypical) or diploma-privilege admission?

Eventually, I left the practice of law and became a teacher of high school social studies and special education in Indian country. My training, which includes a master of education degree in high-incidence disability special education, and my experience have taught me that all tests should be approached with some skepticism. Do the tests measure what they purport to measure? Do their results compare with similar tests used in other places? Do the scores reflect biases, intentionally or negligently? Why are tests selected, especially to the exclusion of existing tests administered in several diverse jurisdictions? I note that the essay questions which seem always to be the most effective barriers to bar admission share the suspect characteristics of all essay questions, including subjectivity of grading and narrow scope which substantially treats particular failure of knowledge as indicative of general lack of knowledge.

In the years since Judge Keller successfully challenged the State Bar on constitutional grounds, there has been a retreat from the former "they know best —let them take care of it" attitude in case law across the country. If the organized bar does not begin to ask some serious questions about the bar exam (and provide some honest answers,) the bar exam may itself be examined by the legislature, the courts, or both. Perhaps examination like that would be a good idea in any event.

Anonymous

Speed reading was a crucial factor. Timing was the greatest factor.

Malachi Haswell - AIDS Legal Referral Panel

I am a graduate of Berkeley Law School. I was on the executive committee of the California Law Review, and served as the Editor-in-Chief of another legal journal. I maintained excellent academic credentials before and during law school, and passed the 2015 bar exam on my first try. My LSAT score was 172, and I took it only once without any study course.

The above background matters because it shows that I have no personal stake in changing the administration of the California bar exam. However, I am acutely aware that my ability to adhere to traditional standards of success (i.e. grades, standardized exams) has little to no impact on my ability to be a good attorney. There are so many other people whose work quality exceeds my own who are prohibited from practicing on the basis that their abilities don't fall within the narrow strip required to excel at our arbitrary standards for legal professionals.

Anyone who has taken the bar exam knows how little it reflects the actual practice of law. I am now practicing unlawful detainer work, which has notoriously short deadlines, and NEVER am I required to write a full and thoughtful brief/memo in three hours or less. IT DOES NOT HAPPEN. The bar exam also tests on areas outside of California law, even common law principles that still apply in few, if any, other states. The MBE has the same weakness inherent in most multiple-choice tests, in that it tests a person's ability to take multiple-choice tests just as much or more than it tests their actual mastery of the content.

My personal belief is that the bar exam should be replaced or redone entirely to address the kinds of arbitrariness and impracticality I mentioned in brief above. However, I also recognize that creating standards is an arduous and time-consuming process. So while we continue to study more effective methods to gauge the ability of law school graduates, I am firmly and devotedly in favor of lowering the cut rate to a standard more on par with our peer states.

Anonymous

I highly recommend lowering the cut score to below 1414. An interim 1414 cut score would be ok, but I think further evaluation will indicate that a lower permanent cut score is more acceptable.

I am an older applicant who has had some work and life experience before attempting the California bar exam a few times. In my opinion, the high cut score of the CA bar exam works to discriminate against those who may have different types of problem-solving skills & natural strengths. I have both an analytical and creative side, and I have been told by many that I am a good problem-solver. I come up with the best strategic solutions when I am able to tap into both my analytical and creative side. When practicing and taking the bar exam, I have noticed that due to the time-constraints, I am not able to fully utilize my creative strengths in addition to my analytical strengths. However, when I have taken practice tests without the timed conditions, I have consistently written essays that have been graded well above average by the bar prep instructors. This is because I am able to tap into my creative problem-solving skills better when there is more time, and this combined with my analytical skills allows me to write a well-written essay.

I understand that the timed conditions are necessary for a standardized test such as the bar exam. But I do not see the necessity for having such a high cut score of 1440 or even 1414. It does not make sense why the California cut score is so much higher than other states. Due to the nature of the standardized testing and timed conditions, having a high cut score works to discriminate against people who have different types of problem-solving skills. I do not believe that only those who can pass the current high cut score of the CA bar exam would make good lawyers. There are many applicants who are currently being denied the chance to practice law just because they may have different problem-solving skills and would otherwise make good lawyers. The CA bar exam is not a great indicator of how well a person can practice law in real life, and only captures a portion of someone's lawyering skills. Therefore, the cut score of the CA bar exam should be lowered to just focus on minimal competency in passing the CA bar exam.

I strongly urge the State Bar of California to evaluate the cut score even further, and I highly recommend lowering the cut score to below 1414. I believe having attorneys in California that have different types of problem-solving skills will only help to effectively represent the diverse population of California.

Thank you very much for your time and consideration.

Anonymous

I support adjusting the cut score but ask that the committee remain flexible. The new exam format may impact the pass rate, which would determine the extent by which the cut score needs adjusting. Perhaps lowering the cut score to 1414 will not help improve the pass rate, calling for the cut score to be lowered below 1414.

Charles Robinson - Private Citizen

I took the February bar, missing the cut by a small margin. I retook the exam in July and hope the lower cut score will be applied to this exam preventing me from suffering the same fate as February.

Anonymous

I am admitted to the bar in two states, one being California, and passed both of my bar exams on the first try (I think this gives me a unique perspective, as one state has a much higher passage rate than California). That being said, I am extremely passionate in my belief that the cut score should be lowered such that it is even less than 1414. It should be well less than 1414. Raising pass rates to only 47% is still something completely undesirable, and something for which the examiners should be both ashamed and concerned. As it currently stands, the California bar exam is essentially hazing ritual, and a form of punishment that leaves students and their families in desperation. They graduate with serious financial indebtedness, are completely capable to practice law at an entry level, and yet simply cannot surmount California's absurdly high passage rate. This leaves them with no means to service their debt, and the complete inability to get on with their lives. If a student takes just two attempts to pass, an entire year of full-time studying (and stress) will have passed. And students often take more attempts. There are states with passage rates above 80%, and by no indication do they seem to have less capable lawyers. Here in California, it costs thousands of dollars to take the exam and thousands of dollars more to take preparation courses, but then the state arbitrarily passes almost nobody. The public, and the examinees, can't help but think that the state and the preparation course companies are out to get them; to take their money. If there is a concern about ill-prepared lawyers, the focus should be on the law school curriculum, not an arbitrary passage rate. Finally, it is absolutely unfair that MBE scores which would be considered stellar in other states are not even passing scores in California. Please, for the betterment of this profession, pass many more examinees.

Anonymous

The cut score should be 1350 and apply retroactively to the Feb2017 administration forward, because the Feb2017 scoring was the catalyst to reassessing the cut score.

Anonymous

The cut score should be lowered way beyond 1414! This California Bar Exam is hurting low incomes and minorities who are unable to access a lawyer. Lowering the bar exam score will help increase access to justice for all Californians and not just the wealthy, famous, and powerful.

Shayna Miller

Lower the score to something appropriate below 1414.

James Pearson

There is no rational basis for California to have the cut score be the second highest in the nation. The purpose of the test is to ensure a minimum level of competency. Lowering the cut score to somewhere comparable to the majority of other States would still accomplish that. Anything beyond that does tend to suggest protectionism.

Also, ultimately the bar exam simply does not effectively ensure that unethical or incompetent people don't become attorneys. This becomes profoundly clear when working in the real world around other attorneys. In fact, someone who has passed the bar but has no real world experience is incompetent to practice law. They must be trained by an experienced attorney. And all of the current attorneys being disciplined for unethical misconduct already passed the bar under the stricter standards, yet they still violated the rules. It would be interesting to see a state by state comparative study to see if there is actually any correlation between bar exam cut scores and attorney discipline rates.

Even when you look at Delaware, the only state with a higher cut score than California, you see in 2016 there was a 69% pass rate. How do you explain California's low pass rates compared to Delaware? I don't completely understand it, but I can't help but feel like California is treating it's people unfairly.

Rita Mah - Retired from the Judicial Council of California

I took the bar exam 3 times because I missed the pass mark by just a few points. It took an additional 1.5 years for me to get my license. In actual practice, I have been an exemplary attorney and served the under-represented community with zealous dedication as a solo practioner. I have won punitive damages award for my personal injury cases and helped so many who had cases worth less than $5,000 that most lawyers would not handle since it was under 6 figures. I won wrongful termination cases on the plaintiff and defense side because of my hard work and litigation skills. I ran a family law pilot program in San Mateo Superior Court that eventually replicated and expanded statewide as the Family Law Facilitator program. I was able to work with legislators to obtain funding which continues to grow due to its success. I won a plaintiff fraud estoppel commercial landlord-tenant case before a jury and recovered punitive damages. At the Judicial Council, I developed standards, court forms, the Family Court Standard, uniformity in family court practices, effective website materials, toolkit for CJER Family Court training for Judges. I worked at a nonprofits for immigrants as an Executive Director and raised the community partnerships and efforts.

All of my success did not depend on the few extra points that I needed to pass the bar exam. It was my determination, motivation, and dedication to serve the public regardless of their means to pay for legal representation.

See my track record on LinkedIn. I would not have been able to accomplish so much without my bar license.

Currently, I serve on the City College of San Francisco Parcel Tax Oversight Committee, HOA Board, and many other volunteer organizations.

Feel free to contact me for more information.

Valarie Grossman - Ventura Colleges of Law

There is little to no correlation between passing the bar and being a great attorney. Having such a high cut score puts older students and minorities at an unfair disadvantage. Not everyone can have their bills paid so they can study full time months before the exam. By having the cut score at 1440, California does not make sure that we have better attorneys, but instead are limiting the field to those who are already at a financial advantage to most of the population. It is time we open the field up to other bright minds and allow people from all ethnicities and ages prove that they too can be bright, ethical, and responsible attorneys.

Daniel Osborn - California Department of Justice

The bar exam as currently designed and administered is a poor test of potential attorney quality. By placing a premium on rote memorization of black letter rules, the exam rewards applicants for demonstrating a skill of minimal utility to the legal profession while punishing applicants who demonstrate the creative thinking and persuasive skills necessary to successfully practice the law. The exam thus robs the profession of thoughtful minds, the public of competent lawyers, and many brilliant applicants of the privilege to practice.

For what it's worth, I say this as someone who--thankfully, and probably luckily--only had to take the exam once. I saw many of my most competent classmates and colleagues fail. And while I recognize that I'm offering mere anecdote, the design of the exam speaks for itself. The MBE serves only to test for the skills of memorization and elimination, and essay grading policies reward bulk recitation and application at the expense of thoughtful and persuasive analysis.

Given these realities, I would prefer to see the State Bar radically rethink how the bar exam as administered. In the interim, however, I support reducing the cut score as an important first step toward a more equitable administration of the exam.

Anonymous

NY's pass score adjusted to CA's scoring would be around 1330. An applicant earns a reread if they score 1390 or above. The passing score should be somewhere between 1330 and 1390.

Anonymous

Lower cut score below 1414 to provide actual, meaningful relief to thousands of competent California J.D.'s seeking to work after incurring hundreds of thousands of dollars in debt.

Carolyn Larmore - Chapman University Fowler School of Law

We must lower the cut score - there is no reason that California lawyers should be measured by a harsher standard than lawyers in other states.

William Hubbard - Rex Moore Electrical Contractors & Engineers

To whom it may concern,

I truly appreciate the opportunity to provide my opinion and truly hope that it meets with positive review.

While I believe the efforts to reduce the cut score are warranted I do not believe reducing the cut to 1414 fully remedies the problem. Our state MBE scores seem to be on par and in most instances better than the rest of the nation. However, the examinees are getting beat up on the written scores. It is understood that the graders are supposed to be grading on an equal and uniform level however, there are many instances that this can be proven not true. Those that fail the exam receive their written scores back. Specifically, those that get a "second review" have often found that the first graders score on a given question is quite different than the second readers score demonstrating there is no uniformity in the reading. I have witnessed scores by the first grader lower than the second and vice versa.

There also seems to be an unwritten rule that those who do not obtain the unwritten "MBE cut score" will not allowed passage even with a strong writing skills. Although, I honestly cannot prove this. However, there is a broad perception by many faculty, tutors, students, and examinees that this is true. While this may not be true in the Bar's purview, perception does become reality.

Further, I have read the studies performed by Dr. Buckendahl in great detail and there is clearly a question as it relates to the validity of how the study was conducted and the methods deployed by the study agency as described by the participants. Even upon review of the study I cannot quite figure out how one arrives at 1414. It seems a bit arbitrary. Further, it seems to me that a traditional bell curve would be the best methodology to determine the quality of the exam and the graders scoring methods. The bell curve properly ranks the examinees against each other and also provides the bar with real time feedback with regard to difficulty of the exam combined and better normalizes annual grader differences with respect to how they grade the exam.

It can not be denied that the declining test scores are related to scoring methods, quality of the exam, and of course, the quality of the examninee. However, it would be hard to believe that the students are simply just not trying to make the cut. I believe students that have failed the exam dig deeper to pass the exam on the next try. Further,the fact that the scores are declining psychologically causes a reasonable new examinee to buckle down even further for the exam. I highly doubt the majority of exam takers are walking into the exam saying to themselves, the passage rate is so low why should i try. Most all of the examinees have jobs they're counting on. Failure is only a fear spurring their utmost desire to pass in order to obtain gainful employment. Yet the passage rate continue to fall!

I can say that I am experienced in the sitting of standard exams. I relate by virtue of sitting for the California Professional Engineering Exam in 1995 and 1996. The first year I sat for the exam the electrical discipline had only a 17% passage rate. The following opportunity to sit I passed with a group rate of passage at 15%. The exam

during the 90's and before was extremely taxing as many of my colleagues can attest. However, currently, the pass rate is approximately 50%. What happened? I don't exactly know but, I don't believe the quality of students taking the exam has improved substantially. Rather it is more than likely that the exam and scoring methods has changed. I do know for a fact that the written portion of the exam has be replaced by standardized testing. Did this change in exam practices sacrifice the integrity of the engineering discipline? No. as a good measure, the cost of Errors and Omissions insurance has not escalated beyond reasonable inflationary costs over the past 20 years thus, indicating the quality of engineers has not diminished due to improper design and safety measures as a result of changing the exam and ultimately the passage rate. I've reviewed curriculum's and have found that Davis, Berkeley, Cal Poly and similar engineering schools have not substantially changed their curriculum other than for newer technology reasons. Further, the engineers coming out of school today that I hire are just as bright as the engineers I went to school with in the early 90's

Therefore, I cannot say that 1414 is the proper cut score. However, I do believe that a combined reduction of the cut score, a reconditioning of the scoring and testing methods provides the grand solution. Consequently, maybe a 1414 is appropriate but only combined with additional measures. There has been a lot of talk in the press about New York's cut score of 133 (1330) would too easy for California but New York is a state we should be measured against. It would seem that 1330 would be too low but a change from 1440 to 1414 seem immaterial. A reasonable person might conclude that splitting the difference might be a better solution indicating that a 1390 would satisfy that happy medium but maybe that's too simple. Upon my brief review of other statisticians numbers a 1414 would have yielded a 46% pass rate for July 2016. If my rough math serves me properly this a new cut score at 1390 would yield a 50-51% pass rate which seems to be more closely consistent with July exam passage rates.

Again, I truly appreciate your time in reviewing my commentary and hope that in some way it presents an objective view of the issue at hand. Please do not hesitate to contact me if I can provide any further clarification or assistance.

All the best - William C. Hubbard

Anabel Sanchez

A cut score of 1414 is still a sufficiently high score to determine the competency of a candidate seeking licensure. More importantly, I would argue that the burdens of the California Bar Examination are only preventing highly qualified candidates from being able to practice law. Passing the California Bar Examination is not indicative of whether you will be a competent attorney. There are a handful of competent and intelligent candidates that have not been able to pass the hurdle that is the California Bar Exam. Many candidates are forced to move out of state to obtain licensure. That just forces them to use their gifts and talents in another state.

However I should say that I am glad that the examiners modified the duration of the exam from 3 days to 2 days. I will also attest that the performance test was adequately modified to consider the shorter amount of time needed to complete it. The examiners are on the right track in making the examination less burdensome for candidates. The cut score of 1414 is still a challenge and will still require competency.

Howard Moore Jr. - Moore & Moore

I agree to option 2 for the July 2017 bar exam, and I would extend it to the winter 2018 bar exam as well. Doing so would treat most law school graduates who graduated in the same year, 2017, equally.
For subsequent bar exams, I would drop the pass score to 1340. Doing so would be intended to cure the dearth of lawyers to serve California's growing population. The suspected drop in quality could be addressed through revision of CLE requirements. For example, require new admittees to take certain subjects in each of their first three years post admission. The cost to the Bar would be negilible and covered by a stipulated amount added to annual dues.
I would study the change for 5 years to assess its effectiveness in terms of the delivery of competent services, bar discipline, and outreach service users

Rosalia Sepulveda - California State University Northridge

Allow the Supreme Court to set the curve

Paul Miller - Attorney

I do not believe the ability to pass a very difficult bar exam increases the chances enough that the test taker will be a good attorney to justify failing test takers who have a reasonable score but not a passing score. If more students pass more will be able to begin paying off their student loans sooner. I believe law school student debt is a big problem.

Anonymous

Lower the cut to the standards in other states to attract candidates and lawyers from other jurisdictions.
OR allow RECIPROCITY with all other states.

Matthew O'Neil - Sitkoff/O'Neil Accountancy Corporation

I believe a lower cut score will allow attorneys to better serve the public because you will have more qualified attorneys available. I don't believe having the lower cut score will cause the legal profession in California to have a disproportionately higher number of unqualified attorneys in practice. Allowing more attorneys into the profession will foster competition, which will be better for both the legal profession and the public. It also appears that having the higher score has caused a large number of individuals who did very well at reputable law schools to fail the test, which seems unfair to those individuals who succeeded in making it through law school at a very high financial and "sweat equity" cost.

Antonio Senra - University of Chicago Law School

A high cut off score isn't an effective way to "protect individuals from incompetent attorneys." Every single person I've ever spoken with about the bar exam has reiterated that the majority of the material covered on the bar exam is irrelevant for their careers.

Georgiy Lyudyno - solo practicioner

From the data, it appears that the largest percentage increase in passage rate would be enjoyed by non-white applicants. Given our profession's enduring commitment to diversity and, especially given the current flaring of racist tensions throughout the county, the lowering of the score is in profession's and public's best interest.
Also- I believe that further lowering of the cut score is much needed.

Anonymous

The score should be brought in line with other states.

Kathleen Bolus

I am of the opinion that the cut score should be lowered even further. The State Bar has not articulated a sound reason (or indeed, much of a reason at all) for setting the state's cut score at 1440. It simply defies logic to argue that an individual may be competent to practice in 48 out of 50 states, but is incapable of competently practicing in California. Furthernore, keeping the cut score at 1440 will continue to disadvantage under-represented minorities, sabatoging the worthy and important goal of encouraging diversity of the legal profession and very possibly compromising access to justice. As a proud member of the State Bar of California, I strongly urge the Supreme Court to lower the cut score.

Mehrnaz Hadian - INSPIRE CCM

The cut score of 1414 is still very high given the fact that the exam is timed. That means one needs to get over 70% of questions correct in a very time limited race in order to pass. I know many talented law graduates who have very solid knowledge of the law and have been in law school honor programs like Moot Court and Negotiation Honor Program who have not yet been able to pass the CA bar after two or three attempts. In real life one's legal knowledge, advocacy skills and ethical acumen are hardly ever judged whether they can finish a memo in 90 minutes or answering a multiple choice question with a half a page fact pattern in less than two minutes. The California bar is preventing many many high quality law school graduates from being able to practice and to advocate on behalf of people who need them. It is not fair to the graduates and it is not fair to the public. The bar needs to EITHER bring down the cut score to something around 1200 (60%) similar to all medical board exams for doctors, OR increase the exam time at least 50% for the same number of questions. Otherwise, the bar exam is only achieving one thing: keeping the competition low for the current lawyers and to maintain legal fees high, both of which are not to maintain the integrity of the profession.

Stephen Hooper - Retired

In my experience as an attorney who has had cases involving attorneys from other states, as well as from considering this issue for many years, I have found NO indication that attorneys from other states with lower bar-passing scores are of an inferior quality. My experience is that higher bar-passing scores does not mean a higher quality bar. Higher bar-passing scores just make it harder to be an attorney in California.

Jason Lee - Lincoln Law School, Sacramento

I have taken the Bar multiple times and have missed twice by 4 points. I do not believe that if you adjust the score, it will do any good as the grading of the test is subjective and if the CA Bar Association wants to limit the number of attorneys in CA (as opposed to letting the open market determine the number) then they will just grade the test more narrowly to limit the numbers, yet again.

James Donald Murray - James D. Murray, Attorney at Law

State Bar of California:

Reading the California State Bar Journal re Disbarments, leads to the conclusion that ethical problems, not academic problems, exist in the membership of the State Bar of California.

I have passed bar examinations on the first taking in three states, Kansas, California and Washington.

I practiced law in the public and private sectors as a USAF Judge Advocate, Deputy District Attorney, Assistant U.S. Attorney and 47 years in private civil practice, the most ethically challenged lawyers that I ran into were as a rule highly intelligent high achievers who probably passed the California Bar Examination on the first taking.

More emphasis is needed on ethics, not academics.

Respectfully Submitted,

James D. Murray
Attorney at Law

Anonymous

Lowering the score increases the amount of quality service we can render to the great state of CA! Worst comes to worst, raise it back up in a couple of years.

Anonymous

I believe the score should be lower than proposed in option 2. There is not evidence in the report prepared that lowering the score one standard deviation will serve a purpose of protecting the public from unqualified applicants. The score is arbitrary. If an applicant is, in fact, substandard, the bar is not an effective means to protect the public, but ordinary competition and policing the professions would be. In addition, lowering the score further will add lawyers and make advices more available. That serves a higher purpose.

The cut score should be lowered to 136. And, lawyers who are licenses should be able to waive in. If the exam is a means to test minimum competence why does a lawyer practicing for 5,10, 15, or 20 years need to take it while detracting from work and having the added problem of only being able to do this twice a year. This is nonsensical.

Anonymous

The mission of public protection against unqualified lawyers is not related to a cut score. If the goal is to protect the public against unqualified lawyers, then the better test to discuss changing is the MPRE.

Grace Blumberg - UCLA LAW SCHOOL

As a UCLA law professor who was first in her class in law school and passed the New York and California bar exams on first try, I am appalled by both the failure rate, the grading of written answers and the questions asked on the exam. I have examined the essay questions and published answers in my areas of scholarship. The questions tend to be opaque and poorly drafted. The grading of the questions makes no sense to me. Form seems to matter far more than substance. There seems to a grading premium for confident misstatement of controlling law. Given the gross inadequacy of the exam and its administration (grading), I think we should go to the Wisconsin model for automatic admission of students who take all bar-prescribed course and meet minimum grade standards. This could apply to all UC law schools or all ABA accredited schools. Alternatively, California could adopt a professionally developed national bar exam.

James

Reading the State Bar Journal re Disbarments, leads to the conclusion that ethical problems not academic problems exist in the membership of the State Bar of Calif.

More emphasis on ethics is needed, not academics.

I practiced law in the public and private sectors. The most ethically challenged lawyers that I ran into were usually former law review types who probably passed the
Bar Exam on the first taking.

Respectfully Submitted,

Anonymous

To promote diversity in the legal profession I believe the cut score should be llowered.

Anonymous

The cut score should be lower than 1414.
We should have similar cut scores of other large states such as New York, Texas and Florida.
Why is California in its own little world when it comes to the bar exam? The pass rates should be 20-25% higher like these other states. At least the duration of the exam has been decreased by 1 day of the purely subjective grading that when is eligible for re-read, often times produces different grades with up to 15-20 point differences. This shouldn't be that hard to figure out. There's an obvious issue, fix it! Thousands of qualified law school graduates can't pass this exam!

Anonymous

I strongly encourage the lowering California's cut score because, in addition to other concerns that have been raised, I see the current score as a contributor to a legal brain drain in the Golden State. I am a fifth generation Californian. While college and law school drew me away from the West Coast, my goal has always been to return home to practice law. I attended an Ivy League college and one of the highest ranked law schools in the country. I recently graduated and sat for the California bar exam in July.

Of the 10 Californians I knew in law school, only two others are returning to California to practice law. The eight others have all stated an interest in returning to California to practice, but sat for the New York bar. Based on my conversations with these classmates, their decisions were based, in part, upon the bar passage rate. They rationalized not returning to California immediately by saying that they would pass the New York bar (with its lower cut score), practice for a few years and then take the California Attorneys' Exam. While I don't doubt their intentions, I can't help but wonder if it will be so easy for them to pick up their lives in four years, leave their developing professional and personal networks in New York, and move west. Additionally, I have a number of friends who attended law school in California. They also graduated this past spring and have decided not to practice law in the state because of the high cut score and the high cost of living.

These friends and classmates are all intelligent, articulate, conscientious and driven people. They would prove to be upstanding members of the California Bar. However, they are all burdened by student loans. Those loans have been compounding interest since the day they started law school. The looming monthly payments are substantial. The risk of not passing the bar poses financial devastation for many of them. The decision to take a bar exam with a lower cut score is not one of laziness, but a pragmatic choice aimed at avoiding financial ruin.

The Bar is tasked with the responsibility of maintaining the integrity of the profession. Good teachers, the enforcement of clear ethical guidelines, practical training and a vibrant professional community uphold this integrity. An artificially high cut score does not.

Joanne Larsen Linarez

As an ADA Bar Exam taker, my personal experience taking this test is different than most and has been challenging. I have an issue with how the State Bar has treated people that have ADA issues and wonder how fair the test is to those people. I am hoping that lowering the cut score might also increase our chances of passing.

Geoffrey Robinson - Perkins Coie LLP

I struggled with this because, as a 30+ year lawyer, I've always taken some comfort from the fact that California has one of the most rigorous bar exams in the nation. However, I've also known scores of attorneys who had passed the bar but did not seem to have the qualifications necessary to successfully practice law and have come to understand that a single exam cannot reliably predict performance over an entire career. Additionally, there's no evidence I'm aware of that the higher cut score produces better attorneys that those in other states with lower thresholds. I also found the arguments in the letter submitted by the law school deans very persuasive. Finally, I've seen the pain, and even the agony, experienced by smart, dedicated people who have been unable to clear the bar threshold after spending three or more years and hundreds of thousands of dollars on law school. I believe more focus should be devoted to ensuring that people who do not have the aptitudes necessary to succeed in law school and at the bar are screened out at the front end, and that schools with pitifully low bar passage results are no longer accredited.

Anonymous

Too often these test are becoming not a means to confirm minimum skills set but a competition reducer/eliminator. A lower scores impacts families, children, and society in a more positive way. At the bar exams are numerous attorneys that are already licensed internationally or in other states, and there is no reason such attorney's should be subject to the same minimum competence testing standards to practice that unlicensed individuals are held to. CA should take a page from WA and CO bars, among others, that permit waive in for such applicants, especially those who have already had a proven track records in CA and are licensed under the multi practice exception offered by the CA Bar.

Additionally, year after year, I have argued for a free all pro bono pass, that would permit any attorney regardless of domestic USA state license to provide services to the poor. CA Bar President appears to have heard some of my pleas as there was a past announcement to do more pro bono, and help out, but I noticed after closer read that out of state attorneys are still held to ridiculous waive in or pro hac vice requirements, when all that is desired is to help someone down and out, and with limited resources. These folks could be individuals or small mom and pop shops. More assistance from CA bar is needed on this matter.

I appreciate the opportunity to comment and share my proposals as an out of state attorney and one that is also given a limited license to practice for many years in CA.

Anonymous

I do not think the bar exam is an effective tool for ensuring the quality or integrity of the profession. The results are not an accurate measure of legal knowledge or skills. There are other mechanisms that could be used for these purposes, including limiting admission to attorneys who attended accredited law schools. The test could also be adjusted so that it tests knowledge of basic legal concepts and writing skills. I took the bar in 2016, and I do not think it tests basic legal knowledge at all. It tests test-taking skills, and the people who are most likely to pass are the ones who can afford to take an expensive bar preparation course and several months off before taking it. These people are not more competent than other test-takers, just more privileged, and therefore more likely to pass.

While you're fixing the bar, please also adopt reciprocity with other states. California is not that special. Yes, our laws are different (like every state). Yes, our bar exam is harder. Yes, we want to keep our fees high. But I do not think that the lack of reciprocity actually ensures high-quality or competent representation. If anything, it reduces access to high-quality legal services by restricting competition. It also limits California attorneys' ability to practice elsewhere. This really matters for people weighed down by law school debt who get a job in another state. They should not have to take the bar exam again. They've paid enough already.

Pinky Ghuman

The cut score should be slower to be on par with other states. The lower MBE scores should be considered because the bar exam has more experimental questions bringing down the average MBE scores.

Linda Lau - Global Law Group

To: Elizabeth Rindskopf Parker, the State Bar Executive Director
From: Linda Lau, Esq.
Date: August 18, 2017
RE: Response to Cut Scores for the California Bar Exam

I appreciate the State Bar providing a platform for the public, including myself, to provide my comments and suggestions regarding the California Bar Exam's pass line.

I earned my law degree from the UCLA School of Law almost 30 years ago. I am the President of a business immigration law firm in Pasadena, California and have been practicing law since 1988. I am the living example of one who failed the bar exam many times. I was blessed with the luxury of taking it repeatedly and became a successful attorney. I would like others to be afforded the opportunity to utilize their training for the benefits of their clients as I was given such privilege.

Based on the following reasons, I highly suggest that the cut score change to 1414 and be retroactively applied to the February and July 2017 bar exams.

From a Student's Perspective:
It is unfortunate that our local law school students must face the most difficult bar exam in the U.S. Such circumstances place them in a tremendous disadvantage as compared to other out-of-state students. Many of our students must take the bar exam multiple times, which can be a heavy financial and time consuming burden. Why do we treat as our own best talents with most scrutiny?

From a Law School Perspective:
I have heard that California accredited schools bar passage rates were significantly lower than other states' partially due to the level of difficulty of the California Bar Exam. This will cause and motivate our young students to apply out-of-state for law schools due to the low passing rate, who will stay these afterwards causing brain drain of legal talents of California. This may detrimentally affect our world-renowned law schools in California.

From a Legal Career Perspective:
One must be licensed in order to practice law. Although law school students spend three years in law school, without passing the bar, they will never be able to truly practice law. If the bar pass line is too high due to the difficulty of the exam, even though the candidates would be capable and knowledgeable compared to lawyers in other states, this will prevent them from attaining their goals of being a lawyer in California.

Significance to California:
As we all know, California is the most populous state in the U.S. The economy of California is large enough to be comparable to that of the largest of countries. If it were a country, California would be the 6th largest economy in the world and the 35th most populous. Approximate fifty-eight percent (58%) of the state's economy is centered on finance, government, real estate services, technology, and professional, scientific and technical business services, etc. All of the above requires a steady and strong legal community filled with competent professionals ready to provide services in their business. Moreover, California's judiciary system has been described as the largest and most complex judiciary system in the U.S. With such a large system and need, California requires more legal professionals. However, if the most difficult bar exam prevented them from practicing law, there would not be enough supply to meet the demand.

Accordingly, I would recommend lowering the cut score to 1414.

Anonymous

People need to remember that this exam is meant to determine whether a law school graduate is eligible to attempt searching for an attorney job in the state of CA. This exam is NOT meant to regulate the legal market as so many people seem to think, the market regulates the market. If anything it looks like making the cut score arbitrarily high is nothing but a money making tool for the state bar at the expense of law students, many of whom are burdened with a six figure debt load.

Itir Yakar

The California Bar Exam cut score should be lowered to 135, the median score across the nation.

There is no doubt California can continue to produce competent attorneys, while at the same time bringing its cut score in line with the majority of the other states.

Currently, California's inexplicably high cut score means:

- Thousands of California citizens are unable to access the courts,
- Underserved communities are being denied legal representation,
- Competent diverse law school graduates are unable to practice their profession at a time when it is crucial to increase diversity in the profession,
- Otherwise competent law school graduates who might not be strong standardized test takers are disadvantaged,
- Otherwise competent law school graduates are left with the equivalent of a mortgage in student loan debt and unable to work in the very field they are trained in.

Any concerns about producing competent attorneys and protecting the public from potentially unqualified attorneys are already being addressed by:

- The demanding and comprehensive law school curricula that emphasizes professional responsibility and ethics,
- The hundreds of hours most law students spend in hands-on externships and volunteer legal work, and
- The ongoing training, mentorship, and supervision employers provide new lawyers as they are gradually assigned more responsibility with clients and cases.

Personally, I am a graduate of UC Davis School of Law and took the California Bar Exam in July 2017. During law school, I completed six externships with nonprofit civil rights organizations and government agencies that provide services in criminal justice, disability rights, LGBTQ rights, and racial justice. I also completed an externship with the California Supreme Court. I am scheduled to start a fellowship with an LGBTQ rights organization in October. Thanks to my law school education and the practical skills I developed through my various externships, I feel prepared to start work as an entry-level civil rights advocate.

I hope to have good news that I passed the Bar Exam once results are released in November. However, if I do not, it will most likely be because I have not fully mastered property law's mortgage recording rules or the intricacies of probate estate apportionment -- areas which I can confidently say I will never practice in during my legal career. Any risk I might hurt members of the public for lack of competence in these areas is thus nil, as I will be practicing civil rights and social justice advocacy.

A more reasonable cut score would leave room for basic knowledge with areas of law the law graduates will never practice in, while ensuring overall competence and mastery of legal principles, analysis, and writing.

In sum, California's badge of honor in the legal field need not be how difficult it is to enter the profession because of an unusually high Bar Exam cut score. Rather, in line with California's spirit of inclusion and justice, it should rest on the breadth of access it provides to communities in need and the diversity it promotes in the profession.

M. Lucero Ortiz - Private Practitioner

There are many important reasons for the committee to lower the cut score to 1414 for the July 2017 California Bar. Below are a select number of points to consider:

The current pass line is not a true indication of competence or future success in the legal profession: I personally know many people who have failed the California Bar but have subsequently passed another state bar with flying colors. Therefore, the status quo fails to accurately reflect a candidate's ability to succeed in the legal profession.

Lost revenue and membership for the California Bar: As a result, attorneys who would have been California Bar dues-paying members have left to work in other states.

Financial Burden: Repeat takers invest thousands of dollars in registration fees, courses and materials, time off from work, travel/housing costs, and other expenses. In fact, as a result of the high number of repeat takers, there are entire collateral industries, such as private tutors, who make a living solely by working with this community alone. The financial burden impacts first generation and attorneys of color disproportionately. Those resources could be better spent to pay California Bar dues and support pro bono programs or other vital aspects of professional development in the legal profession.

Personal and Professional Investment: The low passage rate impacts a candidate's employment prospects and self esteem. If an attorney has to wait two to three years before they can secure employment requiring bar passage, they will forgo critical legal training, opportunities, salary increases, and other important tools to have a successful career. In addition, the personal toll may led to depression and mental health issues that often lead to alcoholism and substance abuse problems. The legal industry is already riddled with high levels of stress that compound these issues.

Anonymous

I have taken, and passed, the exam in two other states (New York and New Jersey) both of which has a lower "cut score" than California. These exams have cut scores on par with most other states.

If the bar exam is designed to test "minimal competence", then there is no logical reason why the cut score in California is so substantially higher than that other of other comparable states. Does "minimal competence" mean something different in California? I would argue that the way the exam is designed now, that it does and does not achieve the purpose of the bar exam. For these reasons I argue that the cut score should be lowered even further than 1414, to put California on par with other states. But, at the very least, the cut score should be lowered to the proposed 1414. Particularly with California's recent decision to redesign the bar exam, the new cut score should be applied to the next exam, beginning with the July 2017, to continue the efforts of the California bar examiners to modify the exam to test for minimal competence and to make the exam comparable to most other states.

Anonymous

The score of 1440 is not realistic for most people who would still be qualified lawyers. Many out-of-state attorneys still have not passed exam and that should be a red flag as to the way the exam is graded and scored.

Helyn Lau - Global Law Group

To: Elizabeth Rindskopf Parker, the State Bar Executive Director
From: Helyn Lau, Esq.
Date: August 16, 2017
RE: Response to Cut Scores for the California Bar Exam

Thank you for allowing me this opportunity to participate in the survey with regards to the pass line or cut score for the California Bar Exam. I am a California licensed attorney who passed the bar exam in 2008 and have been practicing law in California for almost 10 years.

I have many friends and colleagues who graduated from well-known law schools, such as UC Berkley, UCLA, Loyola Law School, Pepperdine University, etc., with thorough legal knowledge and sound analysis skills. However, due to their inability to pass the California Bar Exam, they have been forced to take jobs as paralegals or law clerks, as opposed to licensed attorneys in California. I wondered if they were not well prepared or if the bar examination became more difficult. Then, I recently heard that some went to New York and passed the New York bar, returned to California, and still could not pass the California bar. Since hearing that the California bar passage rate is now the lowest in the U.S., this made me think that it might be that the California bar examination has become more difficult since I took the bar. This conclusion is also supported by the fact that the California Bar Exam passing rate has reached historic lows as you mentioned in your email below. This concerns me as we do not wish to drive away talented legal minds from California and lose them to other states. It's possible that a lower cut score may be a way to help us keep skilled and competent professional, especially those who have graduated from California law schools, so long as the cut score is fair and reasonable as compared to those in other states. If so, I would recommend changing the pass line to 1414 and allow retroactive application of a 1414 score to those who took the February and July 2017 bar exam.

Thank you for your kind consideration.

Nick Witters - LAFLA

I believe the cut score should be lowered. Coming from a 5 month stint at the Legal Aid Foundation of Los Angeles, as a law clerk. I saw what it was truly like to help the under represented minority of Los Angeles. Lowering the score will allow for more attorneys to work in these areas of practice, and depending on their bar score, should have to go through additional training instead of the typical 40 hour a year CLS courses. In this way, it will ensure the attorneys who are admitted with lower scores, are still representing clients at the most professional level.

Susanne Stanford - Retired lawyer

I think the cut score should be lower and commensurate with that of New York and other major population states.

Erika Rojas - State of New Mexico, 2nd Judicial District Attorney's Office

I am a licensed attorney in New Mexico because after unsuccessfully taking the CBX seven (7) times in my native state of California, I passed the NM bar exam the 1st try. I will re-take the CBX for an 8th time if the cut score is lowered, and be re-united with my loved ones. Thank you for your time.

Anonymous

I agree that the cut should be lowered, but 1414 is still too high. I think the cut score should be lowered to at most 1400. However, 1390 is an optimal score in my opinion.

Anonymous

It's about time and thank you for opening up this forum!

Anonymous

Or maybe lower it to national average 135

Anonymous

The July 2017 test was the first time that this most recently changed format was implemented. If there were ever a test in which to lower the cut score, this would be the one.The cut score of 1440 was utilized with the 'old' format of the test. It does not seem appropriate to keep the same cut score when changing the format of the test.

Rob Cruz - VP of Compliance, Senior Legal Counsel at TalentWave

I took and passed the NYS bar exam on my first attempt after graduating from Cornell Law School. Despite these accomplishments and my law practice experience, I took and failed the CA bar exam three times. Logically, am I less qualified to practice law in CA than I am/was in NYS? I do not think CA seeks to keep lawyers like myself from becoming licensed in their state, so something needs to change.

Anonymous

The unfortunate reality is the California bar has no barring on whether a person will be a good attorney or not. The bar merely assess whether or not someone has the ability to recall minutia in 13 different areas of the law, in settings that do not even remotely replicate the practical application of the law in service of clients. The most realistic part of the test is arguably the performance examination, however if we were to take this portion at face value it, and expect an attorney to practice in this manner, it would aline with blatant malpractice.

Proponents for the cut 1440 score argue that lowering the score hurts the integrity of the profession and that allowing attorneys into the profession who are unfit to practice. However these arguments are inherently flawed and self serving. As stated above the test does not weed out poor attorneys, it merely screens to the test and not ability to performance and practice.

California is doing a huge disservice to the profession and public its serves by have an arbitrary score in order to admit individuals into the practice of law.

John Dratz, Jr. - Law Offices of John Dratz, Jr.

The bar exam is not a true indicator of who is fit to practice law period. Many otherwise qualified persons are not great test-takers.

The bar exam has been used for years to limit the number of attorneys so that the licensed attorneys will benefit from less competition.

I came from out-of-state to practice in California. I had practiced in Oklahoma successfully for 7 years prior. I shouldn't have even had to take the bar exam but realize that California does not have reciprocity with any other state (again a strategy used to limit competition in California).

We should encourage more lawyers not less so that the public has more choices for good, decently priced legal representation. The cream will always rise to the top.

Thank you.

John Dratz, Jr.
Bar No. 107965

Sharon Sandeen - Mitchell Hamline School of Law

I think the cut score should be set at 1400.

As a law professor and long-time member of the California Bar, I think one of the problems with the California Bar Exam is that what is tested is misaligned with what is taught in law school. With the calls by the ABA, law firms, and others for more skills training and experiential learning in law school, law schools (even in California) cannot possibly teach the 7 MBE subjects plus all of the California subjects. This means that instead of focusing on mastering the 7 core (and fundamental) subjects of the law that are tested on the MBE (which now includes civil procedure where it didn't before), law grads studying to take the current California Bar Exam are forced to spend a large portion of their Bar prep cramming on California subjects that they are likely not to have taken in law school (for a variety of reasons that are important to the profession, like opting for more skills training or choosing to focus on substantive courses in the area of law in which they will actually practice). This method of learning (cramming without feedback from a law professor) is not pedagogically sound and does little to ensure the quality of lawyers who become members of the California Bar. Instead, it favors those that are good at cramming and short-term memorization.

Testing on California subjects also does not reflect the national and international nature of current law practice and the fact that California law is largely uniform with the laws of most other states. Although things might have been different decades ago when the decision to test on California subjects was made, most law schools, even in California, do not require students to study California law. It is more important for law grads to know how to find and understand the law of many states and countries. Knowledge of the core subjects tested on the MBE, of course, are key, but beyond that, not much is needed because even the best lawyers from the best schools must teach themselves numerous legal and procedural subjects once they become members of the Bar and are confronted with real-world problems. But, inexplicably, when changing the California Bar Exam to a today exam, the Bar Examiners decided to cling to the tradition of testing on California subjects instead of having a robust practice exam, or two, in the process making the first day of the July exam much longer than in the past.

Why not have 3 essay exams in the morning testing on the MBE subjects, and perhaps Community Property, and two uniform practice exams in the afternoon?

With the possible exception of Community Property (because it is the minority view among the states), the California subjects tested on the Bar make little sense since, there are not huge variations between the law of California and the laws of most other states on the topics tested and because, many of the subjects focus on narrow aspects of California law that most attorneys will never use in practice. Given that 7 core subjects are tested on the MBE, why test future civil litigators or business attorneys about California criminal procedure, or future criminal prosecutors about California civil procedure? Given the importance of intellectual property to the California economy, it would make more sense to test on that subject, if any, rather than clinging to 20th Century notions of legal practice. The better approach, in my opinion, and what works just fine in other states with attorneys that are equally competent as members of the California Bar, is to focus on the MBE subjects.

And while we are at it, why doesn't California become a UBE state? By doing so, you could add value to taking and passing the California Bar. It is long past the time that the California Bar should recognize that California lawyers have skills and knowledge that can transcend California.

Anonymous

Lowering the cut score will help provide legal aid to low income individuals. Allowing more individuals with law degrees to practice in this state will help people who need help with divorces, evictions, and criminal prosecutions. Large states such as TX, NY, FL, PA all have cut scores under 1390 I believe CA should lower the 1440 to 1414 or below.

Anonymous

Slightly lower than 1414

John Floyd - Floyd skeren Kelly

Over the last 40 years I have been amazed at the caliber of graduates that I actually passed the bar as opposed to those who did not. During that time I have been a outspoken critic of the scoring practices and criteria of the California state bar examination. I do not believe that it adequately represents the necessary criteria to be an effective and competent lawyer. What's more I do not believe that the test is fair. . I currently employee over 70 lawyers in my firm and I have a unique opportunity to evaluate and monitor young lawyers.

Concerned Lawyer

I have been a member of the California State Bar since 1974 and have been practicing law full time ever since then.

I am happy to report that I passed the Bar Exam the first time. However, I believe that if I had not, I still would have been as qualified as those who did.

Unfortunately, I was not able to complete the survey about lowering the "cut score" from 1440 to 1414 before the unreasonably short deadline of August 18. It is now in the early hours of August 20. If you can add my vote to "lower the cut rate" in that survey's results, please do.

The legal profession has changed dramatically during the 43 years I have practiced, especially during the last ten years.

We need to recognize the fact that a person who has a score of 1440 on the Bar Exam is not necessarily going to be a better lawyer than someone whose score is 1414.

However, if we keep the "cut score" at 1440 and continue with the low and continuously descending passing rate for the bar exam, we will guarantee that many intelligent, qualified people who would be excellent lawyers will simply decide not to invest three years of their lives and many thousands of dollars if their odds of actually being a lawyer are low. This is especially true for prospective law students who have intelligence and talent but not much money. That might disproportionately affect underrepresented minorities. That is not right.

We have to deal with the new world. Old guys should not be nervous about young attorneys. They cannot and should not try to cut off competition. People are not knocking on the door to become a lawyer like they were in former times. Lowering the unreasonable current "cut score" is one way to encourage talented people to seek to enter our profession. If we do not do that, our profession will start to dry up and lose its vitality and value.

Let's face facts. The low current pass rate diminishes the attractiveness of seeking to be a lawyer. That guarantees the death of many law schools and damage to all others. That is not good or smart.

We need to make an intelligent decision now based on changing reality. That is how the common law developed and continues to develop.. Ask yourself: "What would Justice Cardozo say?"

Therefore, for the above reasons and many other reasons, the right decision now is: LOWER THE 'CUT SCORE' FROM 1440 TO 1414 EFFECTIVE WITH THE JULY 2017 BAR EXAM.

I hope that someone who cares reads this comment, and it is not just quickly reviewed and used only for tabulation.

In that hope, I will say to whoever does read this: "Thank you."

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Tamara Fitzpatrick

California's Bar exam cut score should be on par with other Bar cut rates.

Thomas Bennett

There are many paths to becoming an excellent practitioner of law. These include apprenticeships, internships, community service, practicums, and alternative paths of study. These give future lawyers the skills that they need to serve their communities well. However, the California State Bar exam is a prohibitive obstacle to many of these excellent, dedicated future community servants. Several brilliant and studious former classmates of mine have wasted years of their lives on post-graduate bar exam preparation coursework, only to fail the California bar exam repeatedly, depriving the public of the benefits of the dedicated community service that these would-be attorneys could have provided.

To make matters worse, the California bar exam lacks reciprocity with other states. Faced with the prospect of a bar exam that stacks the odds of passing against them, which still fails to give them the benefit of credentialing to practice in other states, many students would simply choose to take another state's bar exam, in preparation to seek legal work elsewhere. This exacerbates our current social crisis of the scarcity of affordable legal services in California.

During my final semester of law school, I interviewed for legal jobs across the country. When time came to register for a bar exam prep course, I was faced with a quandary: do I bet on the California bar exam, in hopes that a California employer says yes to me? Or do I study for a bar exam with greater reciprocity, such as the New York State bar exam, to allow me to start practicing immediately in whatever state I may land a job? Ultimately, I chose to take the California state bar exam, which cost me several promising prospects.

The California state bar exam requires a high initial investment (usually, multiple attempts and costly prep courses) with low chances of success, for comparatively little benefit (credentials to practice in only one state). Who would choose to gamble on such odds?

It's time that we evened the scale. It's time that we bring California into line with the same standards of excellence that have credentialed competent, qualified attorneys, all across the United States of America.

Anonymous

Charging an excessive amount (comparing CA fees with New York, DC or any other state) for a State Bar admission that gives the applicants such a very low chance of passing, and consequently low chance of gaining employment as an attorney, should not continue. If there is a concern as to the quality of the applicants, applicants' eligibility criteria could be reevaluated. Many applicants would not be eligible to take the Bar in other states but they are in CA. High standards can be preserved by restricting the possibility for many to sit in for the Bar in the first place. Even 1414 is high. Overall, the CA score should be reduced. There has never been a clear reason given for both, the high fees and high cut off score.

Anonymous

To the State Bar of California,

I agree with Option 2 if modified. I believe it is critical to lower the cut score below 1414 so that it is commensurate with or below New York's cut score. I was an applicant for the February 2017 and the July 2017 Bar Exams. While the psychometrician might be an expert in his field, he does not possess a law degree and I am not sure how this credentials qualify him to run a study about how to determine minimum competence to practice law.

There is no reason why the definition of competence should be quantified at a level higher than New York's. Although the State Bar of California's goal to protect the public from harm is laudable and critical, the Bar Exam is ironically exacting great harm on thousands of member of the public who are fully competent to practice law and are prevented from entering the legal profession. Many applicants' lives are in limbo as they spend thousands of hours of time studying for the exam, compromising their financial security, their physical health, and their mental health. Secondly and extremely importantly, there are thousands of individuals in California who have unmet legal needs, and the Bar Exam in its current form is creating many type II errors. In other words, the exam is excluding many applicants from the profession who are competent to practice law. Because of the California State Bar's excessively high cut score, thousands of pro bono hours that could be performed each year cannot be performed. Instead, applicants are desperate and in limbo, trying to enter the profession after successfully completing 3 grueling years of law school, and people's legal needs cannot be adequately addressed.

I am one such applicant of many who has suffered from the Type II error. I have several brilliant friends who, after many attempts, were finally able to pass the Bar and are amazing attorneys. I graduated Phi Beta Kappa from UC Berkeley. I have received awards for my research papers, and my undergraduate honors thesis was published. As a certified law clerk with appropriate supervision, I was able to help a client with numerous issues. She was facing eviction and my advocacy helped her remain in her unit for extra time to enable her to find a new unit and prevent her from becoming homeless. I have participated in school legal clinics and have provided legal assistance operating under my professor's license. I went to a top 20 law school and performed well. I have a prestigious public interest fellowship post law school to help indigent clients secure safe housing that does not make them ill. The fellowship had a 17% acceptance rate. Thus, to be told by the State Bar of California that I was not competent to practice law was inaccurate and cruel. I risk losing my fellowship if I do not pass the Bar Exam. Moreover, the actual act of taking the Bar Exam is physically exhausting, preventing many, including myself, from performing at optimum capacity. The Bar Exam simply does not accurately measure an individual's full potential.

The MBE has no bearing on an individual's ability to practice law. It merely requires applicants to memorize a lot of exceptions to rules that an actual attorney would look up while in practice. The MBE should be eliminated. At the very least, it should count for so much of the total score.

The Performance Test is a fantastic measure of competence, but applicants should be afforded more time to complete it.

I am not including my personal information because I do not want to compromise my ability to pass the July Bar Exam.

Thank you for your consideration of my comments,

Anonymous

Anonymous

1) Have one hundred current members of the bar take the exam along with applicants and incentives to have them do well. Make the cut score the average score of these one hundred bar members.
2) Post all tests by applicant number from both successful and unsuccessful applicants and indicate the scores given and whether the applicant had additional time to answer the question.
3) Fairness and Full Disclosure. How many versions of the MBE are there given for each examination? Do these versions each have the same unscored questions? Do the tests have the same word count and/or subject being tested? Am I getting the EXACT SAME TEST AS EACH APPLICANT? Do essay subjects give an advantage to recent graduates over seasoned attorneys? Are the yearly number of successful applicants determined prior to the test? It sure seems there is a quota for both the Baby Bar and General Bar. Why is the State Bar of California concerned with my race and/or sex and the number of each race/or sex that pass or fail?

For someone that has taken the MBE multiple times over the past decade, it is apparent that it is a different test from earlier years. The changes made from 2007 onward have made it a more difficult (scientific) test. From 2013, it seems that there are more trick questions designed to trip-up applicants rather than assess law knowledge. The questions for each exam should be released and scrutinized for their fairness to the applicant.

In my opinion, the examination is harder to study than when the cut score was first determined because there are more subjects to study for such as agency, partnership, California evidence and California civil procedure. The addition of first year subject Federal Civil Procedure on the MBE from 2015 requires substantially more study time to master than was previously required when the 1440 cut score was determined.

Raymond Chandler - Law Office of Raymond Chandler

The playing field should be level. The higher 1440 score is completely unfair to those who would have passed before 1440 was introduced. Anyone who would have passed with a 1414 score but did not because of the 1440 score, is just as competent as those who passed with a 1414 score in previous years. The higher score is a travesty of justice.

Diego Salazar

lowering the cut score will help provide greater access for low income families and individuals.

Anthony Ross - inactive

I do not think the Bar exam as currently given is an accurate predictor of competence or ethical compliance. It should have a basic competency basis, but to render it so difficult, and not being an accurate predictor of competence, leads to a possibility that there should be some modifications in scoring and perhaps the basic test itself. Thank you.

Steve Zikman - The Strategic Bar Coach

In my experience as a full-time bar exam tutor and coach, most students who have achieved scores of 1414 or higher seem qualified to practice law. I am happy to answer any further questions in this regard.

Anonymous

The current cut score does not provide additional assurance that California lawyers are competent. The current exam cutoff requires, even for graduates of California's top law schools, months of dedicated effort on top of three years of graduate education. It tests students' resources to devote entire summers to the exam, not whether these students are competent--there seems to be some overlap, but the current exam cutoff is higher than seemingly justified, without any appreciable positive impact for Californians needing legal support and advice, especially in underserved communities.

Dale Laue

The 1414 cut score seems more inclusive to minorities and should be considered.
It also seems that the generally low pass rates of recent CBX scores indicates an unneccesarily high level of difficulty rather than a decrease in the quality of applicants.

Anonymous

I want Option 2 to be applied to the July 2017 Exam as well as future California Bar Exams.

Anonymous

California's high cut score is putting many qualified students in exceeding debt.

- Berkeley Law Alumnus (J.D.)

If anything, the cut score should be lowered to even lower than the proposed 1414. Having just taken the California Bar Exam after graduating from a top law school, I do not feel that what was demanded of us from the bar exam (in both breadth and depth of subjects, and the score required to pass) was a test of "minimum competency" to be an attorney. The sheer amount of knowledge and accuracy required in the exam is not reasonable, and it is not what is required of an attorney in actual legal practice (where an attorney would have the ability to research matters and even specialize in particular areas of law). More exceptions and in-between areas of law were tested than one should expect for a test of minimum competency.

Alternatively, if that level of depth of the law must be tested, then the bar exam should be more like the medical boards and separated into several days over the course of many months where only certain subjects are tested at a time, so that students have the opportunity to study each subject in-depth and perform accordingly. What is currently asked of bar examinees is both unnecessarily inhumane and stressful, and not even realistic for the actual practice of law. No attorney in real practice is ever expected to be able to recall 12+ subjects with that level of depth at a moment's notice. In reality, attorneys specialize and/or have the time to research and consult on a matter before giving an answer to a very particular question.

Michael Smith - State of California

I am in favor of lowering the cut score to 1414. It will help low- and no-income Californians obtain access to legal services.

Luke Wooley

Based on the fact that this study did not include any data for the MBE and mentioned a .72 correlation between the written part of the exam and the MBE I am not convinced that the study can make a reasonable approximation for a recommendation for the full examination. I am also not convinced that comparing bar examinations from other states cannot be a factor in making a recommendation for the California Bar Exam cut score.

However, if this is deemed to be a sufficient study I would suggest that the cut score be lowered to 1414 for a median standard of error in the study of -1 or possibly even 1388 for a median standard of error of -2 in the study. This is based on the standard of error the evaluators could have made on such a small sample size study (per the study). A 1414 cut score would have still put the July 2016 pass rate the lowest of the listed jurisdictions in the study, if it is believed that because the California bar exam is more inclusive there should likely be a lower correlated passing score in California.

Susan Bakhshian - Loyola Law School Los Angeles

The cut score should be lowered to at least 1414 if not more.

The California bar exam is broken. Both the passing score and the overall validity of the exam need attention. It has taken years to secure a simple investigation by the State Bar despite years of low pass rates among even well respected law schools. Attorneys should support the State Bar's efforts to investigate and ultimately lower the passing score.

The State Bar's preliminary study demonstrates that a modest reduction in the passing score would not reduce the reliability of the test. No evidence suggests California receives any benefit from the second highest passing score in the United States. Yet we keep qualified young lawyers out of practice that would pass in other states. And we need more lawyers — not fewer.

In every courthouse today, there are pro se litigants struggling to work through the legal system without the guidance of an attorney and not because they do not want a lawyer, but because they cannot afford one. There are not enough lawyers to represent the vast middle class with routine legal needs, such as a will or divorce.

Perhaps the burden on access to justice would be justified if we had evidence that a high pass score protected the public from incompetent or unethical lawyers. No such evidence exists. (Indeed, California has maintained a high pass score for decades without a corresponding reduction in attorney discipline cases. If the proponents of a high score are correct, then 48 states should have higher discipline rates than California. Instead, California's discipline rate is rather ordinary. The higher passing score does nothing to ensure the state only licenses higher quality lawyers. It merely ensures there are fewer of them.

Restricting the admission of future lawyers does nothing to clean up any real or perceived professionalism problems with current lawyers. Discipline is extremely rare in the early years of practice and the most common offenses are not related to any subjects or skills tested on the bar exam. Even if restricting licensing would reduce professionalism issues, the moral character requirement, not the bar exam pass score, is the proper place to look for front-end solutions to a back-end problem.

A great deal has changed while the bar exam passing score has not. This July, the State Bar changed the exam to a 50 percent weight on the national Multi-State Bar Examination which is the multiple-choice portion of the bar exam. Traditionally, the MBE was 33 percent of the exam score. At first blush, this looks to be a small change, but it has large consequences. For the last several years, the MBE has declining pass rates and the National Conference of Bar Examiners, the administrator of the MBE, is not transparent in explaining the decline. Without access to the MBE's methodology or data, California's increased reliance on this portion of the exam is both uniformed and will likely result in even lower pass rates.

Nearly everyone agrees that better practical training for lawyers is beneficial. If California wants its licensing exam to ensure that the proper skills and training are in place, then the exam must be evaluated to be sure it validly

performs that function. Instead, the exam has increased its reliance on the MBE, which emphasizes memorization and includes no California specific law. California is heading in the wrong direction by maintaining a high pass score with a heavy reliance on multiple choice questions and general national law that many California attorneys will not use in practice. This perpetuates an emphasis on test-taking skills, not practical skills.

The passing score is not limited to creating problems for a few troubled law schools. The ABA pass rate for last July's exam was only 54 percent overall and only marginally better at 62.4 percent for first time takers. Students at these law schools would pass at rates in excess of 80 to 85 percent in many other states.

I have no personal ax to grind. I took and passed the California bar exam the first time. But in my over two decades as a law professor, the California bar exam pass score has kept out or delayed many fine new lawyers for no reason. It is time to fix that.

This op-ed originally appeared in the August 16, 2017 edition of the Los Angeles Daily Journal.

Angela Gilliard - University of California

I believe the State Bar of California does a dis-service to the profession of lawyers by setting artificial pass rates for the bar. No where do we hear about competency for doctors based on the pass or failure of their board exams. But for lawyers, the public perception about competency to practice is based on whether the bar exam is passed or failed. We have all known great lawyers who had to retake the exam. There was nothing gained by retaking other then added expense and waste of time. These lawyers are practicing and doing very well, and yet, they had to go through the humiliating practice of retaking the exam. to what benefit? Certainly not to protect the public.

For those who spend tens of thousands of dollars on a legal education, it is unfair to set arbitrary cut standards. The exam should be a qualifying exam rather than a disqualifying exam. The State Bar should re-examine its' motives. There should be dignity established in the practice of medicine. The public should have confidence in its lawyers and those who have received a Juris Doctorate degree.

Even the language cut score is negative. Why not establish a qualifying score or standard rather than a DQ standard.

I am sure I am not the only person to make these comments. For what it is worth, testing lawyers with dignity and respect should be the goal. Uplifting the practice of law and ensuring public confidence in the competency of the lawyer rather than the measure of passing a disqualifying exam.

Respectfully,

Cynthia Maher

Given that the Bar Exam does not predict the professionalism with which any candidate actually will practice law, nor the until competence, the Bar Exam is too difficult to pass. One suggestion that California should consider is to give Applicants who attended an Accredited Law School and do not pass the Bar Exam after the second sitting, but earn a score that is in the top 50% of those taking the exam, the option to work under an "Apprentice" program with a licensed attorney for a period of time (2 years?) and then become licensed through the Apprenticeship. In other words, for some who struggle with exam taking, but have paid good money and attended an Accredited Law School, there should be another path forward to be able to practice law.

Rebecca Mckee - UC Berkeley

I have been an attorney for over 40 years. I graduated from UCLA School of Law and passed the California bar in 1975. I have long thought that the cut score for the California bar exam was too high. My perception of the reason for this, and I believe the perception of many others in the legal community and among consumers is that the State Bar has insisted on the high cut score relative to other states is because it is invested in limiting the number of attorneys able to practice in the state so as to protect high hourly rates. This perception is reinforced by the fact that the State Bar, unlike most other states, continues to refuse to give reciprocal recognition to any other state's attorneys.

It is clear that the impact of the State Bar's actions in this regard is to (1) make it so that effective representation is economically out of reach for most Californians and (2) to inhibit diversity in the legal profession. There can be no dispute about that. On the other hand, there is NO empirical support for maintaining the cut score as it is. There are no studies that show that passing the bar exam guarantees competency and all objective studies show that a high cut score is unrelated to the incidence of disciplinary action.

Julie Wilson - Hartsuyker, Stratman & Williams-Abrego

If the California Bar Examiners adopt a cut rate of 1414 and make it retroactive, why not consider making it retroactive for the entire year's examinees?

The deplorable pass rate in California has been going on for several years, and the lawsuit lodged against the California Bar Examiners occurred in late 2016 as a result of the deplorable scores. People like myself read about the lawsuit and the outrage, and still chose to sit for the exam during 2017. In my case, I sat for the February exam, missing the cut score by a scant 4.7155 scaled points. That was my sixth attempt at the exam. However, I chose to sit out the July 2017 exam so I could do contract paralegal jobs to ensure some income for my family and to stay current on paying my law school loans.

The legal community expressed its outrage in 2016 and the Court ordered a plan be addressed by year-end 2017. For these reasons, I believe the implementation of a retroactive cut score should encompass all of the 2017 test takers; not just the July 2017 examinees.

I have yet to find the Examiners' rationale for only considering application of the retroactive score to the July 2017 examinees. What is the rationale? What do the Examiners hope to accomplish by making the score retroactive? And why would that hope and rationale not apply to the February 2017 test-takers, who willingly sat for the exam, paid the fees, the hotel costs, the study materials costs, the tutoring costs, and the lost employment opportunity costs, knowing the Examiners were under the scrutiny of the Court?

I am not a traditional student, having receiving my B.A. and M.A. degrees over thirty years ago. I had a successful consulting company for over twenty years and slowly closed down that business while in law school in my mid-fifties. Six exam attempts, $80,000+ in debt, and a new career on hold for years has begun to take a toll on me and my family. However, I am encouraged to not give up, despite the growing public disdain regarding the State Bar of California's questionable tactics, process and rationale for maintaining what many believe to be a "broken" system.

Thank you for this opportunity to provide feedback, Up until now, any CBX test-taker could not provide comment or feedback, lest he or she appear to be suffering from "sour grapes" at not passing the exam. I trust the Examiners will make a fair and just decision, and one that is supported by fair and just and reasonable rationale. I urge the Examiners to go with a modified Option 2, applying a new cut score of 1414 to all the 2017 test-takers--those from July and those from February.

Daniel Haverty

The score should be dropped regardless, but 1414 is not low enough. The decision should also apply retroactively - lets say 5 years back and compensate those who would have passed but had to retake. CA should also join the UBE as the CA graders are clearly sell-outs. It is unconscionably and arbitrarily high at the moment, whereby very few fully competent attorneys today could pass. The fact that many denied have graduated from fully accredited law school should be enough, but for CA it is not for no apparent reason. I myself have dedicated 3 years to a top law school and nearly a year of time studying for the CA Bar full-time alongside out-of-state attorneys to no avail. In my second attempt my score was borderline warranting a second read, yet the 2nd readers conveniently dropped 2 scores to kick me out - yet they were my strongest answers which nearly mirrored the model answers.

Here are the direct consequences of the Bar's egregious standard:

1) Most applicants waste their money - and lots of it. The CA Bar is the most expensive once all fees are said and done. Denying entry means the applicant will turn around for another go around, and another and another. This is the Bar's cash cow and it is apparent the standard is set so high so they can milk it. Seriously - poor jobless students seeking aspirations after 3 years of law school and 4 years of college being milked. Unconscionable. I could be making money in this time instead of feeding the Bar. This is also on top of the stupidly high student loans and interest rates.

2) Most applicants waste their time - CA releases the denial list (not a pass list since most people fail) too late for that student to consider another State's Bar which means either recommitting (earning CA Bar more money) or postponing a year to take the UBE in a suitable state (i.e. Washington). I could be working in this time too building a career instead of farting around.

3) Bar prep industry looks silly. When I was with Barbri, over 90% of my friends with Barbri taking the NY Bar passed. In CA I am yet to have a single friend from my year and subsequent years pass. Barbri and the students are not the issue - CA is.

To drive my point home - I took the WA Bar after giving up on CA (my home state) and passed, even though I was working full time at the time while living in New Zealand. To be certified in New Zealand, all I need to do is pay a fee. Lawyers here did 5 full years of college and the Bar was an easy right of passage built into the last year of school. I mean come on. I am taking my degree elsewhere.

- Berkeley Law

I think the high score that California currently imposes is inaccessible, even for the most qualified lawyers. It is no secret that such a high cut score routinely denies access to underrepresented groups who face a multitude of biases such as stereotype threat, confirmation bias, and imposter syndrome (just to name a few) during test taking and in the legal profession in general. Lowering the cut score will keep California in line with other states who seem to take a more reasonable approach to the bar.

John Wilson - Ventura Superior Court

I personally know six people who have taken the bar exam multiple times over the past 3 years, and if the cut score was dropped even 10 points, they would have passed.

Some of these people have taken the bar 6-7 times, and would have been licensed in any other state besides California by now. To be fair to these persons (and many others on the pass/fail line), I think the score threshold of 1414 should be applied retro-actively to the Feb 2015 exam going forward.

For these many people, their lives and careers have been placed on hold for years, in hopes that the Bar system would reassess its testing policy. To say that the current testing environment is an emotional roller-coaster would be an understatement. In addition, the fact that many University Law professors failed the exam recently speaks volumes.

An adjustment to the parameters in Option 2 would be a welcome relief to many applicants and their families, as well as prospective employers who have patiently awaited positive results for some of their key employees.

Respectfully,

John A. Wilson
Multimedia Communications
Ventura Superior Court
Ventura, Calif.

Anonymous

California's passing score should be lowered further than proposed, to be in line with that of the vast majority of other states. California's a typically high score requirement combined with its failure to reciprocate admission strongly indicate that the state bars true intent is not to protect the public but to protect its own lobby by preventing competition. This is not the purpose for which the state bar is supposed ro exist. Attorneys such as myself long licensed in multiple other states without issue are kept out of California by the current score and this is unfair to those of us who can't take two months off their practice to devote to study the obscure fields necessary for the bar, as seen by the annually low passage rate of out-of-state attorneys, unfair to students whose score would pass in most states but who are being prevented from earning a living or paying back their loans, and unfair to the public whose options for representation are limited by the board's (some of whom financially benefit from the lack of competition) self-interested efforts to limit the number of qualified attorneys in California. If the bars high score requirement were anything other than a pretext, reciprocity would be allowed.

The skills required for a high bar score are never actually used in the practice of law, where courts do not order three hour briefing deadlines without the benefit of research. While having having a passing score in line with other states to show some level of proficiency and preparation makes sense, having an almost uniquely high one is just a form of cruel, discriminatory hazing, with no demonstrated benefit. Please put your protectionist instincts aside and cut the score at least to 1414, but preferably to 135. Also, please eliminate the opaque 4-digit scoring or release a comprehensible explanation of the scaling system so examinees are not left in the dark as to what the requirements actually are.

I would also add that the current high score lessens public confidence in the bar because it creates the perceptions set forth above, that the bar is more concerned with protecting against competition than in protecting the public.

Anonymous

Should be Lower than 1414. In line with other states i.e. New York

Martha Potiriades - County of Sacramento, County Counsel

I am very strongly in favor of reducing the cut score. It is my observation over 33 years practicing law, that a good lawyer is one who works hard, has a good handle on his or her area of law, and has a solid ethical meter. Largely, this is a matter of character, which cannot be tested in any event.
Given the broad array in quality of law schools, my own comments today are designed to apply only to grads of accredited schools.

The July 28 Standard Setting Study for the CBX) purports to consider two classes of examinees, to wit: those falling into a category of type 1 errors and those in a category of type 2 errors, which the report admits is theoretical in nature. (Report p.4 and p.20) The study's stated goal of the CBX is also speculative, i.e. to distinguish competent candidates from those that could do harm to the public . (Report p.6) In short, the report while interesting, concedes that the essence of this study sits firmly in the clouds.

Rather, look at the realities. These examinees have put their lives on hold. They have incurred tens of thousands of dollars to study the law and venture into a challenging career. Most will be in debt for many years. Those who have graduated from accredited schools should pass with flying colors.

There is no good reason for California to hold the bar at 144, rather than 133 (NY) or 135. (most other states) What exactly is being accomplished by maintaining a patently unrealistic standard, for accredited law school graduates? Are these young adults deserving of a catastrophic emotional and financial crisis, putting their careers on hold, their quality of life in the tank, and their families in distress on multiple levels? When the premises and methodology of the study is admittedly speculative, with character and work ethic being immeasurable, why not put the CA examinees on a level playing field with national standards?

Some additional considerations:
1. Other professions allow students to take their respective exams in segments. This would be a more humane approach than the all or nothing nature of the CBX.
2. The recent reduction in the number of essays, results in the MBE holding MORE weight than it has in the past. In my view, this compounds the lunacy in rejecting students due to hair-splitting, misleading and convoluted MBE questions. Written essays certainly provide a more valid assessment of the student's command of legal concepts.
3. Essay readers uniformly noted that they had an inadequate amount of time to grade each essay. (Study, Appendix D). This strikes me as another example of the CBX being in need of radical reform, long over due. Whether this is a funding issue or a reason to further reduce the cut score, is something to consider.

In short, students graduating in good standing from accredited schools should be passing at the rate of approximately 80-90% in my view. Also, those who fails should be able to re-take one segment as needed.

I strongly favor an immediate, enlightened, change, bringing the CA cut rate in sync with national norms. (133 or 135)

Thank you for your time.

Sara Dail - SPS

The current cut score is entirely too high for proper passage of this exam.

Anonymous

The score should be lowered beyond the suggested 1414.

Anonymous

I believe the high score reduces access to legal services and negatively impacts diversity in the profession.

Christopher Homandberg - Public Counsel

I support lowering the cut score to 1414 due to the low passage rate of California bar applicants. I don't believe that the current bar exam is serving the purpose of controlling the quality of attorneys practicing in our state, nor do I believe that the bar exam is a strong indicator of one's ability to practice law. Rather, I believe that the primary purpose of our low passage rate is to reduce competition in the legal field by restricting the number of attorneys allowed to practice in our state. The score required for passage should be brought into line with the median score of other states (1350), and new California attorneys should be free to succeed or fail in legal practice based on their ability to practice law, rather than their ability to "own the bar."

Heidi Falany - SJCL

I believe the score should be lowered to allow for varying backgrounds to be admitted to the California Bar. Also, I believe this will allow for a normalized pass rate as with the rest of the country. I believe the essays should be averaged differently when the average score is 55 that is not an average that is a disproportionately unattainable essay standard. Change the 55 to align with a score of 70 which is an average score. Thanks for your consideration of this matter.

Anonymous

Please reduce the score further than 1414.

Anonymous

I believe the cut score should be lowered further below 1414.

Anonymous

Dear CA Bar Examiners,

The bar exam should be a legal basic competency test. It is up to firms and organizations to properly vet and interview attorneys before hiring and the process of completing an undergraduate degree and law degree plus a basic test is sufficient, especially considering the requirements of the rest of the country and the law school time and financial investment. That being said, CA does have unaccredited law schools and this does present an issue. However, if this is so problematic, perhaps unaccredited schools should not exist (the student loan debt some of these schools allow students to accumulate is criminal). Law students who have a law degree, went to law school to become attorneys, and it is unfair to allow them to pay for school, put the effort into school, and come out unable to pass the CA bar.

Sincerely,
Anonymous

Lawrence Keller

Passing the Bar exam does not provide protection for the public. Maintain a high standard for the MPRE in order to protect the public instead.

- Confidential

I support lowering the cut score to at least 1414 and applying it to the July 2017 exam. The score however should be even lower. 1414 amounts to a 26 point drop and only about a 2% drop. A score lower than 1414 should be recommended by the Bar to the Court.

You and the Supreme Court of CA deserve thanks for wisely taking up this serious issue. The public is being deprived of competent lawyers based on the current system.

I am a licensed attorney. Someone very close to me is an attorney. This person has taken the CA exam at least twice and failed twice resulting in serious consequences. Yet, this bright person passed multiple other state bars on the first try and had a very successful career before moving to CA.

The high cut score doesn't square with the law's mandate of mere "minimum competence."

I hope not only will the score be lowered but that grading will improve as well. This is a two-part concept. First, the grading already appears to be unduly rigorous. The selected answers on the State Bar's web page are often overly verbose and include extraneous material beyond the call of the question. This is antithetical to an attorney's work which is to be efficient and effective. Second, whatever the new lower score becomes, the Bar should be vigilant that there is not a bias to grade as harshly as before or more so.

A challenging exam is fine; an unfair one is unacceptable. Law students and/or out of state attorneys who have passed the LSAT, "baby bar," dozens of law school exams, other state bar exams, ethics exams, and the other hurdles in seeking one singular calling (to the exclusion of and/or lack of qualification for all others) ought not to be shut out by a single unfair exam.

Thank you.

Anonymous

The score should be lowered further than 1414 to reflect the cut off score prevalent in other states.

Anonymous

The current cut score for the CBX should be lowered as there has been consistent pattern over the last three years of low passing scores. The constant low scores show a pattern that either requires a revamp of the exam or a re-evaluation of the scoring standard. Law schools have high standards for admission and require students to maintain high academic standards while enrolled. Although it is arguable that schools could do better to prepare students for the exam, there have to be other reasons not identified in either study as to why students are continuously failing the exam at historic rates.

For those students whom have failed the exam, there is no feedback offered other than posted sample answers. This does not help students understand where their shortcomings to be hopefully pass the next exam. Until recently, scoring of the MBE subjects was not offered other than a scaled score. Perhaps offering more than just a score per exam would assist students to better prepare and ultimately pass the exam. Student invest significant time and financial resources to prepare for a legal career. It is not unreasonable to ask that additional information be provided as to why a candidate did not pass, or at the very least re-evaluate the cut score for the exam.

Anonymous

In preparing to take the California bar exam as an out of state practicing attorney, I was struck by the incentive to memorize a multitude of rules so they could be randomly recalled and regurgitated on the essay portion of the test. Having more than a decade as a trial litigator under my belt since my last bar exam, I was struck by how the process of preparing to apply the law from memory to complex fact patterns would effectively be malpractice for a practicing litigator. Even in a field where I am very familiar, I never do client work from memory. A better bar exam would more closely reflect the research process that attorney's actually use. Perhaps the bar should be open notes as an incentive to prepare like a lawyer rather than memorize like a mad student.

Elena Ondar

There is no reason to keep cut score as high as 1440 or even 1414. With CA bar exam being no harder than other states' exams, I see no point in making our state's bar exam harder to pass. This unfair cut score impacts the lives of many law school graduates who score enough points to become attorney in other jurisdictions but not CA. The State Bar itself recognizes that most of those who fail exam on the first try will eventually pass on the second or third try. And it sounds really ridiculous to me to make people go through the horror of bar exam preparation multiple times, knowing that they are smart enough to be attorney.

Forrest Kowalczyk

It is totally unreasonable that California's cut score is arbitrarily higher than those found in all of the other states. Instead of ensuring professional standards, the cut score merely acts as a mechanism to ensure exclusivity of the profession and disproportionately impacts young lawyers that have already overcome significant obstacles and would make tremendous advocates.

Anonymous

The cut score should be either (1) the average cut score for all other state bar examinations, or (2) 131.

- July 2017 Bar Exam Test Taker

We are in a critical time with the political climate in our country, and the State of California, as a trailblazing state in our country, has a responsibility to promote and support the advancement of the legal education and profession now more than ever in order to seek social justice. California's current examination standards are not meeting this duty, but rather making it increasingly difficult. Bar Exam test takers have already spent over three years and tens or thousands of dollars to hundreds of thousands of dollars, obtaining the education necessary to become attorneys, but many are denied the opportunity to use their legal education due to the low passage rate. Our state needs more attorneys advocating for social justice and the public interest and because of this, I strongly suggest the State Bar of California lower the current passage score.

Anonymous

The California bar exam cut score should be lowered. Our Bar exam is arbitrarily difficult with an abysmal pass rate because of the unnecessarily high cut score. California typically does better than the national average and yet most California Bar test takers still fail the bar exam, which signifies a major problem with our cut score. Even a 1414 cut score seems too high, but this is significantly preferable to the current 1440 cut score.

Cynthia Barnes

I believe that the high cut score reduces access to legal services for all Californians and negatively impacts diversity in the profession. Also, I think that there is no support for the arguments that a high cut rate is related to competency or future disciplinary action.

Felipe Rodriguez

I recommend Option 2. California has one of the most difficult exams compared to other states. I am a professional; I am not a law student, nor have I taken the exam, but am aware of it. California must keep up with the increasing need for attorneys. Perhaps more ongoing training should be required with a lower score. Either way, I recommend Option 2.

Joseph Gonzalez - CA Dept. of Industrial Relations

Lowering the score helps graduating students work and pay off the mountain of student loan debt that the older attorney's that graduated way before the 2017 class did not have to incur in order to enter the legal profession. Lower the score!

Nicolas Oliver - Sonoma County Counsel's Office

I agree with option 2, although I believe any modification to a passing score should occur in connection with (a) a reevaluation of California's policies with respect to admission by motion based on reciprocity, (b) prohibiting non-J.D.s who have "read law" from taking the exam, and (c) significantly tightening scrutiny of non-ABA schools, including potential probation/revocation of licensure based on inadequate employment outcomes.

We are a part of a national, interconnected economy and there is no rational reason an experienced, admitted attorney from an ABA-certified law school (say, 3+ years as a legal practitioner) should be prevented from moving to another (willing) state and practicing law by the burden of having to retake the bar exam. I acknowledge the fear of an influx of outsiders "unprepared" to deal with the intricacies of California-specific law, but whatever marginal risk these reciprocal admittees would pose to the field of law in California is surely outweighed by permitting non-law school graduates, and graduates of law schools that cater to those with LSAT/GPA scores far below the national medians (saddling them with enormous debt), to continue to take, and occasionally pass, the bar.

Anonymous

Passing the CA bar exam does not necessarily mean that makes an individual a competent attorney. On the flip side, not passing it does not mean the individual is not capable of being a competent attorney. The profession is largely self regulated by the bar, other attorneys, and clients of course. Those who prove themselves to be incompetent will weed themselves out of the profession. I doubt a difference of 26 points on the CA bar exam is what defines a good attorney from a bad one. Some people have difficulty with standardized tests regardless of the level of preparation or commitment. I don't think that makes someone a liability down the road as an attorney. Whatever ends up happening, I am firmly committed to my studies now and believe that whether the bar is 2, 3, or 4 days and whether the passing score is 1414 or 1440, I will endure and I will pass the exam. A little help to ease the pressure however, may not be such a bad thing.

Denise Kendall

I don't see the need for a higher cut rate if it is not related to competency. Setting an arbitrary rate at the higher rate reduces access to legal services for all Californians and negatively impacts diversity in the profession and appears designed only to reduce the number of attorneys in the state.

Anonymous

I agree with Option 2 if modified. The modification is that the new lowered cut score should be retroactively applied to the July 2017 Bar Exam results.

The cut score for the California Bar Exam is too high. The cut score should be lowered, at least, to 1414. Additionally, the California Supreme Court should retroactively apply the new cut score to the July 2017 bar results.

The New York Times published an article July 13, 2017, titled "California Supreme Court Moves to Make Bar Exam Easier to Pass," which raised reasons and counterpoints why the California Bar should lower or keep the existing cut score.

(https://www.nytimes.com/2017/07/13/business/dealbook/california-bar-exam.html)

One of the most compelling reasons is that the California Supreme Court has now intervened. There is something wrong with the current process for accepting new lawyers in California.

The only significant counterpoint raised in the aforementioned article is that lawyers may be ill-prepared if the score is lowered. This is a shallow counterpoint because the evidence to the contrary is overwhelming.

I urge the State Bar of California to lower the cut score.

A change is long overdue and must be applied with the upmost speed.

Each July or February test cycle that passes without change eliminates potential in California's future.

Dana Woods - Concord Law School

The cut score as the Supreme Court of California has pointed out is unrealistic and over 20 colleges of law have seen a substantial reduction in applicants due to the Bar Exam and FYLSE cut scores. I have never seen a student lose points from the raw score that would cause them to fail either exam and have to pay thousands of dollars in fees, air fare, hotel etc. just to take the test when they ALL have been certified by the school to sit for the exam. The FYLSE and Bar Exam have horribly low pass rates and it is intentional by the bar to keep it that way. It is simply a money making ploy in the eyes of colleges and students.

My wife broke her back at work and was terminated when she needed $450,000 in surgery. In Texas, workman's comp is optional and not required so workers can get fired for any reason. My wife filed a complaint with the FBI for fraud and reported the company under Dodd-Frank Act. As a result, she was retaliated against which caused her severe injuries.

Because I have to take care of her, I cannot leave home everyday to work and go to a brick and mortar school to learn. Distant learning makes it more convenient but the courses are still difficult. It is no easy ride. Although I am learning the law like traditional schools (ABA- Accredited), I have to take the FYLSE and the California Bar to become licensed. I think every attorney researches the law in practice and are not timed to 1.7-1.8 minutes per question with fact patterns that are unrealistic and extra long. They follow the civil procedure rules for Fed or State as far as time is concerned. However, not only is the FYLSE extremely long in fact patterns, it is extremely unfair with a cut score that does not even come close to the 400 point raw score advertised. It is misleading and false!

The minimum that should be done is the FYLSE should be annulled and every student should have the opportunity to take the California Bar if they meet the requirements for Distant Learning or Brick and Mortar schools. There should be no discrimination between any school is recognized to receive Federal Funds and has meet the criteria for accreditation. The ABA is fee driven which says it all and not all schools are treated equal in California.

In summary, the cut score should be abolished all together and a raw score based upon 400 points kept. The cut score is unrealistic and the minimum 1414 is only being done because 20 colleges have made the California Bar do what is minimally reasonable.

Anonymous

The California Bar Exam is intended to eliminate the possibility of an increased amount of Attorneys in California. Thus, the reason behind the exam's difficulty level has little to do with promoting achievement. Instead, it promotes failure. Lowering the cut score not only opens the door to a higher passing rate for the State, but also promotes fairness. Many applicants travel out-of-state to sit for the exam and many agree that the exam cannot be compared to other exams in other states. There are also many applicants who have studied in California, but wish to practice elsewhere. Please lower the cut score.

Erica Boos

I find the current score to be grossly high, and an unnecessary bar to the legal profession. Californian Bar Examiners have significantly higher MPRE and MBE scores than the rest of the country, but somehow, year after year, continue to have the lowest passing rate. The cut score is not barring potential unqualified or unethical lawyers from practicing, it is preventing those who are perfectly qualified from passing. Those who are close to passing, or would pass in other states, or just had one bad test day, are kept out of the legal profession for a year, forced to study, possibly put on hold or lose employment opportunities, and expend more money. The cut score as it stands now is too high, and there should be a temporary reduction in the cut score before the Supreme Court makes their final decision on what the new score should be permanently. This will enable those who took the July 2017 exam to not be left in limbo between the scores are released and the Supreme Court announces its decision, as well as admit perfectly qualified, capable, knowledgeable attorneys into the field.

Christopher Ball California's pass rate is unreasonably harsh given the size of California's market. Other states of comparable draw to law students have lower scores. Provided that the candidates taking the bar demonstrate they can conduct legal analysis, let them try and make it in the harsh California legal market.
Anonymous The current way the scores are set is clearly not effective. This is a good idea of where to start to institute change.
Marisa Cianciarulo - Chapman University Fowler School of Law I strongly urge the California State Bar to consider the limitations of the current bar exam and to weigh alternatives, beyond adjusting the cut score. The bar exam should assess applicants on foundational lawyering skills and competencies, rather than only substantive legal knowledge and analysis. A licensing process that assesses the full range of competencies required for the profession would allow California to better guarantee that those admitted to practice will offer competent legal assistance to those they serve.
Arash Zarrinbakhsh California and New Yorkers deserve to have a similar cut off line. It can only be fair coast to coast.
Anonymous As an interim option of lowering the score to 1414 for the July 2017 this will give the court and the committee a chance to conduct further evaluations ultimately leading to a permanent and effective change. Something must be done in the State of CA regarding the CBX!!
William Ray - SCJ Something needs to change for these young attorneys to be able to earn a living in California - and not have to wait years and spend more money as they are more often than not repeat test takers.
Madeleine Holmen A 1440 is too rigid. We need to fix this exam to ensure fairness

Anonymous

I believe the cut score should be lessened below 1414, to display uniformity with that of the majority of states, as a matter of fairness to bar takers and within the profession. I studied law at a California accredited law school and have taken the California bar exam for the first time in July 2014, then 5 subsequent times thereafter with the most recent being the July 2017 exam. Each administration, I have fallen short by a small amount of points and as a result, I have not yet been able to practice the very field and profession in which I have studied to practice. It has been 3 years since graduating from law school, and I have not been able to qualify for law practice. I have spent thousands of dollars on preparatory bar classes, on a bar tutor who was a former grader, and on administration costs each time. These costs were in addition to the hundreds of thousands of dollars in student loans that I owe, that I am not able to pay, because of my inability to find suitable work as a Juris Doctorate holder. This is absolutely not right. The California bar exam is graded very subjectively according to each individual grader, who may be influenced by a number of other factors during grading, including the utter volume of essays to be reviewed, and the short amount of time for such review.

I believe a cut score would allow me to finally practice my chosen profession and make up for the large disparity in bar takers and bar passers. It is absolutely unethical to be in a pool of 10,000 bar takers (during each administration) and only have a 30% chance of passage. I ask the State Bar and the State Supreme Court to do what is right, what is just, and lower the cut score, so that I may finally be able to practice my profession. Thank you.

Anonymous

CA needs a change and needs to start it ASAP with the July 2017 exam.

Karen Musalo - U.C. Hastings

In addition to adjusting the cut score, the exam should assess applicants on practice skills having to do with lawyering competency. A licensing exam should evaluate more than just substantive knowledge and analysis in order to better ensure that those admitted to practice have strong lawyering skills and competencies.

Daniel Dawes - Dawes Patent Law Group

I strongly urge the California State Bar to consider the limitations of the current bar exam and to weigh alternatives, beyond adjusting the cut score. The bar exam should assess applicants on foundational lawyering skills and competencies, rather than only substantive legal knowledge and analysis. A licensing process that assesses the full range of competencies required for the profession would allow California to better guarantee that those admitted to practice will offer competent legal assistance to those they serve."

Anonymous

There needs to be changed implemented

Anonymous

I agree with the CA deans that the cut score should be closer to the national average of 135 and be on par with NY's cut score.

Tu Dao

Prior to law school I worked as a paralegal for nearly three years--it was during this pivotal period that I fell in love with the law, and where I come to believe that one can do much good in this world as a lawyer. Law school was a natural progression because there was a purpose that was beyond myself. I've since graduated in 2013 and have taken the Cal Bar Exam 4 times (and now awaiting my July 2017 exam result). For the three previous times in which I have failed the bar exam, I could have blamed the fact that I was taking care of my parents who were suffering through cancer, or the birth and stress of caring for my newborn, or maybe perhaps the bar exam was simply too difficult and I am simply not smart enough. No, I only have myself to blame.

Just as law school does not truly prepare an aspiring lawyer to be a lawyer, the bar exam does not determine if the passer is sufficiently competent or ethically responsible as a lawyer. While I do agree that there should be an exam to grant the person a right to practice law, we have to keep in mind the exam's true purpose or purposes. Is it to measure competency? Is it to determine one's moral compass and professionalism so as to represent the client with loyalty, due diligence, and respect?

If our goal is to have better lawyers to serve the community, then an exam should not be the tool with which to do so. That should be the responsibility of the law school—there needs to be a dramatic change in their curriculum to better prepare aspiring lawyers to be the best lawyers they can be for the benefit of our society. To that end, I respectfully submit my answer and request for lowering the cut score.

Anonymous

I agree with lowering the cut score to 1414 solely for attorney applicants who have been admitted in another US jurisdiction and have been in good standing in that jurisdiction for at least 5 years.

Anonymous

For the interim of July 2017 this is a must for the committee to recommend to the Supreme Court. It is necessary to start the process of determining what the best route for our State is regarding the Bar Exam.

Armine Kevorkian - Michel & Associates PC

There is an obvious problem when the passage rate of an exam is only 34%. Although this has been the case for the past two years, I am grateful that the committee has finally decided to do something about it. I also recommend that the committee retroactively applies its new standards to the July 2017 bar.

The committee has not considered that the declining pass rates is not only due to the high score, but also due to the high number of candidates. It is clear that the reason behind the committee's strict scoring standards is that too many people are taking the bar exam, and nobody wants so many lawyers in the state. In order to limit the number of attorneys in the state, the committee, in addition to lowering the pass rate, should not allow so many people to take the exam.

For example, a lot of young foreign students, aged 23, who have received their bachelors degree abroad, come to this country to become lawyers. All that that is required from them to take the bar is to take get an LLM degree--which will only take them one year. The bar exam does not measure one's ability to become a lawyer. ABA Accredited Law Schools prepare students to become lawyers in the state - one year of LLM does not. Therefore students who are not ready to become lawyers in the state, should not be allowed to take the bar exam.

Further, although the writing portions of the bar may measure one's ability to become a successful attorney in the future, the MBE (multiple choice portion of the exam) does not. The Committee should reconsider the two day scoring standard, and it should give more weight to the written portion (similar to the 3 day exam).

Anonymous

YES, lower it for the July 201 CBX - we need to start implementing change to determine the best course. This is a great start.

Edward Lara - ABC School District

In being a law school graduate of color I cannot over look the positive impact that decreasing the cut score would have on minorities and repeat takers. I took the bar six times which was a great financial burden on myself and my family. I did because it meant a great deal to me. However, I am currently working as a substitute teacher no longer able to bear the financial cost, I have had to look elsewhere to pursue my professional and personal goals of providing for my family and aiding those in need in my community. It not was not until recently that I was diagnosed with moderate anxiety, which was not technically sourced in the taking the bar exam as many times as I did, but was certainly triggered every time I took it having come so close to passing.
In 2012 my highest score was 1430 and I guess the irony is that if the cut score was 1414 in 2012, I would now be a licensed attorney. I am happy with my life and my current professional pursuits, but every now and then I do feel as though having to walk away from my childhood dream of becoming an attorney after being that close is a tough pill to swallow.

The declining trend could have been addressed before then. Hopefully, it will be addressed now. Lowering of the score would not in anyway lower the quality of the legal profession in California. It will more so enhance it by giving access to those who are just as deserving but just needed an accurate measuring and recognition of their abilities and efforts against their counterparts.

Inclusion - We need a lot more of that in our society at large and the CA State Bar can make great strides in one aspect by lowering the score to one more reflective of the time.

Anonymous

Needs to be done to initiate change in our state for examinees

Kathleen Shambaugh - US Dist Ct

Statewide, the bar exam pass rate dropped 30+ years ago when I originally took the bar exam in July, 1983 which happened to be the first time the practical skills test was offered. Even though I went to an ABA-accredited school and took all the appropriate bar exam courses, I and many of my friends did not pass the bar the first time. The cut score on the multi-state was too high for me - I never passed it despite taking the bar exam more times than I care to recall. Eventually, life goes on and my career moved on. However, not being able to pass the bar was always like trying to find the key to a locked door and never finding it.

I have worked in the legal field all of my professional life - mostly in state and the federal judiciary. I have loved my career, I love my job. I do not begrudge going to law school but the plans, expectations and dreams of being a lawyer were thwarted by California's bar exam and the high cut score on the multi-state. I could have gone to other states (as some of my friends did) to pass the bar but my home, my family, my work and my life is in California.

I have followed the news stories about the bar exam and the decreasing numbers of those who pass the exam with interest. It seems to me that the cut score has come under review because 1) law school is so expensive and students incur massive debt; and 2) the "top" law schools in California are now experiencing lower than average pass rates. No one cared 30+ years ago when Hastings, Boalt, etc., had very high pass rates. No one cared about those law schools on the lower end of the spectrum in terms of their bar exam pass rates.

The State Bar should not only talk to judges, lawyers, academics and statisticians about the cut score but it should also take into consideration the thousands who graduated from California law schools, but could not pass the bar exam - the human, emotional and financial toll. Do the Right Thing for the lawyers who are coming up behind me. Drop the cut score to be in balance with other states' cut scores.

Everyday I walk by Hastings Law School on my way to work at the US District Courthouse. I see the dreams and aspirations in the eyes of those students and remember those days when I was a One L. Let these young people get their chance - level the playing field by dropping the cut score for upcoming California lawyers.

Kathleen Shambaugh
Chief Deputy of Operations
U.S. District Court, Northern District of California
(925) 822-8203

Pepperdine School of Law, J.D.1983

Because the Buckendahl study did not yield findings that were reliable or valid, any lowering of the cut score should be based on some established data. Therefore, if the cut score is to be temporarily changed, the more established cut point of 1390, the well-established California delineator of a clearly failing Total score, could be utilized.

The underlying assumption of the AJM method, that of unquestioned exemplars, is false. Discrepancies in judgment of "minimal competence" among the panelists were substantial. This lack of reliability is exacerbated by the low number of observations: answers to 4 of the 5 essays were evaluated by only half of the panelists. The training likely was inadequate. The old format and weighting were hopelessly confounded with the new. There were numerous ways the cut score could have been determined. All we have is the Author's adaptation of the Analytic Judgment Method, with several post hoc decisions such as to use medians rather than means, and to link Written scores to Total (comprised at least in half by the same written scores) rather than to MBE scores as originally proposed. There are serious problems with the equipercentile linking method as used. Finally, it is difficult to reconstruct exactly what was done and how, because critical information was left out or ambiguous, even after the Author's responses to pointed questions from ABA deans.

The Author relied on bar scores assigned by bar graders, who are known to make errors of scoring and whose reliability is far from unquestioned. Therefore, the fundamental underlying assumption of the Analytic Judgment Method (AJM), namely that the underlying score of each exemplar is not in question, is violated. In reality, even after much more intensive training than was provided to panelists in this study, discrepancies among actual bar graders are common. For example, in one of the most extensive studies of reader reliability , Stephen P. Klein reported to the California Bar that "the scores assigned by one reader to an answer usually differed by about 5 points from the score assigned by another reader to the same answer" (page 5). Klein found that the average correlation between the first and second readings of the same answer was .77 for both February and July exams, and noted that this is consistent with interreader studies of past exams. Thus, agreement is far from perfect.

The reliability of the grading was so low as to render the results invalid and the recommended score meaningless based on the data the Author presented. . One way to measure reliability for the types of scores presented in Appendix C of the Buckendahl study is based on the number of agreements for any given question, out of all possible pairwise combinations of the actual average scores (without missing values). For essays 3 and 5, there were only 2 agreements out of a possible 45 pairwise combinations, resulting in 4% agreement. For essay 2, there were only 3 agreements (7% agreement). Essay 5 had 5 agreements, for an 11% agreement. These are very low rates of agreement. Putting in medians to double the number of observed averages does not remedy the problem – in fact it is a distortion of what really happened. All told, there were only 10 actual agreements out of a total of 180 pairwise combinations.

The use of missing data, as in the present study, distorted the resultant recommended cut score and standard error estimate. Half of the scores for essays 2-5 in the Author's study were not scores from panelists who independently rated the essay, but were nonetheless used to calculate the standard error, "an estimate of the variability of the panelists' recommendations adjusted for the sample size of the group." The Author used the standard error of the mean as the basis for various recommendations on written and combined scores.

The derived Written "minimal competence" scores were much closer together than would have been the case without the replacement missing values. Most study methods result in a certain number of random missing values across trials, but even there the choice of replacement for these missing values can be a serious problem necessitating additional analyses. But here, we have something quite different. The Author planned to have 50 percent of the scores missing for 4 of 6 scores (5 essays plus 1 PT) upon which the entire study was built. By design, one third of the total of 120 judgments of "minimal competency" by raters, were not independent judgments, but were instead missing values.

The Author relied solely on Written scores to develop a "minimal competence" Total score. In essence, Written scores were used to make pass/fail decisions, because equipercentile equating assumes that the two scores would be interchangeable. Essentially what this means is that one could arrive at a Total score based only on the

Written, which raises the question of why the MBE is needed at all. There are 2 reasons. First, the Written is not sufficiently reliable, nor is it as reliable as the MBE. Second, the Written and MBE do not measure the same thing; each contributes unique variance.

The equipercentile method of equating is based on various assumptions that cannot be satisfied in this attempt to link Written scores to either MBE or Total mixed-format scores, including the assumption that the two scores measure the same thing. As the Author states, "…we assume that the examinations are sufficiently correlated to support the interpretation" (page 14) The Author originally proposed to link Written to MBE, and cites a .72 correlation between the two tests or scores. However, from the wording in his Final Report, he actually linked Written to Total, citing a correlation of .97 between the two. Either choice of scores for equipercentile linking presents problems for the validity of the cut-score so derived.

As Klein (1987, page 1) has noted, "Total essay scores, by themselves, are not sufficiently reliable for making pass/fail decisions on individual applicants." This is because, even if the percent passing both sections was the same, "the MBE and essay would make the same pass/fail decisions for [only] about 70 to 80 percent of the applicants." This another way of saying that the two tests (Written and MBE) do not measure the same thing, at least not sufficiently to justify going from Written to MBE, much less from Written to Total.
Even if the study were perfect, it misses the mark in that it does not address real issues concerning possible equating errors in the CBX equating process that have changed the meaning of a 1440 compared to prior years. The California Supreme Court must require the California Bar to conduct the proper analyses and, in any case, provide all the data for external scrutiny by completely independent reviewers.

The Court cannot rely on Buckendahl's recommendations or conclusions due to methodological limitations and flaws. To follow the spirit of the recommendation, the Court can either maintain the status quo or consider a temporary lowering of the cut score by the error value that is currently recognized and applied for second reads. That would indicate that the cut score should be lowered to 1390, and not 1414 as suggested.

In addition, I urge the Court to require the State Bar to conduct the data analyses that would answer the real question of whether a 1440 in 2016 has the same meaning as a 1440 in 2008. Because there are extreme difficulties in equating a mixed format test using anchor items from only one of the formats, particularly when the population has changed in terms of the underlying competence being tested, I believe that due to equating errors, 1440 does not have the same meaning. The data, which should be subject to an independent review, very well may show that a cut score of 1390 in 2017 truly will have the same meaning as a 1440 in 2008 in terms of the relationship of LSAT to MBE and to Total score. A starting point would be to determine the mean MBE score for every level of LSAT score in 2008 versus 2016.

Anonymous

Finally!

Anonymous

I absolutely agree with lowering the score for the July 2017 CBX to 1414

Anonymous

A good portion of what makes a good lawyer is not measured on the test and as the nature of our law requires reasonable lawyers check the laws at issue, shouldn't we lower the cut score even lower than 1414. With a lower cut score of say 1350, those with stronger interpersonal skill sets, rather than those with greater memory skill sets, can obtain a reasonable opportunity to practice law in California.

Anonymous

CA Bar Exam has gotten out of hand - it is imperative change is implemented ASAP. Retroactive application to the July 2017 Exam is the best option and lowering the cut score should be undoubtedly recognized and implemented. Thank you for allowing public comment in this important issue!

Anonymous

I believe that the "cut score" can and should be lowered even further than 1414 without materially adverse affects on the quality of lawyers practicing in California. I also believe that doing so will increase the access of Californians to the quality legal services that are needed.

Gayland Hethcoat

I urge the California Bar to lower the California Bar Exam cut score to 1414, if not lower, and to apply the lower score on an ongoing forward basis, not just for the July 2017 exam.

Anonymous

CA needs to follow suit of OR!! They had a similarly high score like CA and they just lowered - it makes the most sense and is the most reasonable! We need to conform and give the test takers a better shot at success. It is time to make a change to the CBX! July 2017 implementation

Ron Lau

Retroactive Admission Proposal
I strongly urge the CA State Bar and the California Supreme Court to consider retroactive admission to exam takers who recently scored a 1414 or above within the last 4 years. If in fact the current 1440 score is considered "arbitrary" because it lacks justification, then how do you address the thousands of past bar exam takers who took the exam and scored above the new 1414 cut score multiple times during this downward passage rate trend?

Why Retroactive Admission?
Retroactive admission should be considered because many CA bar takers, like myself, have taken the exam in recent years and scored well above the 1414 score. If the State Bar cut score changes, how are recent exam takers, like myself, made whole when I have scored above 1414? It is no fault by previous bar takers who took the exam when the cut score was 1440. But now, in July 2017 and future test takers will reap the benefit with a "more just cut score"?

The State Bar must consider retroactive admission because asking repeat takers to "merely take it one more time" only shows how out of touch the State Bar is to recent law graduates. We represent the profession's future. Repeat bar test takers face multiple obstacles: (1) the time commitment to prepare for the exam, (2) the large financial cost in paying for test preparation, and (3) the commitment to pay hefty student loans each month. These are key examples repeat test takers face each time and go unrecognized.

Why retroactive admission for recent years only?
I propose the State Bar implement retroactive admission for recent years when the state passage rate had steadily declined, namely the 2013, 2014, 2015, 2016 years. If the reason for changing the cut score in 2017 is based upon passage rate data in the last 3-4 years, then the test takers in those years should have their prior exam(s) reconsidered. You have to look at the entire data sets, not just those in 2017.

How to address the Moral Character requirement
The moral character determination lasts 2-3 years. I'd imagine a concern in this retroactive proposal is, "How would the State Bar handle those whose moral character determination has lapsed?"

Simple: past bar takers must still have, or be able to submit, a positive moral character determination for retroactive admission. For example, I had to update my moral character determination when I took the CA bar exam in February 2016.

My Story
I graduated from Golden Gate University, School of Law in 2013, with hopes of starting my legal career. But I have been delayed because I have taken the California bar exam six times and have yet to pass this exam. Multiple times

I have come close to passing. Last May 2016, I scored 1434 (6 points away from passing). This disclosure is a very sensitive and difficult topic for me and I hope you can keep this information private.

Everything in the February 2017 letter by law school deans that discussed how failing the bar exam negatively impacts recently graduated law students is correct. The financial and lost job opportunity cost is serious. For the financial cost, the investment in retaking the bar exam ($1,500+ each time including hotel stay for the 3 days), the cost in bar exam tutors I've spent (around $7,000), and not to mention, finding a way each month to pay my $166,000 in student loans has created unnecessary stress and financial burden on me. My experience is not rare, but instead an unfortunate trend. Through these last three years, I have personally met countless peers from various law schools through tutoring preparation and they confess to a very similar experience.

The lost job opportunity cost is significant as well. On a quarterly basis, I am approached by legal recruiters on LinkedIn, and others, who send me attorney positions at law firms and high-tech companies because of my combined academic credentials and job experience in data privacy and intellectual property. However, I turn them down, each time, because of my inability to practice law in California. I'm fortunate to have recently found a job working in data privacy, however, I know my earning potential is likely less than my peers and my career opportunities delayed because I have not passed the bar exam.

Further, my inability to practice law impedes my ability to help my family and friends. Frequently, they contact me for legal advice but I'm unable to help them because of my lack of a bar card. My local community is impacted too. On the weekdays, I volunteer as a Literacy Tutor to teach English and reading comprehension to primarily Spanish-speaking parents at the San Mateo Public Library's Project READ program. All of these parents are low-income with limited education and, upon learning that I graduated from law school, ask for legal assistance in areas such as employment, landlord-tenant, and immigration. Again, I cannot help my local community and vulnerable populations in my area because I lack my legal license. I'm bilingual in Spanish, multicultural, and work in technology; all valuable skill sets in a diverse Bay Area, but despite my accomplishments, I am hindered due to the State Bar's arbitrary cut off score.

I appreciate the State Bar and CA Supreme Court consideration to my proposal.
I’m happy to discuss further.

Sincerely,
Ron Lau

Kathleen Shambaugh - U.S. District Court, Northern District of California

Statewide, the bar exam pass rate dropped 30+ years ago when I originally took the bar exam in July, 1983 which happened to be the first time the practical skills test was offered. Even though I went to an ABA-accredited school and took all the appropriate bar exam courses, I and many of my friends did not pass the bar the first time. The cut score on the multi-state was too high for me - I never passed it despite taking the bar exam more times than I care to recall. Eventually, life goes on and my career moved on. However, not being able to pass the bar was always like trying to find the key to a locked door and never finding it.

I have worked in the legal field all of my professional life - mostly in state and the federal judiciary. I have loved my career, I love my job. I do not begrudge going to law school but the plans, expectations and dreams of being a lawyer were thwarted by California's bar exam and the high cut score on the multi-state. I could have gone to other states (as some of my friends did) to pass the bar but my home, my family, my work and my life is in California.

I have followed the news stories about the bar exam and the decreasing numbers of those who pass the exam with interest. It seems to me that the cut score has come under review because 1) law school is so expensive and students incur massive debt; and 2) the "top" law schools in California are now experiencing lower than average pass rates. No one cared 30+ years ago when Hastings, Boalt, etc., had very high pass rates. No one cared about those law schools on the lower end of the spectrum in terms of their bar exam pass rates.

The State Bar should not only talk to judges, lawyers, academics and statisticians about the cut score but it should also take into consideration the thousands who graduated from California law schools, but could not pass the bar exam - the human, emotional and financial toll. Do the Right Thing for the lawyers who are coming up behind me. Drop the cut score to be in balance with other states' cut scores.

Everyday I walk by Hastings Law School on my way to work at the US District Courthouse. I see the dreams and aspirations in the eyes of those students and remember those days when I was a One L. Let these young people get their chance - level the playing field by dropping the cut score for upcoming California lawyers.

Kathleen Shambaugh
Chief Deputy of Operations
U.S. District Court, Northern District of California

Pepperdine School of Law, J.D.1983

Anonymous

As a recent law graduate, I agree with the spirit of Option 2's proposed lowering of the cut score; however, I believe that it should be modified to go a step further and lower the cut score to somewhere less than 1414. Below I elaborate on several reasons for my position.

First, keeping the cut score at the second-highest level in the nation harms applicants who have already invested significant time, effort, and money into their legal education in hopes of eventually becoming a lawyer. A better way for the bar to regulate who becomes an attorney would be to install checks in the system that act before students begin law school. This way, at least people who are perhaps unqualified to become attorneys would not waste their time or go into mountains of law school debt for a low chance of getting admitted to the bar. Also, law schools themselves should be held more accountable than applicants for falling passage rates, as they are the ones who are supposed to prepare applicants for the exam through the legal education they provide. Applicants themselves shouldn't have to suffer so much in both their professional and personal lives just because they failed the bar exam.

Second, California should refrain from being an outlier when it comes to its cut score. As mentioned above, California has the second-highest cut score in the country. One of the state bar's executives has even said that "there is no good answer" for why the cut score is so high. California should look to its peer states (among other

things) when deciding what cut score to adopt. For example, New York, perhaps the largest and most important legal market besides California, has a cut score much lower than California's current one. If the California state bar does not think that the New York state bar admits too many unqualified applicants, then it would likely be acceptable and maybe even advisable for California to adopt a similar cut score.

Third, the bar exam should be a test designed to evaluate minimum competency to be a lawyer, and in its current form it does not appear to do so. Instead, the bar exam may actually be functioning more as an unfair gatekeeper for the profession, where economic protectionism and exclusivity are more important than the welfare of the general public and prospective attorneys.

Fourth, approximately 40% of test-takers from accredited schools are currently failing the bar exam. Based on this statistic, it should be reasonable to review and make adjustments to what "minimum competency" actually means and the method by which it is evaluated. It is highly conceivable that a test for minimum competency should not result in such levels of failure, thus requiring a lower cut score.

Fifth, the bar exam arguably fails to directly evaluate whether applicants can be good lawyers. Answering a few more questions correctly on the exam does not adequately demonstrate that one is more qualified to be an attorney. Indeed, there is no strong link showing that states with harder bar exams have lower rates of attorney disbarment. Furthermore, attorneys in the real world are usually able to consult legal resources when practicing law, unlike applicants who have to restate and apply law from memory on the bar exam.

These are a few reasons why I believe that the cut score should be lowered. There are undoubtedly many other reasons out there, including those which are presented more eloquently than how I can present them. I hope you will consider all of the various viewpoints.

Thank you very much for your time.

Anonymous

CA needs CHANGE! Oregon just did the same and they had a score even lower then ours. This change is the best possible start for our test takers. I agree with implementation to the July 2017 exam retroactively.

Anonymous

Change is necessary for the state and the Bar Exam - this much is clear and this is a good start for evaluating

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Anonymous

Even if the exam gets change back to a 3 day. The passing score should be lower.

Anonymous

Should be lowered by at least 10 points not just 3. The passing score in CA is higher than all other states and it should be lowered to a score similar to other states.

Anonymous

The public needs lawyers accessible to underprivileged communities and populations now more than ever before (housing crises, changes in immigration law, discrimination concerns, civil rights, environmental protection, and so forth). Many aspiring lawyers are highly devoted to social justice lawyering. An unnecessarily high and arbitrarily set "cut score" should not negatively impact the needs of our communities under the guise of "protecting the public" from supposed "incompetent" lawyers. Lowering the cut score provisionally to a more rational and similar/uniform standard as the rest of the nation does not lower the quality of the profession (to conclude otherwise is absurd - particularly when taking populated states like New York and Texas, both with lower "cut scores," into account). Keeping the current cut score of 1440 does not protect, but rather punishes the public.

Anonymous

There is a growing chorus of concern which suggests that there is no relevance between the 'real world' practical understanding of law and the bar exam itself. I have worked as a clerk for several law firms for nearly a decade now. I regularly interact with attorneys who are remarkable ill informed how to do their job, despite that they were able to pass the bar exam. The high cut score serves no purpose other than to limit the pool of attorneys in California. Based on my interactions with many attorney who have passed the exam, it is clear to me that the California Bar Exam does not deter incompetence.

Though I have passed the MBE several times, my written scores hold me back. I was an English major in college, and aced every writing class in law school. At great expense, the two tutors I hired to try to increase my bar score informed me of the exact same notion: knowing how to write well on the bar is a detriment to your success. I'm informed that 'cookie cutter' answers submitted in a 'paint by numbers' format is what the bar graders are looking for on the essay portion of the exam. I don't understand what purpose that expectation serves.

I have taken the bar exam several times, reaching a score as high as 1438. Financial necessity requires that I work full time, and I haven't had a vacation in many years because all of my vacation hours are spent studying for the California Bar Exam.

Imran Khundkar - Michel & Associates PC

I believe that the time is right for the score to be lowered in a meaningful way. I think that the relatively recent addition of new subjects to the bar exam has created a situation where a great many competent people are unable to practice law and make good use of their skills.

However, I am not able to commit to the specific number proposed by the State Bar of California. My only misgiving is that I do not know exactly how the proposed score of 1414 was reached as an appropriate cutoff. 1414 may be a substantive difference from 1440 or it may not be much of a change at all. And the NCBE does not release much information on how raw scores are converted to scaled ones for the MBE. Perhaps some more data on how many applicants would have passed in the last 5 or so years had the score been 1414 would help.

Anonymous

I had an opportunity to review the Standard Setting Study for the California Bar Examination, and as a general matter, I appreciate the thoughtful considerations taken by stakeholders involved with this process. I would like to highlight a few additional points for consideration.

It is important to keep in mind that the California Bar Exam, and the subsequent grading process, is meant to roughly identify those who are minimally competent to practice. It is important to note that essay responses were drafted under timed conditions of one hour (except the MPT). It is important to consider that some prospective lawyers may be better writers under conditions approximating that of actual practice.

Additionally, the disparity between pass rates between California and other jurisdiction should raise questions as to how we measure minimum competence. It should not be the case that one lawyer is perfectly competent in New York, for example, but not in California. The distinction of state boundaries appears quite arbitrary.

Finally, it is important to note the relatively low pass rate among those who take the attorney's only exam. If the California Bar Exam is meant to measure minimum competence, why do practicing attorneys perform relatively poorly vis-à-vis first-time takers? Are experienced attorneys in other jurisdictions less competent to practice law than those who just graduated from law school?

Given the relatively arbitrary disparity between California and other jurisdictions, I recommend lowering the cut score to 1414.

Anonymous

It is about time!! Oregon just did the same, it is proper for CA to follow suit.

Nancy Johnson - Saccuzzo Johnson & Poplin LLP

The 1414 number as a cut score is not based on anything valid: the study the bar commissioned was so deeply flawed, as summarized below, that I believe the Court and the State Bar would be on firmer ground if they used the 1390 score they have used for 40 years or more as the delineator for "not competent." That would be a temporary adjustment until serious work, independently reviewed by appropriate experts not connected with the Bar or the state, could be done on this new bar exam format.

I support a temporary lowering of the cut score because the bar exam administered in July 2017 is not the bar exam taken by any of us who are already licensed, and as many studies have already shown, the drop in pass rates can at best be only partially explained by lower LSAT qualifications in recent years of law school admittees. Other things are going on, and it is highly likely that a 1440 today does not have the same meaning as a 1440 even 10 years ago. Too many changes have taken place - changes in the structure of the bar exam, the weighting of the components of the exam, and the characteristics of the pool of candidates taking the exam. Therefore, the Court and the State Bar need to obtain data on NCBE's standardization of the MBE, compare the mean MBE score achieved by those with each LSAT score in 2008 with those in 2017 as a check on the accuracy of the MBE equating, and study the effect of the decrease in number of Written items and change in weighting of the current bar format in California. Those sorts of studies would tell us whether a 1440 total score today means the same thing as it did in 2008.

In any case, there were major problems with the design and execution of the study that came up with the 1414 recommendation. It was based on reviews of written items, and the author attempted to derive a total score by linking the pass rate of his 'minimal competence' total on the written to the same pass rate on the total exam score, but the method he used to do so was confounded by his attempt to match the new format of only 5 essays and 1 PT, apparently without re-scaling the written or verifying that the shorter written exam would still have an acceptable level of correlation with the MBE or total exam score.

The training of the panelists who were tasked with identifying 4 answers out of 30 that were clustered around 'minimal competence' for each essay and PT was so rushed and inadequate that they never came to consensus on the meaning of 'minimal competence.' Their selections were wildly divergent, and several commented in evaluations that they were unable to read 30 answers at all in the time allotted. Panelists reached agreement only 2-5 times out of every 45 possible pairwise comparisons, so that inter-rater reliability was abysmal.

On top of that, the design called for each panelist to evaluate answers from only 3 of the 5 essays - the author filled in missing data for a full 1/3 of the data points in his analysis of the cut score he derived, and so violated basic assumptions in calculating the standard error in his study, on which he based that 1414. As a result, I have no confidence in its reliability or validity.

Anonymous

The California BAR is based on arbitrary and often outdated rules. I'm not saying to disband the BAR entirely, but the score should most definitely be lowered. There is NO reason for it to be so high. The ENTIRE country aside from Delaware have lower cut scores. Is the state BAR of California so pompous and pretentious that California needs to have a higher score? Yes, there are rules that can vary from state to state, but the difficulty level of the BAR is not challenging students, it's detrimental to their health. Plus, it does NOT even test on California law. It's a rushed exam based on archaic and outdated laws (the Unborn Widow for example) and the law students are already buried under unfathomable debt and stress. Lowering the BAR cut score does not suddenly lower the quality of our lawyers, it's an abuse of power. The president of the BAR association even stated that it was an embarrassment. A lower cut score does not mean less capable lawyers; it means the public has better legal protection. Not every lawyer becomes part of of a big firm, there is a genuine need for them in areas of social justice like family law or immigration. We is California purposefully handicapping itself and its law students? There is no acceptable reason for the cut score to be so high.

Anonymous

Dear State Bar of California/California Supreme Court,

Thank you for the opportunity to provide feedback regarding the appropriate passing score for the California Bar Exam. I completed the evening program at Loyola Law School, and my first attempt to take the Bar exam was in February of this year. I sat for the exam again in July.

Prior to applying to law school, I took five years to carefully consider if law was truly the direction of my purpose and my dreams. Although my LSAT score has much to be desired, in those five years, I substitute taught and achieved completing my LL.M. in Human Rights Law abroad, which was most impressionable on my decision. I think the State of California would warmly welcome my entry into the Bar for the reasons my law school admissions office considered when I was invited to study at Loyola. I moved to California with unique professional and educational experiences, and after completing the AmeriCorps program, which entailed living under the poverty line in the state for a year, I came to the school with tenacity to serve homeless communities. That same rigor was exposed during my law school career as I also excelled in full time employment at a non-profit organization dedicated to assisting homeless veterans. In my work, I coordinated with attorneys to obtain dismissals of cases in Virginia, Mississippi, and other states for clients who were homeless and obtaining treatment in Los Angeles and who were experiencing barriers caused by their out-of-state legal issues. Through law school, I also directly represented a Clemency client in 2016. The quality and ability of my performance has consistently been experienced even without my license. I hope the state will be able to benefit from my capacity with a license!

When I received my scores in February, I was devastated because the stress impact of the Bar experience on my body is not something I desired to replicate. I studied the material again for the July exam while working because I did not have the opportunity to take time off work like I had the first time. I am awaiting the results, which is difficult with the perspective that my professional life will have been on hold for a year by the time I get them. I am seriously contemplating signing up to take the Bar in a neighboring state so that at least I can practice in the Ninth Circuit courts and qualify for the attorney version of the Exam in a couple of years. Continuously retaking the same exam without obtaining the needed result is simply mentally and financially depleting.

The following include factors that are also important:

Increasing diversity of attorneys
The legal profession generally requires lawyers to be able to draw from different cultures and experiences so that policy and the rule of law represent the values of the diverse population. In an individual case, a lawyer may grasp some parts of a client's experience, but inevitably, actual experience illuminates essential details that would otherwise be taken for granted. The requirements to become a lawyer likely preclude individuals who would be excellent legal advocates. For example, formerly incarcerated individuals who have first-hand knowledge of the criminal justice system need to overcome the moral character application. Their direct voices would be powerful for clients urgently praying for criminal justice reform. Likewise, graduates who think deeply and are talented at research need to overcome the rapidity of the Bar exam. Their mindful nature is only showcased during the licensing process in law school, if that, and those gifts also are important to lawyering.

Increasing access to legal services for under-served populations
There is not a shortage of lawyers and there is increasing access to information online, but funding limitations are a barrier to under-served populations receiving legal services. Thus, lowering the score to include more competent attorneys to assist under-served populations would only be impacted to the extent that a more diversified attorney pool would be interested in working with a diverse client population.

CA cut score is the highest in the nation
The cut score in California likely hurts law school enrollment in the state. If I had the chance to complete my law career again, it would have been smart of me to complete my legal education in a different state and become eligible to take the attorney exam. Although the pass rate is also low for the attorney version of the Exam, the attorneys applying for admission have a career they are trying to elevate rather than initiate. Moreover, since the essay portion is weighed less than it was in the past, out of state attorneys will have an edge that they did not have

before.

Integrity of the profession
Lowering the cut score in California is unlikely to lower the integrity of the profession; the Bar exam score does not measure the integrity of a person or their utility of the knowledge after taking the test. Rather, lowering the cut score will permit lawyers to be admitted who have demonstrated a strong set of skills not currently measured in admission process. For example, the moral character application, MPRE exam, and the Bar exam do not demonstrate an applicant's ability to empathize or earn the trust of clients who are skeptical of the legal profession. The Bar exam, in particular, measures content via speed driven exercises and not necessarily critical thinking and professional packaging. If apprenticeships could be implemented into the admissions process, I think new lawyers would be more likely to be successful as they enter the profession. Moreover, the competencies of actual legal practice could be built into a substantive evaluation more meaningful than the current exam. In contrast, under the current process, I wonder how many skilled people are deterred from even enduring the process to sit for the exam because of the high financial investment and low rate of Bar passage. When success is possible, I think the integrity of the profession outshines instances of faulty admissions.

Protecting the public
The California Bar will continue to address issues through the disciplinary system. This will likely not be impacted by the lowering the score.

Declining Bar pass rates and Burden of Loan debt
Applicants who sit for the Bar know they are taking a career risk. Because applicants have this knowledge, the fate of the Bar exam cut score should be least weighed on the personal burden of loan debt on applicants, but nonetheless, the consequences are substantial. I was an evening student and have been employed in an unrelated field throughout law school, so unlike some of my friends who held positions at law firms contingent on passing, I am employed and can begin to pay off the loans I accrued since my work at a non-profit organization did not cover my law school education. However, by the time I obtain my results from my second attempt, my career path will have been on hold for an entire year past completing school, and it will be impossible for me to take time off work in the future to study again.

Again, thank you for the opportunity to share my experience and my feedback. I hope this contribution is helpful.

Ashelen Vicuna

The pass rate on the February exam was unreasonably low for an exam that purports to measure minimum competency.

Barbara Torres

Dear State Bar Public Comment Reader:

I strongly urge the State Bar lower the cut score to be between 1350-1390. I've dreamed about becoming a lawyer ever since I finished college back in 2010. My father used to tell me how he believed I would be a good attorney because I truly cared about helping people. I remember how excited I was when I got admitted to law school because I felt my dream was actually going to become a reality! After much dedication and hard work I obtained my JD in 2015 and was fortunate enough to share that accomplishment with my mother and father who were able to see me graduate. It's something I'll never forget. The only thing now that is holding me back from being able to achieve my dream is California's high cut score; the second highest cut score in the nation. I want to put things in perspective for you because I think my story is likely similar to a lot of people who haven't passed the California bar exam yet. I feel that my life has been placed on hold because of California's unreasonably high cut score. My employment opportunities and earning potential have also been at a standstill. The sacrifices I've made have not come easy. Above all, the biggest disappointment has been not being able to tell my Dad, who has since passed away, that I passed the bar exam. I can't begin to tell you how important and vital a modification to the cut score will be for the profession and the pursuit of justice as a whole. Below are the reasons as to why I believe the cut score should be lowered:

1. Lowering the cut score will not pose harm to the public. Other states allow a lower cut score (below 139), which

equates to minimum competence to practice law. There is no compelling or empirical evidence to suggest that lowering the cut score will undermine public protection or why California's cut score should be drastically above almost the entire nation. As of 2015, 84% percent of all attorneys in the U.S. are licensed in the forty-one jurisdictions that require a minimum passing score of 139 or below. According to the Committee of Bar Examiners Open Agenda (July 2017) Staff Report, "[t]here is no empirical evidence available that would support a statement that as a result of its high pass line California lawyers are more competent than in other states, nor is there any data that suggests that there are fewer attorney discipline cases per attorney capita in this state."

2. Adjusting the cut score will help encourage and promote diversity in the profession. The State Bar has long recognized diversity within the legal profession as one of its key strategies. The fact is that California has many "minority majority" populations, thus a cut score that will improve the pass rate among minority test-takers, which will help bridge the gap with clients that may feel they closely align better with an attorney based on their ethnicity or race.

3. Lowering the cut score will increase the number of licensed attorneys committed to practicing in underserved areas and aiding underserved populations by helping bridge the access to justice. The State Bar strongly supports access to legal services as a core part of its public protection mission. I, and countless others like me, decided to go to law school to help bridge this gap and to help make a difference in people's lives. It is a fact that access to the legal system in California is still too costly for many people.

4. Lowering the cut score will not affect the integrity of the profession as the majority of states allow lawyers to practice with a cut score below 139 as discussed above.

I strongly believe that the cut score needs to be lowered for the reasons above. There are many good people out there that want to effect change in today's world through the practice of law. I am one of those people and I would like to do it here in California.

Thank you for your time and consideration.

Anonymous

The bar pass line should be lower than 1414. Based on previous July 2016 bar pass rate data, having a pass line at 1414 would still result in less than 50% of people who take the bar passing, which means that over half the people who took the test have to take it over. Having to take the bar multiple times is taxing economically, emotionally, and psychologically.

Law school is a tremendous investment in time and money. By the time a potential attorney gets to the bar they are fully committed to the profession. They have gone through three years of law school and invested thousands of dollars in their education usually financed through student loans with arguably high interest rates. All of the effort and resources expended on getting to and through law school could all be in vain if the bar is not passed.

Having to take the bar multiple times just increases the debt burden and delays the ability to find work to pay off such debts. It is difficult to find work without bar passage, but it is even more difficult without it. The fact that the bar results take so long to be released, and that there are only two opportunities a year to take the bar increases such burdens.

Although protecting the integrity of the legal profession and the public from potentially incompetent attorneys is important, there are many other protections put into place besides the bar such as the rigors of the ABA approved law schools curriculum and the employers of recent law school graduates. Having a rigorous bar exam is another main protection, but when balancing all the harms having such a high pass line causes compared to the benefits, the harms outweigh the benefits.

The bar also does not test on particular fields in which an attorney specializes in and has devoted his or her studies to such as immigration, intellectual property, or family law. In cases where people plan to specialize in those fields, the bar does not really test their competency in those areas, but mainly randomly tests in fields of study that those potential future attorneys would not be practicing in. So the bar in a way punishes those who pursue specific fields not tested on the bar, and does not always really test competency in every instance.

Anonymous

Lower it. Too many people taking the exam. Maybe restriction on how many people take the test.

Anonymous

Lower to 1390

Anonymous

Lowering the score is absolutely necessary, I agree with the July 2017 implementation for faster change to the CBX horrible rates

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Stephanie Ko - Farfetch

Lower to 1390

Anonymous

Lower to 1390

Alenoush Aslanian - N/A

Lower to 1390.

Anonymous Lower to 1390
Anonymous Apply to July 2017 Exam for faster implementation of a permanent change and studies.
Tejal Patel Lower to 1390
Anonymous It seems strange that the most recent pass rate for the California Bar Exam (Exam) was around 35%. Around 10,000 applicants sat for the July 2017 Exam. If the cut score remains the same and the passing rate trend continues, that will result in 6,500 applicants failing the Exam. That cannot be a standard that the State Bar of California should want to set. California is the most difficult state in which to become a member of the State Bar. There is no reason for this.
Anonymous Lower to 1390
Anonymous Lower to 1390
Anonymous As applied to the July 2017 exam
Anonymous Lower to 1390
Ainslie Tarr Lower to 1390
Anonymous Lower to 1390
Anonymous Lower to 1390
Anonymous Change is absolutely necessary for the CBX.
Anonymous Lower to 1390
Meagan Hayes Lower to 1390

Anonymous Lower to 1390
Anonymous Lower to 1390
James Patrick Alexander I believe the score should be lowered to 1390 to better reflect a pass rate consistent with the rest of the United States. California citizens are suffering because the pass rate is so low, that many competent lawyers are now practicing in other states -- to the detriment of California. Lower the score to be competitive with the rest of America, this is only fair but most importantly important for our legal system in California.
Anonymous Lower to 1390
Jose Orta - Catholic Charities I believe the cut score for the California Bar should be lowered in line with the national standard. I agree with the independent report that lowering the score to 1414 will not create an additional risk to the public from incompetent attorneys. Thus, my points are 1) California should keep in line with the national standards and 2) there is no additional risk to public safety on account to being lowered to 1414. Moreover, keeping the score artificially high has a devastating effect on ABA accredit school students who have received more than adequate preparation to practice law in California, but who cannot do so because of the current score. These students have absorbed an inordinate amount of debt and have sacrificed many years of their life preparing to be an attorney and there is a great psychological, health, and economic impact on these students and their families from not being able to meet a bar, which as your independent study shows, is not necessary to protect the public interest. Please lower the score as recommended by your study as an option.
Anonymous Lower to 1390
Anonymous Lower than 1390
Anonymous Lower to 1390
Anonymous Lower to 1390
Anonymous Lower to 1390

Anonymous Lower to 1390
Anonymous Lower to 1390
Anonymous Lower to 1390
Anonymous Lower to 1390
Juia Nelson - Santa Clara Valley Transportation Authority I have known one of the smartest and most determined women who worked hard to graduate from a premier law school while working full time. She is on her third try at passing the bar. On the second try, she was so close to passing. The State of California has one of the most difficult bar exams to pass. Aspiring attorneys who do not pass the first time because the cut score is unnecessarily high are subjected to financial burden and emotional stress. Not only is this unfair to the aspiring attorney, but to the public. There is such a need for qualified attorneys to provide proper representation to disadvantaged, marginalized communities and also to the affluent. I strongly support lowering the cut score. Please consider the two options carefully and with full understanding that this impacts more than just the aspiring attorney.
Anonymous Lower to 1390
Johnny Chen Lower to 1390
Anonymous Change should be implemented retroactively to the July 2017 Bar Exam - it has been far too long for this process and change must take place asap.
Anonymous Lower cut score to 1390
Anonymous Lower to 1390.
Anonymous Lower to 1390
Ryan Splitstone Lower to 1390

Anonymous

While lowering the cut score to 1414 is a step in the right direction, it does not go far enough. Other well-respected cut scores, such as New York's, require an MBE score of 133 as opposed to California's 144. Moreover, there is no evidence that California's current cut score produces more qualified lawyers than states like New York. Finally, maintaining such a high cut score lowers the total number of lawyers who are available in the state to provide counsel to California residents. While lowering the cut score to 1414 (or 141 on the MBE) is a step in the right direction, the score should be lowered below 1414 to the level of a state like New York.

Robena Jafari - Bdo

Lower to 1390

Anonymous

Lower to 1390

Anonymous

Lower to 1390

Anonymous

I think the score should be lowered to 1390. The California bar cut score, the second highest of all fifty states, unfairly prevents many qualified candidates from being admitted to practice law in California and causes many to incur an inordinate amount of debt, embarrassment, and missed opportunities to retake it. Many of the candidates that fall into the category of scores that would pass under this lowered score eventually pass and become successful attorneys. Further, there is no evidence to show that California is experiencing any crisis regarding higher incidents of lawyer malpractice when compared to other states with lower scores, such as New York. Thus, a lowered score that is in the range of the scores from other states would not only be reasonable, but it would be just.

Thank you for your consideration.

Anonymous

Lower to 1390

Anonymous

Lower to 1390

Anonymous

Lower the score to 1390.

Anonymous

Lower to 1390

Anonymous

Lower to 1390

Anonymous

Lower to 1390

Anonymous Lower to 1390
Anonymous Lower to 1390
Anonymous Lower to 1390
Anonymous Lower to 1390
Anonymous Lower to 1390
Anonymous Lower score to 1390.
Anonymous Retroactively applied to the July 2017 bar exam to start the process of much needed change in CA
Anonymous Lower to 1390
Anonymous Lower to 1390
Anonymous Lower to 1390
Anonymous Lower to 1390
Joshua Goldstein - Law Offices of Joshua L. Goldstein, PC Lower to 1390
Anonymous Many of the arguments I've heard against lowering the score (see, e.g. parts of Judge Fahey's argument) are based on the assumption that passing the bar strongly maps on to professionalism, integrity, punctuality, general lawyering ability, and a number of other things that I don't believe are tested on the bar exam. I understand for reasons of scale that there needs to be one large standardized test, and a standardized test that seems largely focused on the ability to memorize and quickly spout off black letter law is an easy way to do that, but that doesn't mean that it's a terribly strong proxy for future lawyering ability.

Jason Downs - Breitburn Energy Lower the score to 1390
Anonymous Lower to 1390
Anonymous Lower to 1390
Anonymous Lower to 1390
Elyse Winter - Farfetch Lower to 1390
Anonymous I believe the cut score should be lowered to the median of the rest of the states, namely 135.
Anonymous Lower to 1390
Sky Mangin - not working, MBA Candidate at The Wharton School Lower the cut score to 1390.
Anonymous Lower to 1390
Anonymous Lower to 1390
Anonymous Lower cut score to allow for at least 45-50% passage rate.
Magdalena Cervantes Lower to 1390
Anonymous Lower to 1390
Anonymous The score should be lowered to 1390.
Sarah Downs Lower to 1390

Anonymous Lower to 1390
Anonymous Lower to 1390
Anonymous Lower to 1390
Anonymous Lower to 1390
Anonymous Lower to 1390
Anonymous Lower to 1390
Anonymous Lower to 1390
Anonymous Lower to 1390
Anonymous Lower to 1390
Anonymous Ultimately, the cut score should be set between 1350 and 1400.
Anonymous Reduce the score to 1390
Anonymous Lower to 1390
Anonymous Lower to 1390
Mark-Robert Bluemel - Law Office of Mark Bluemel I believe good lawyers are not tested by an exam, which tests mainly memory and anxiety control skills. A good lawyer is made out of practice, experience, and thirst for knowledge. Lowering the passing score will create more opportunities for those who struggle to pass solely because of the high passing score required.

Anonymous

Lower to 1390

Anonymous

Lower to 1390

Anonymous

Lower to 1390

Anonymous

CA seems to discount the lower pass rate because of its more liberal policy who can sit for the exam. If that was true then the low pass rate for attorneys from another state should be higher. Their passing rate is quite low.

Most State bars that I have reviewed have shorter fact patterns, do not ask as many questions or sub parts as do CA, assigns different value to each question asked or will tell you the idea more rapidly and ask you to talk about it.. This makes it easier for the test taker to know what the grader wants, as in many cases its a bit of guess work to know it you talk enough about a topic, (I am a pass grader and have seen answers given up to 10 points less then the release answer with almost no significant difference in the crux of the answer as to the law.)

Further, essays that would be passing years ago, no longer are acceptable. The age of computers have force everyone to write more for less results. Brevity is no appreciated but not all have the ability to generate as much verbiage as others. This needs to be adjusted.

Graders have gotten stricter in grading and adjustments must also be made to let graders spend more time on an essay. As a pass grader, mistakes are easily made when rushed to finish so many essays at once, (a reason I gave up grading).

Although the bar has shorten the test, the intent to push through as many essays as it did is not a fair test of a future attorneys skills. With the age of computers, what we required and needed in the past was for attorneys to have great breath. Today, that is not needed and we exam should emphasize the test taker's ability to analyze the law and apply it, not memorize it. Performance tests should be 3 hours as before, and a limit of 3-4 essays for the morning. And the bar should stop putting Personal Responsibility essays on every exam.

Also, the test in the past was unfair as it is geared toward curriculum that prepares one for a major firm. Performance tests should be limited to memorandum and points type essays and not persuasive letters, which is not the province of smaller firms. Test should be designed to allow the false negatives to pass easier.

Finally, the score should be lower below 1414 to 1389. At the same time, the bar should step up the ability to report incompetent lawyers and have them removed (or rated.) Today, the poor attorney can survive because the market place allows them a freedom that others business areas do not have. This way the worry of lowing scores to produce more false positives will be mitigated and the false negatives can be engaged and provide better quality service to everyone.

Michelle Yang

Lower to 1390

Anonymous

As applied to the July 2017 CBX for efficiency

Anonymous Below 1390.
Anonymous Lower to 1390
Christopher Garcia - Wilson Sonsini Goodrich & Rosati Lower cut score to 1390
Anonymous 1390