



The State Bar of California

OPEN SESSION

AGENDA ITEM

2.1 MAY 2025

COMMITTEE OF BAR EXAMINERS

DATE: May 30, 2025

TO: Members, Committee of Bar Examiners

FROM: Audrey Ching, Program Director, Office of Admissions
Donna S. Hershkowitz, Chief of Admissions / Legislative Director

SUBJECT: Discussion and Action on Possible Remedies for February 2025 Bar Exam Applicants Pursuant to the May 9, 2025, Recommendation of the Board of Trustees

EXECUTIVE SUMMARY

On April 18, 2025, the Committee of Bar Examiners (CBE) proposed a reduction in the raw passing score and the implementation of score imputation for incomplete exams. The State Bar filed a petition with the California Supreme Court on April 29, 2025, seeking approval for these recommendations.

The Supreme Court approved the petition, lowering the raw passing score to 534 and authorizing score imputation for candidates who were unable to complete significant portions of the exam due to technical issues.

On May 2, 2025, the Supreme Court issued an order approving those recommendations. On May 5 and 9, 2025, the CBE and the Board of Trustees (Board) developed recommendations for additional remedies for individuals affected by the February 2025 California Bar Examination. These include:

- Expanding the original Provisional Licensure Program (PLP) to cover individuals who withdrew from or did not pass the February 2025 bar exam;
- Recommending a licensure pathway for attorneys already licensed in another U.S. jurisdiction, without requiring them to take the California Bar Examination, contingent on statutory amendments to Business and Professions Code section 6062; and
- Establishing an interim, expedited special admissions process for out-of-state attorneys.

The State Bar has filed a petition with the California Supreme Court seeking approval of these recommendations. The petition also recommends allowing participants in the November 2024

experimental exam who met the minimum threshold and received a scoring adjustment to apply that adjustment to their first bar exam attempt through July 2026.

Test takers who were unsuccessful on the February 2025 bar exam learned if they passed or failed on May 5. Breakdown of scores for those who were unsuccessful were provided on May 6. At the May 9 Board meeting, substantial public comment was provided that was informed by the score breakdowns shared with applicants on May 6, the day after the CBE meeting. As a result, the Board recommended that CBE reconvene to explore the following further potential remedies:

- Instead of averaging the first and second read scores, adopt the higher of the two for each question;
- An appeal process for those who came near the pass line; and
- Permitting a retake of the Performance Test only on the July 2025 bar exam, and applying that score to the February 2025 results, substituting for the Performance Test score.

The Board also recommended that CBE explore comments made that some test takers may have received answers that belong to other test takers, denial of accommodations, and other issues to determine if other remedies are appropriate.

RECOMMENDED ACTION

Staff are not setting forth a recommendation.

DISCUSSION

The February 2025 California Bar Examination was marred by significant technological and human failures, causing widespread and unacceptable disruptions for examinees. The CBE and the Board engaged in repeated and lengthy discussions to determine how best to address the impacts of these failures. Concluding that it would be impossible to address the magnitude of each test taker's experiences individually, the CBE recommended, and the Supreme Court adopted, scoring adjustments to address the collective effect of these disruptions:

- **Score imputation:** Assuming that for the most part blank responses to multiple choice questions and written sections were attributable to the technological and other issues faced in the administration of the exam, the State Bar used psychometric imputation. For multiple-choice questions, scores were estimated for test takers who completed at least 114 of 171 scored questions. For the written sections, a Partial Credit Model was applied to approximate scores for eligible test takers who answered at least four of the six written components.
- **Setting a low minimum raw passing score:** Because this exam marked the first use of new multiple-choice questions and cessation of the use of the Multistate Bar Examination (MBE), which had previously been used as an anchor to establish the appropriate scaling formula, CBE was tasked with recommending the minimum raw passing score that would translate to the passing scaled score of 1390. Due to the significant disruptions, the CBE set a raw passing score of 534 for the February 2025

California Bar Examination. This score was derived from the results of the standard validation process and input from the psychometrician, but critically, it reflects a deliberate policy adjustment in recognition of the significant and pervasive technological disruptions experienced during the administration of the exam. After the standard validation panels recommended a passing score based on expected performance by a minimally competent candidate, the CBE determined that the widespread disruptions—including proctoring failures, system crashes, response lags, and access issues—could not be fairly or consistently individualized. Consequently, rather than attempt test-by-test adjustments, the CBE recommended a lower raw passing score by two standard errors of measurement (SEMs) below the range that would have been otherwise recommended by the psychometrician and standard validation panels. This adjustment serves as a system-wide remediation measure and is intended to account for the adverse conditions that could have negatively impacted applicant performance. The adoption of 534 as the minimum raw passing score reduced the cut score on the total scaled score to the equivalent of approximately 1310 when compared to previous years.

The CBE and the Board also recommended nonscoring remediation measures to provide those who were unsuccessful on the exam or withdrew with opportunities to practice in California without the need to immediately expend the time and resources to sit for another bar exam:

- **Expansion of the Original Provisional Licensure Program (PLP, [Rule 9.49](#)):** Extending eligibility to applicants who were unsuccessful or withdrew from the February 2025 bar exam. The PLP allows law school graduates to practice law under the supervision of fully licensed lawyers. If approved by the Supreme Court, the PLP for the February cohort would expire two years after implementation, or December 31, 2027, whichever is later. This extension of the program would also apply to the 71 remaining provisionally licensed lawyers still practicing under this rule.
- **Admission on Motion or Reciprocity:** Develop an Admission on Motion process for attorneys licensed and in good standing in other U.S. jurisdictions, contingent on amendments to Business and Professions Code section 6062 which do not require passage of the General Bar Exam or Attorneys' Exam to be admitted.
- **Special Admission:** In the interim, implement an expedited special admissions process for U.S.-licensed attorneys who were unsuccessful or withdrew from the February 2025 bar exam.

At its May 9, 2025, meeting, the public comment presented to the Board was informed by the breakdown of scores that had been provided to test takers who were unsuccessful on the exam on May 6, 2025, the day after the CBE meeting. After hearing that public comment, the Board adopted the following resolutions:

RESOLVED, that the Board recommends the Committee of Bar Examiners reconvene, after having listened to the public comment received at the May 9, 2025, Board meeting, and consider whether there should be further adjustments recommended with regard to the February 2025 test takers related to:

- Instead of averaging the first and second read scores, to adopt the higher of the two for each question;
- An appeal process for those who came near the pass line; and
- Permitting a retake of the Performance Test only on the July 2025 bar exam, and applying that score to the February 2025 results, substituting for the Performance Test score;

FURTHER RESOLVED, that the Committee of Bar Examiners explore comments made that some test takers may have received answers that belong to other test takers, denial of accommodations, and other issues and determine if other remedies are appropriate.

This staff report examines each of those issues in order.

SECOND READ SCORES

Under current policy, last amended by the CBE on [August 21, 2020](#) after the Supreme Court lowered the bar exam cut score from 1440 to 1390, the written portion of the California Bar Examination (essays and the Performance Test) is scored in two phases.

Phase I: Each response is graded once by a trained grader—an active California attorney—who uses a standardized rubric and holistic scoring approach. Graders participate in a multi-week training and calibration process, including writing model answers, participating in calibration meetings, and conducting tentative grading to ensure consistent application of minimum competence criteria. The written section and Multistate Bar Examination (MBE) are equally weighted, with each making up 50 percent of the total scaled score. After the first read:

- If the total scaled score is 1390 or above, the applicant passes the exam.
- If the score is below 1350, the applicant fails.
- If the score is between 1350 and 1389.999, the applicant enters Phase II.

Phase II: All six written answers are re-read by different graders. The first and second scores are averaged for each question, and those averages are used to recalculate the total scaled score. If the total scaled score based on those averaged scores is 1390 or higher, the applicant passes; if below 1390, the applicant fails—regardless of any score discrepancies between first and second reads.

In April 2020, reaffirmed in August 2020, the committee eliminated Phase III, referred to as Resolution. Under Phase III, if there was a discrepancy of more than 10 raw points between the first and second read scores on any response and the applicant’s averaged score was still below passing, the answer would be referred to a Supervising Member of the Examination Development and Grading (EDG) Team. That supervisor would assign a final resolution score, which replaced the average and could determine whether the applicant ultimately passed or failed the exam.

This resolution process was discontinued based on recommendations from an independent psychometrician, Dr. Roger Bolus. His analysis found that Phase III delayed grading by seven days, affected fewer than 0.1 percent of applicants, and that only 8 percent of applicants who reached that

phase ultimately passed. Eliminating Phase III preserved 99.9 percent decision consistency and had no disparate impact across racial, gender, or educational subgroups.

The California Department of Consumer Affairs (DCA) independently reviewed the State Bar’s grading practices and concluded in a report published for the [May, 2020 Board of Trustees](#) meeting: “The grading process described by the State Bar is defensible and is closer to a criterion-referenced methodology... The use of minimum competence criteria can assist resolution,” while also noting that it did not recommend changing how first and second read scores are averaged.

Accordingly, since 2020, the bar exam scoring process has operated as a two-phase model, with all written responses reviewed once, and those within the 1350–1389.999 band receiving a second, independent read. Final pass/fail decisions are based solely on averaged scores, ensuring consistency, fairness, and defensibility under the revised passing standard of 1390.

Some public commenters questioned the fairness of the grading, noting inconsistencies between first and second read grades, and raised concerns that some see their total scaled score reduced after the second read. Other public commenters argued that the technological issues faced during the exam demanded that test takers who scored high enough for a second read should be passed, effectively reducing the pass line to 1350. The Board asked the CBE to consider whether to use the higher of the two scores received for each question, rather than the average, in instances where a second read occurred on the February 2025 bar exam. While this would provide an advantage to applicants whose scores differ across reads, it would also introduce upward bias. Psychometrically, when two trained and qualified graders offer slightly different evaluations, the average of those two observations remains the best statistical estimate of an applicant’s true performance. Adopting a higher-score policy could lead to inconsistent outcomes, undermine fairness across test administrations, and potentially jeopardize the integrity of the scoring process.

Changing the methodology to take the higher of the first or second read score for each question, rather than the average, would result in 230 additional applicants passing the February 2025 bar exam, increasing the overall pass rate to about 63 percent. For comparison, the chart below shows the second read numbers from the 2025 February bar exam and the two prior February administrations. The raw passing score change in 2025 caused a significant increase in applicants receiving a second read evaluation.

		2023	2024	2025
Overall Second Read Participation	Number of applicants that went to Second Read	486	493	640
	Percent of total applicant pool that went to Second Read	12%	11%	15%
Score Changes After Second Read	Number with a score decrease after Second Read	272	297	366
	Percent of Second Read applicants with a decrease in score	56%	60%	57%
	Number with a score increase after Second Read	158	142	202
	Percent of Second Read applicants with an increase in score	33%	29%	32%
Pass Outcomes After Second Read	Number who passed after Second Read	61	63	49
	Percent of Second Read applicants who passed after Second Read	13%	13%	8%
	Number who failed after Second Read	425	430	591

Percent of Second Read applicants who failed after Second Read	87%	87%	92%
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Additionally, applicable to this and each of the additional remedies described in this staff report and as noted above, CBE recommended and the Supreme Court adopted scoring adjustments to account, to the greatest extent possible, for the disruptions experienced on the February 2025 bar exam. In addition to imputing scores for missed content, the raw minimum passing score was set artificially low (26 points lower than recommended by the psychometrician and 93 points lower than recommended by the standard validation panel) to address the significant challenges faced during the exam. This effectively reduced the cut score on the total scaled score to the equivalent of approximately 1310 when compared to previous years. Changing the methodology for calculating scores after second read would provide an additional scoring adjustment, beyond those recently recommended by CBE and adopted by the Supreme Court.

APPEAL PROCESS FOR THOSE NEAR THE PASS LINE

Some applicants have proposed that the State Bar establish an appeal process for those who narrowly fail the exam. The Board asked the CBE to evaluate such an option. Under current policy, no general appeal or reconsideration mechanism exists once final scores are released. The current committee policy only allows for grading reconsideration when an applicant can document that a [clerical error occurred](#).

In [April 2020](#), the CBE, based on a recommendation from the psychometrician Dr. Roger Bolus, revised the phased grading process to eliminate Phase III, Resolution Grading, which operated as a form of internal appeal. CBE reaffirmed its decision to eliminate Resolution Grading in August 2020. Under this process:

Applicants with grading discrepancies of more than 10 raw points between the first and second read assigned grades on any answer, whose averaged total scaled score was less than 1440 (the exam cut score at the time), had those answers referred to the Supervising Exam Development and Grading (EDG) Team Member assigned to that particular question. The EDG Supervisor would assign a resolution grade, which then replaced the average of the first and second read scores for that question. Final scores were recalculated. If the applicant's new total scaled score was 1440 or higher, they passed the examination. If not, the applicant's fail decision stood.

In Dr. Bolus's report to the CBE, he concluded that eliminating Phase III would streamline the grading process by removing an additional layer of manual review which required specialized oversight, additional score recalculations, and delayed the release of results for all examinees.

California has a longer grading timeline than all other jurisdictions, and by eliminating this step, the grading timeline was reduced by one week. The impact on examinee outcomes was negligible—less than 0.1 percent of applicants would be affected—and the change would preserve 99.9 percent consistency in pass/fail decisions, with no evidence of bias or adverse impact.

While the resolution process was eliminated to streamline administration, the CBE may consider

whether a limited, structured version of this practice could be reintroduced or adapted for the February 2025 bar exam cohort.

PERFORMANCE TEST (PT)-ONLY RETAKE

In response to suggestions from public comment, and observations that for many, the PT was the most heavily impacted section as a result of the challenges with the cut and paste functionality, including a complete inability for some to use this function, the Board asked the CBE to consider whether applicants could be permitted to take only the Performance Test (PT) in July 2025 and, if they receive a higher score than on the February exam, apply the higher score to their February 2025 bar exam results.

The average total raw written score for the February 2025 bar exam was significantly higher than in the two previous February administrations. These figures reflect raw scores—prior to scaling and before applying the adjusted, lower raw passing score. Of the six written components, only the Performance Test had a lower average score compared to prior years¹.

	Avg Essay 1	Avg Essay 2	Avg Essay 3	Avg Essay 4	Avg Essay 5	Avg PT	Average Total Raw Written Score ²
2023	58	58	57	60	59	61	413
2024	60	55	60	57	58	61	410
2025	60	62	61	63	62	58	425

Although attractive in concept, the option to retake only the Performance Test presents substantial psychometric challenges. The PT is just one of six written components of the California Bar Exam. The full written exam is scaled as a unit, meaning that scores are equated based on the overall difficulty of the entire exam administration. Individual sections are not independently equated and are not interchangeable across administrations. Psychometrically, substituting a PT score from one administration into another undermines the exam’s scoring integrity and raises serious fairness concerns. Of course, CBE and the Board have heard some commenters argue that the many challenges presented by the exam, as well as concerns some have about imputation, undermine the exam’s scoring integrity and fairness.

By contrast, some other high-stakes exams, like the CPA exam, permit candidates to bank scores, and retake sections, but only at the level of full, independently validated exams. These programs also use conjunctive scoring models (where each part must be passed), while California uses a compensatory model, where strength in one section may offset weakness in another. Treating the PT as a standalone, retakable component would present significant psychometric challenges. A single PT question does not provide sufficient reliability to support independent pass/fail decisions. Implementing this approach would likely require development of multiple PT prompts per

¹ Staff are attempting to compile an updated chart with the past 10 years in advance of the committee meeting

² Total average values are rounded down to the nearest whole number

administration, validation that each prompt yields consistent and defensible outcomes, and revisions to scoring and reporting procedures. These elements are not currently in place.

Although not part of the Board resolution, CBE has also heard from commenters arguing for the ability to retake just the multiple-choice questions again. For some, concern stemmed from the drafting sources of the multiple-choice questions used on the February 2025 bar exam, as well as from their own low percentile rankings in certain subject areas, which caused them to doubt the validity of the questions. These issues prompted skepticism about whether the items accurately measured minimum competence or if flaws in question design contributed to unexpectedly low performance. Allowing a retake of the multiple-choice questions would present a similar issue with reliability and validity based on the current test design of the California Bar Exam.

Furthermore, in considering options for retaking portions of the exam, the committee should discuss the broader implications of allowing test takers to substitute scores from any prior exam administration (e.g., using a July 2024 MBE score to substitute for the February 2025 multiple-choice portion). While such an approach might seem appealing for individuals seeking to leverage prior successful component scores, it introduces significant psychometric challenges related to equating and comparability across different exam administrations. Each exam is designed and scaled as a comprehensive unit, and allowing individual components from different administrations to be combined could compromise the integrity and fairness of the overall scoring process, as the difficulty of questions and the scaling may vary significantly between administrations. The current compensatory scoring model of the California Bar Examination, where strengths in one section can offset weaknesses in another, further complicates the integration of independently banked scores from different exam cycles, unlike other high-stakes exams that permit score banking for full, independently validated sections using conjunctive scoring models.

ADDITIONAL TESTING IRREGULARITIES AND ADA CONCERNS

Finally, CBE, the Board, and staff have heard reports of concerns from test takers that they received answers that did not belong to them and accommodations that were approved but not delivered during the February 2025 bar exam administration.

After results were released, the staff have received hundreds of requests for grading reconsideration under the current committee policy regarding clerical errors. Upon reviewing these issues, the following irregularities and clerical errors have been found, to-date:

- After a manual review of 4,105 written exam sections, the State Bar identified three applicants who received a score based on someone else's written submission. The erroneous essay was uploaded as one of their six written answer files. After recalculation of the total scaled score using the correct essay, the pass/fail outcome for all of these test takers was unchanged.
- Nine applicants who participated in the March 18-19 exam retake had missing essay or performance test scores that were incorrectly zeroed out instead of being imputed. Correcting this resulted in one applicant changing from a failing to a passing status.
- Seven retake applicants received incorrect zero scores for two questions due to a

clerical error where essay numbers were inadvertently switched. After correcting these scores, four applicants transitioned from failing to passing.

- The State Bar has reviewed cases where the Performance Test Notes field was incompletely transferred to graders. This review led to regrading for impacted applicants, prioritizing those whose status could change with a higher score. This review has resulted in eight applicants changing from fail to pass.

To ensure complete confidence in the scoring of the exam, the State Bar is retaining an independent consultant to conduct a privileged review of the reports submitted by applicants and review the grading and scoring that took place for the February 2025 exam to determine if there are any additional issues that may impact applicant outcomes.

The Board also asked the CBE to explore comments made that some test takers were denied the testing accommodations they had been approved for. The Board reviewed some data not available to the CBE at its May 5, meeting exploring the impact of this exam on the pass rate for test takers with accommodations. At the time of the Board's review 159³ accommodated applicants were unsuccessful on the February 2025 bar exam. The pass rate for all test takers with approved Testing Accommodations was 65.1 percent, an increase from 40 percent in 2024, and more than double the 10-year average of 31 percent for this group for the years 2015 to 2024. Regardless of the impact on the pass rate, the State Bar takes very seriously complaints that approved testing accommodations were not made available during the exam. Issues raised by applicants include:

- Not provided the full, granted, extended testing time due to freezing, pop-ups, disconnections, library access problems, or lost or deleted text due to copy/paste issues or other technical issues;
- Extended testing days caused by delayed starts or technical problems;
- Camera monitoring policies restricting bathroom, food, medication, or rest breaks;
- Lack of a distraction reduced testing environment due to disruptions at test centers, including noise or technology issues;
- Not provided the granted accommodations for portions of the exam (e.g., semi-private rooms, inability to use speech-to-text or headphones, permission to have items in the testing area);
- Testing conditions exacerbating underlying disability-related symptoms.

These testing accommodation issues will be a focus of the consultants being brought on to review the exam scoring and grading.

PREVIOUS ACTION

In [April 2020](#), the Committee of Bar Examiners approved recommendations to eliminate Phase III (Resolution) grading, as detailed in the report "Approval of and Action on Report Prepared by the Committee's Psychometrician, as Part of the Implementation of the Appendix I Recommendation to Evaluate the Grading Process for the California Bar Examination." In [May 2020](#), the Board of Trustees was similarly presented with the "Report on and Approval of Recommendations Regarding the

³ After the review of Performance Test notes, four more accommodated applicants passed the February 2025 bar exam, bringing the number of unsuccessful test takers with accommodations to 155

California Bar Exam Studies" and informed of these changes adopted by the CBE. The Committee of Bar Examiners reaffirmed the elimination of Phase III (Resolution) grading in [August 2020](#).

On [March 14, 2025](#), the CBE voted to recommend expanding the Provisional Licensure Program to include February 2025 bar exam takers and those who withdrew.

On [April 2, 2025](#), the Board postponed consideration of that recommendation and directed the CBE to review a broader range of remedial options following the release of exam results, with special attention to applicants licensed in other jurisdictions.

On [April 18, 2025](#), the Committee of Bar Examiners discussed potential scoring adjustments for the February 2025 Bar Exam and ultimately recommended a downward adjustment to the raw passing score. Specifically, the committee proposed setting the passing threshold two standard errors of measurement below the psychometrician-recommended raw score to account for the unique challenges associated with the administration of the exam. In addition, the CBE recommended imputing scores for applicants who completed at least four of the six written questions and two-thirds of the scored multiple-choice items. On [May 2, 2025](#), the California Supreme Court approved and ordered implementation of both the adjusted raw passing score and the score imputation recommendation.

On [May 5](#) and [May 9](#), the State Bar's Committee of Bar Examiners and Board of Trustees recommended nonscoring remedies for those affected by the February 2025 California Bar Examination: expanding the original Provisional Licensure Program (Rule 9.49 of the California Rules of Court) to encompass individuals who either withdrew from or did not pass the exam, a licensure pathway for U.S.-barred attorneys that waives the California Bar Examination (contingent on statutory amendments), and establishing an interim expedited special admissions process for out-of-state attorneys.

FISCAL/PERSONNEL IMPACT

The fiscal impact of these additional remedies would largely be de minimis. The most significant expenses include the cost of consultants if the committee recommends expansion of the review of grading process and scores assigned that is currently planned, and, to the extent any remedies adopted require reconsideration of grades assigned, the contract rate for graders to read each of the essays and performance tests. The cost for the graders would be offset by reduced numbers of written questions to grade for the July 2025 bar exam if the CBE elects to allow applicants to take only a portion of the July 2025 bar exam and substitute those scores for scores received on the February bar 2025 exam or to combine any set of past component scores to reach a passing score.

AMENDMENTS TO RULES

None

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS

None – core business operations

RESOLUTIONS

Should the Committee of Bar Examiners concur, it is:

** Pending; this staff report will be updated in advance of the committee meeting to include alternative resolutions for Committee consideration

ATTACHMENT LIST

None