



The State Bar of California

OPEN SESSION

AGENDA ITEM

3.1 MAY 2025

COMMITTEE OF BAR EXAMINERS

DATE: May 5, 2025

TO: Members, Committee of Bar Examiners

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

SUBJECT: Development of Recommendation to the Board of Trustees for Non-Scoring Adjustment Remediation Measures to Address Challenges Related to the February 2025 Bar Exam

EXECUTIVE SUMMARY

This item is presented to the Committee of Bar Examiners for discussion and action pursuant to the plan articulated at the committee's April 18, 2025, meeting. At that meeting, members reviewed a proposed framework for non-scoring remedies in preparation for the planned discussion on May 5, 2025. This item presents the full range of potential non-scoring remedies along with key performance data by population, to assist the committee in determining which, if any, should be recommended to the Board of Trustees for further action. The discussion and any recommendations adopted today will respond to the April 2, 2025, directive of the Board, which requested that the committee consider the full range of remediation options for test takers affected by the February 2025 California Bar Exam, and provide specific parameters for any measures recommended for adoption.

RECOMMENDED ACTION

Staff recommends that the committee discuss and adopt as appropriate recommendations regarding non-scoring remedial measures to be made available to February 2025 Bar Exam test takers.

DISCUSSION

BACKGROUND

On March 14, 2025, the committee resolved to recommend expansion of the Provisional Licensure Program to include individuals who sat for or withdrew from the February 2025 Bar Exam. On April 2, 2025, the Board of Trustees postponed action on that recommendation and

directed the committee to consider a broader slate of remediation options following the completion of grading. The committee was further asked to define eligibility parameters and consider special populations, including attorneys licensed in other jurisdictions.

On April 18, 2025, the committee reviewed potential remedies and special populations identified by staff and expanded on staff's set of remedies and populations. The final set of remediation categories and populations follows.

REMEDICATION CATEGORIES

1. Provisional Licensure without Pathway to Full Licensure

This remedy would provide limited licensure for a fixed period (e.g., one to two years) to eligible applicants with a subsequent requirement to pass a future bar exam to become fully licensed. It would grant a time-bound or practice-limited license for individuals who experienced significant barriers during the February 2025 Bar Exam administration. This approach is similar to the program established under California Rules of Court, Rule 9.49 for 2020 Law School Graduates, scheduled to sunset at the end of this year, which permits practice under supervision until a specified end date.

2. Provisional Licensure with Pathway to Full Licensure

This pathway would provide provisional licensure contingent on completing additional requirements. These would not include passing a future bar exam, but in lieu would require accumulating supervised legal practice hours, completing a professional responsibility course, or submitting a competency portfolio. Provisional licensure programs were implemented during COVID-19 in jurisdictions like Utah and Oregon.

In California, the current pathway program is codified in California Rules of Court, Rule 9.49.1, which allows applicants to obtain a provisional license if they scored between 1390 and 1439 on a bar exam administered between July 2015 and February 2020, complete 300 hours of supervised legal practice, and receive positive evaluations from a supervising attorney. Rule 9.49.1 is currently in effect although also scheduled to sunset at the end of this year.

3. Portfolio Bar Exam / Supervised Practice Pathway

This alternative licensure pathway would allow candidates to demonstrate minimum competence through supervised legal work and structured performance evaluations, rather than a standardized exam. It draws inspiration from programs like New Hampshire's Daniel Webster Scholars Honors Program and could be designed in collaboration with employers, law schools, and bar mentors.

The State Bar's Board of Trustees established a working group to write a Portfolio Bar Exam (PBE) proposal that was submitted to the California Supreme Court in December 2023 but was not approved. The proposed pilot program would have required candidates to complete 700-1,000 hours of supervised legal work (capped at 40 hours per week), submit 8-13 different work products demonstrating various legal competencies, and complete 1-2 performance tests. Work products would have included written materials, evidence of client interviews, negotiations, and essays on

professional responsibility topics. Each portfolio component would have been graded anonymously by independent examiners using established rubrics, with candidates required to exceed a determined cut score to pass.

The Court rejected the PBE proposal citing several critical issues. First, the proposal conflicted with existing California law requiring passage of “the general bar examination” administered by the Committee of Bar Examiners to be eligible for admission to the bar. Statutory language also prohibits different examination pathways based on the manner of legal education. In the Court’s view, the supervised practice model inherent in the PBE raised significant ethical and practical concerns that would compromise the fairness, validity, and reliability of the assessment. Adding performance tests did not resolve these fundamental issues.

4. **Special Admission—Registered Out-of-State U.S. Attorney Program.** This program would provide a special admissions route for out-of-state attorneys who took and did not pass the February 2025 Bar Exam. Modeled after the Registered Military Spouse Attorney (RMSA) Program, it would allow these applicants to practice law in California under supervision if they meet defined eligibility standards. This model could be implemented through a new Rule of Court and an Article under Division 3 of the State Bar Rules (Non-Licensee Attorneys), and would remove the institutional practice limitations present (providing legal advice only through the attorneys’ qualifying institution or eligible legal aid organization) in the Registered In-House Counsel and Registered Legal Aid Attorney programs.
5. **Admission on Motion for Attorneys/Reciprocity**
This remedy would allow applicants to petition for full licensure based on a specified number of years practicing in good standing in another U.S. jurisdiction. The decision could be dependent on the jurisdiction where the attorney is licensed, which may allow for California attorneys to be admitted reciprocally on motion as well. However, since few states currently allow California attorneys to be admitted on motion, such an approach may not provide a timely remedy for some February test takers.

The [report](#) to the Court from the Blue Ribbon Commission (BRC) included a recommendation for reciprocity. The Court did not adopt the commission's recommendation to modify the requirements for admitting attorneys licensed in other U.S. jurisdictions. The proposed change would have allowed admission through reciprocity rather than the standard General Bar Examination. The Court’s denial of this proposal noted that statutory provisions in the Business and Professions Code (section 6062(a)(3), (b)) govern these admission requirements and thus could not be changed absent a statutory amendment.¹

¹ Assembly Bill 1522, which has been introduced as urgency legislation, would modify this requirement by amending section 6062 as follows: To be certified to the Supreme Court for admission, and a license to practice law, a person who has been admitted in a sister state, U.S. jurisdiction . . . shall . . . [h]ave passed the ~~general bar~~

6. **Diploma Privilege**

Applicants would be admitted to practice law based solely on graduation from an ABA-approved or state-authorized law school. This option exists in Wisconsin and was implemented in some states during COVID-19 (temporarily in Washington and Utah).

7. **Pass Those Who Qualified for Second Read**

This option would automatically pass those who received a second read during the February 2025 Bar Exam scoring process, or on a prior exam. These individuals scored near the passing threshold and underwent additional evaluation due to statistical proximity to the cut score (within 40 points). The number of prior attempts to be considered should be decided by the committee, along with how long before the February 2025 Bar Exam this milestone was achieved.

8. **Prior Performance Imputation for Repeat Takers**

This remedy would involve allowing repeat takers to combine or substitute prior bar exam performance components (e.g., essays, Performance Tests, or multiple-choice section scores) with February 2025 Bar Exam scores to determine if, in aggregate, they could meet or exceed the passing score of 1390.

Originally framed in the discussion on April 18, 2025, to focus solely on essay and PT scores, this approach can be broadened to acknowledge that repeat takers may have previously demonstrated competence across any section of the bar exam and may have been uniquely disadvantaged during the February 2025 Bar Exam administration — including due to issues affecting the MCQs, such as proctoring or software problems.

There are two potential variations of this remedy:

A. Score Substitution

Applicants may request imputation of prior essay, PT, or multiple-choice section scores for the corresponding February 2025 Bar Exam section if the prior performance was scored higher and more accurately reflects their competence.

B. Cross-Exam Score Aggregation

Applicants may be deemed to have passed if a combination of their prior and current component scores (e.g., MCQs from July 2024 Bar Exam and written section from February 2025 Bar Exam) meets or exceeds 1390, even if neither score alone would have resulted in passage.

The remedy would require establishing eligibility criteria, such as:

1. The number of prior attempts to be considered

examination prescribed by the examining committee, unless that person has been an active licensee in good standing of the bar of an admitting sister state or United States jurisdiction, possession, or territory for at least four years immediately preceding their seeking admission and licensure, in which case the examining committee may provide an alternative means of receiving admission and licensure.

2. The age/recency of prior exam responses eligible for imputation
3. Whether to replace individual question scores or section scores
4. How to address differences in question content between exams
5. Verification processes to ensure fairness and consistency

SPECIAL POPULATIONS TO CONSIDER

Below is the list of different populations to which the committee could consider applying the above remedies. Attachment A includes information about these populations, including 10-year February bar passage data for some.

1. First-Time Takers
2. Repeat Takers
3. U.S.-Licensed Attorneys (1-day and 2-day exam takers)
4. Foreign-Licensed Attorneys
5. Foreign-Educated Law Graduates
6. Graduates of:
 - ABA-Approved Law Schools
 - California-Accredited Law Schools
 - Registered Law Schools
7. Law Office Study Participants
8. Applicants by:
 - Race/Ethnicity
 - Gender
 - Age Range
 - Testing Accommodations Status
9. February 2025 Bar Exam Withdrawals
10. Second-Read Eligible Applicants
11. Disbarred California Attorneys Seeking Reinstatement

Table 1. February 2025 California Bar Examination Test Taker Populations

| Descriptions | Total Test Takers | Percentage of Population |
|--|---|--------------------------|
| Total Test Takers | 4,231 (640 included in 2 nd read cycle) | |
| First Time Taker | 1,380 | 33% |
| Repeat Taker | 2,851 | 67% |
| Applicant Type | | |
| Disciplined Attorney | 14 (one-day Attorney's Exam only) | <1% |
| Foreign Attorney | 811 | 19% |
| Foreign-Educated Graduate | 323 | 8% |
| Law Office Study Student | <11 | <1% |
| Out-of-State US Attorney | 644 (331 taking the one-day Attorney's Exam) | 15% |
| US Law Student/Graduate* | 2,431 | 57% |
| Eligibility Type | | |
| Four Years of Law Study** | 16 | <1% |
| American Bar Association Approved Law School | 1,766 (660 from law schools outside of California) | 42% |
| California Accredited Law School | 745 | 18% |
| Registered Unaccredited Law School | 113 | 3% |
| Law School Closed | 71 | 2% |
| Foreign Educated/JD Equivalent Plus One Year of US Education | 343 | 8% |
| Law Office or Judges' Chambers Study | <11 | <1% |
| US Attorneys Taking the General Bar Exam | 23 | <1% |
| Foreign Attorneys Taking the General Bar Exam | 801 | 19% |
| US Attorneys Taking the One-Day Attorney's Exam | 345 | 8% |

| Age Group | | |
|---|--------------|-----|
| 23-32 years old | 2,052 | 48% |
| 33-42 years old | 1,311 | 31% |
| 43-52 years old | 558 | 13% |
| 53-62 years old | 229 | 5% |
| 63-72 years old | 69 | 2% |
| 73-82 years old | <11 | <1% |
| 83-92 years old | <11 | <1% |
| Testing Accommodations Status | | |
| Non-Accommodated | 3,773 | 89% |
| Testing Accommodation Fully or Partially Approved | 458 | 11% |
| Gender | | |
| Male | 1,641 | 39% |
| Female | 2,497 | 59% |
| Other*** | 18 | <1% |
| Decline to Answer | 75 | 2% |
| Race/Ethnicity | | |
| Asian | 1,136 | 27% |
| Black | 339 | 8% |
| Latino/Hispanic | 633 | 15% |
| White | 1,215 | 29% |
| Other**** | 755 | 18% |
| Decline to Answer***** | 153 | 4% |
| Applicants Who Withdrew Exam Application | 1,481 | |

Note: All figures are preliminary and are subject to change. Final exam statistics and population breakdowns are published on the State Bar's Exam Statistics webpage following the release of results and updates are made when necessary. Data unavailable for other years due to suppressed data values for groups <11 in published State Bar reports.

* Applicant type US Law Student/Graduate is comprised of a portion of individuals who are eligible to sit for the California Bar Examination because they completed four years of legal study, attended an American Bar Association-approved law school or a law school accredited or registered by the State Bar of California, attended a law school that is now closed, or completed a foreign legal education equivalent to a JD and one year of legal study in the US.

** Applicants may qualify to take the General Bar Exam through a combination of four years of law study without graduating from a law school under California Business and Professions Code section 6060(e)(2).

***Includes groups Gender Variant/Non-confirming, Transgender, and Two Spirit

****Includes racial/ethnic groups American Indian, Native Hawaiian, Middle Eastern or North African, other and more than one racial/ethnic group

*****Decline to Answer race/ethnicity category not reported for 2015–2019

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Options for Committee Consideration:

| Special Population | Options | Rationale |
|---|---|--|
| First-Time Takers (including Second-Read Eligible Applicants) | <ul style="list-style-type: none"> •Provisional Licensure (with/without pathway) •Portfolio Bar Exam •Pass Those Who Qualified for Second Read | First-time takers had no prior opportunity to demonstrate competence and were unexpectedly affected by exam conditions. Remedies should provide alternate pathways to prove competence. |
| Repeat Takers (including Second-Read Eligible Applicants) | <ul style="list-style-type: none"> •Prior Performance Imputation •Pass Those Who Qualified for Second Read •Provisional Licensure with Pathway | These applicants may have previously shown minimum competence in certain areas. Their prior performance provides a baseline for evaluation. |
| U.S.-Licensed Attorneys (1-day and 2-day) | <ul style="list-style-type: none"> •Registered Out-of-State U.S. Attorney Program •Admission on Motion/Reciprocity | These applicants have already demonstrated competence in another jurisdiction. Their experience may justify expedited pathways with minimal additional requirements. |
| Foreign-Licensed Attorneys | <ul style="list-style-type: none"> •Portfolio Bar Exam •Provisional Licensure without Pathway | These applicants have legal training but may need to demonstrate familiarity with U.S. legal principles. Remedies should acknowledge their experience while providing the opportunity to demonstrate minimum competence. |
| Foreign-Educated Law Graduates | <ul style="list-style-type: none"> •Portfolio Bar Exam •Provisional Licensure without Pathway | This group needs options that recognize their legal education while providing the opportunity to demonstrate minimum competence. |
| <ul style="list-style-type: none"> • ABA-Approved Law School Graduates • California-Accredited Law School Graduates • Registered Law School Graduates • Law Office Study Participants | <ul style="list-style-type: none"> •Provisional Licensure (with/without pathway) •Portfolio Bar Exam | <p>Graduates from ABA, California-accredited, and Registered law schools have completed the standard legal education necessary for eligibility to take the bar exam. Their academic credentials provide a strong foundation for provisional licensure.</p> <p>Similarly, Law Office Study participants have met the legal education requirements, via a less traditional path. Potentially, portfolio assessment aligns well with their practice-based learning.</p> |

| | | |
|--|--|---|
| February 2025 Bar Exam Withdrawals | <ul style="list-style-type: none"> •Provisional Licensure without Pathway •Portfolio Bar Exam •Future exam fee waiver (granted) | Those who withdrew likely experienced significant issues leading up to the exam that prevented them from taking the exam. |
| Disbarred CA Attorneys Seeking Reinstatement | NA | Passing the exam is a requirement for reinstatement. |

Additional Special Populations (Race/Ethnicity, Gender, Age, Applicants with Accommodations.): These are not categories with specific recommended remedies but rather lenses through which all remedies must be analyzed to ensure equity and avoid disparate impact.

Although it is premature to make final recommendations without the benefit of scoring data, staff believes that two broad approaches should be pursued at this stage: one tailored for non-attorney candidates and another for attorney applicants. Based on a review of the options and considering the Board of Trustees' directives, staff offers the following preliminary recommendations for the committee's consideration:

- **Prioritize Provisional Licensure without a Pathway to Full Licensure:** This remedy offers a balanced approach, providing a timely entry to practice while ensuring ongoing competence through supervised practice and/or additional requirements. It appears to be broadly applicable across many populations, including first-time takers, repeat takers, and graduates of various law school programs.
- **Expedite Implementation/Statutory Changes Required for Admission on Motion for U.S. Attorneys Who Meet Eligibility Requirements or Creation of Rules of Court for Special Admission of Registered Out-of-State U.S. Attorneys:** This remedy directly addresses the Board's request to consider attorneys licensed in other states. It leverages the existing competence of these attorneys and can be implemented relatively quickly once statutory changes are approved or Rules of Court are created.

PREVIOUS ACTION

- [November 17, 2022](#): The Board of Trustees reviewed the Provisional Licensure Programs (original and pathway) in advance of their scheduled sunset and formulated a recommendation to the Supreme Court.
- [December 1, 2022](#): The State Bar transmitted the Board's recommendation regarding the Provisional Licensure Programs to the Supreme Court.
- [May 18–19, 2023](#): The Board of Trustees received and discussed the Report of the Blue Ribbon Commission on the Future of the Bar Exam, which included considerations of alternative licensure and admission on motion/reciprocity.
- [November 16–17, 2023](#): Following public comment, the Board of Trustees considered a specific proposal for a portfolio bar exam developed by a working group.
- [October 10, 2024](#): The Supreme Court issued an order denying the recommendation for the portfolio bar exam and the Blue Ribbon Commission's recommendation for reciprocity.

On March 14, 2025, the committee resolved to recommend “to the Board of Trustees that the Supreme Court expand the Provisional Licensure Program to include test takers who took the February 2025 Bar Exam or who withdrew from the February 2025 Bar Exam.”

On April 2, 2025, the Board of Trustees considered the committee’s recommendation regarding provisional licensure and took the following action:

RESOLVED, that the Board of Trustees postpones consideration of the Committee of Bar Examiners’ request to recommend to the Supreme Court expansion of the Provisional Licensure Program as approved at their March 14, 2025, meeting; and it is

FURTHER RESOLVED, that the Board of Trustees requests that the Committee of Bar Examiners consider the full range of remediation options, after the completion of the grading of the February 2025 Bar Exam. The Board of Trustees requests that the Committee of Bar Examiners provide the specific parameters for any recommended remediation measures ultimately recommended. Lastly, the Board of Trustees requests that the CBE consider special populations in developing remediation recommendations, including attorney applicants licensed in other states and bring back to the Board for consideration.

FISCAL/PERSONNEL IMPACT

Each additional remedy would have associated programmatic costs related to staff time and build out in the Admissions Information Management System (AIMS) for applications and tracking. The newly proposed remedies would assumedly be associated with fees to recoup these costs.

Extending the Provisional Licensure Program to applicants who qualify due to the February 2025 Bar Exam may be one of the least costly options, as the application and process have already been built within AIMS and may only require that the Office of Information Technology make minor modifications.

Creation of a new special admissions program for U.S. Attorneys will take significant resources from the Office of General Counsel to partner with Admissions to draft new rules, and from the Office of Information Technology to create and implement the new application in AIMS, even if mirroring the RMSA rules and application. Alternatively, resources to change the statutory requirements to allow U.S. Attorneys admission on motion would be less than the former proposal, since there would be fewer rules and programmatic changes required.

The fiscal impact of further exploring the Portfolio Bar Exam or a Supervised Practice Pathway is currently unknown, as the proposal that was previously submitted to the Court would need to be significantly revised to address the Court’s concerns. It would, however, require staff time from Admissions and the Office of General Counsel to explore these options.

AMENDMENTS TO RULES

Additional programs will require amendments to Rules of Court and/or State Bar Rules. Changes to attorney admission will require statutory changes.

- California Business and Professions Code section 6060(g)
- California Business and Professions Code section 6060.5
- California Business and Professions Code section 6062(a)-(b)
- California Rules of Court, rule 9.3(a)
- California Rules of Court, rule 9.49
- California Rules of Court, rule 9.49.1
- Rules of the State Bar, Title 4, Division 1, Chapter 2, Rule 4.15-4.16

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS

None

RESOLUTIONS

Should the Committee of Bar Examiners concur, it is:

RESOLVED, that the Committee of Bar Examiners recommends that the Board of Trustees advance the following remedial programs to the Supreme Court for the February 2025 California Bar Exam applicants who were unsuccessful or withdrew from the exam, with the specified parameters:

To be completed after committee discussion.

ATTACHMENTS LIST

- Pass Rates for the Past Ten Years by Population-Type
- [December 23, 2022, Supreme Court Order Regarding the Provisional Licensure Program](#)
- [December 15, 2023, Letter to the Supreme Court Recommending Approval of a Pilot PBE](#)
- California Business and Professions Code section 6060
- California Business and Professions Code section 6060.5
- California Business and Professions Code section 6062
- California Rules of Court, rule 9.3
- Rules of the State Bar, Title 4, Division 1, Chapter 2, Rule 4.15-4.16