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Hearing of the Assembly Judiciary Committee on the State of Legal Education in California and the Process of Preparing for Admission to Practice

Assembly Committee on Judiciary

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ASSEMBLY COMMITTEE ON THE JUDICIARY

HEARING OF THE ASSEMBLY JUDICIARY COMMITTEE ON
THE STATE OF LEGAL EDUCATION IN CALIFORNIA AND
THE PROCESS OF PREPARING FOR ADMISSION TO PRACTICE

Hearing of March 26, 1985
Room 126
State Capitol
Sacramento, California



Assembly Members
Elihu M. Harris, Chairman
Wayne Grisham, Vice Chairman

Lloyd Connelly
Gerald N. Felando
Sunny Mojonnier
Maxine Waters

Jean Duffy
Patrick Johnston
Richard Robinson
Phillip D. Wyman

Rubin R. Lopez, Chief Counsel
Ray LeBov, Counsel

Mark Harris, Counsel
Lettie Young, Counsel

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- Mark T. Harris, Counsel

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Assembly Committee

on

Judiciary

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MYRTIS BROWN
COMMITTEE SECRETARY

February 1, 1985

Mr. Burke Critchfield, Esq.
President
State Bar of California
555 Franklin Street
San Francisco, California 94102

Dear Mr. Critchfield:

During the spring of 1984, the Judiciary Committee of the California Assembly conducted a hearing which investigated the controversy surrounding the July 1983 bar examination. Although that particular bar examination's grading procedure is no longer under scrutiny, several unanswered questions have arisen regarding both the State Bar of California and the Committee of Bar Examiners.

Therefore, the Judiciary Committee will conduct two hearings which will focus on several issues related to the practice of law in California. The first hearing is scheduled for March 12, 1985, and will commence at 3:00 p.m. in Room 126 in the State Capitol. That hearing will provide an overview of the interrelationships between the state Supreme Court, the State Bar of California's Board of Governors and the Committee of Bar Examiners. Additionally, the above-mentioned bodies will be expected to provide the Judiciary Committee with a description of their decision-making and administrative processes. The second hearing will be conducted on March 26, 1985, at 3:00 p.m. also in Room 126 and will feature input from undergraduate school deans; law school deans; law student organizations; the Educational Testing Service; and women and minority bar associations. It will focus on the state of legal education in California and on the process of preparing one for admission to practice.

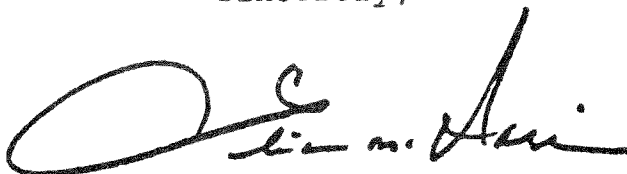
To ensure that the hearings will provide a thorough and useful framework upon which to build a more complete understanding of

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the process of becoming an attorney in California, a short questionnaire has been enclosed with this letter. Please complete the questionnaire and return it to Mark T. Harris, of my staff, by February 15, 1985. You will receive a follow-up letter that will request a confirmation of your participation as a witness during the hearings.

Thank you for your assistance and participation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Elihu M. Harris". The signature is written in dark ink and is positioned above the printed name.

ELIHU M. HARRIS

EMH:MTH:mea

CHAIRMAN ELIHU HARRIS: We're here this morning to continue our investigation of the State Bar examination and attendant subjects.

The purpose of this hearing is to provide the members of the Judiciary Committee with additional insight into the process of becoming an attorney in California. This hearing is informational in nature and as such, will cover many subjects. It is not the intent of this hearing to provide answers to each of the significant questions that exist regarding the myriad of issues affecting law students, law academicians, practitioners and jurists; however, this hearing will add to the developing pool of information on the policies and practices of the State Bar of California and the Committee of Bar Examiners, which will enable the Judiciary Committee to work with the State Bar to respond to the public's concerns; specifically in the area of admission to practice and attorney discipline.

This morning's hearing will feature the testimony of the State Bar of California, the State Bar's Committee of Bar Examiners, the California Postsecondary Education Commission, several California law school deans, and representatives of undergraduate pre-law advisors, representatives of law school graduates and representatives of minority law student's associations.

We'd like to begin with the representative of the State Bar.

MR. BURKE CRITCHFIELD: Good morning Mr. Chairman, it's nice to be here and we're here to answer your questions. First I'd like to say we've submitted to you and I think you have a copy and the members of the committee, a letter dated March 25th in which we've tried to answer questions which were brought up at the last meeting and we submit those. In addition to that, Mr. Chairman, we have a number of people here and I'd like to identify them so that you can call upon them to help answer questions.

CHAIRMAN HARRIS: All right.

MR. CRITCHFIELD: Diane says I should identify myself. I'm Burke Critchfield, President of the State Bar of California. Also here with me today is Diane Yu, who is the chair of the Committee of Bar Examiners. Herb Rosenthal, who is General Counsel of the State Bar of California and Dr. Stephen Klein, who is our special consultant to the Committee of Bar Examiners, Dean John Gorfinkle who is the educational consultant for the Committee of Bar Examiners, and Jane Peterson Smith, Director of testing for the Committee of Bar Examiners. In addition, we have two people from out-of-state who came to assist, Cynthia Schmeiser from Iowa City, Iowa, who is the Vice President of Testing Development, the American College Testing Program and John Germany from Tampa, Florida, who is the former chair of the

National Conference of Bar Examiners and currently he is the chair of that conference, multi-state bar examination committee.

We're having more copies of this letter prepared, Mr. Chairman, so it will be available to everyone, but I think all the committee members have one and with that, we open it for questioning that you may have.

CHAIRMAN HARRIS: Why don't you go through the summary of that letter. I don't seem to have it here. I don't know where it is. Why don't you go ahead and give a summary of that letter?

MR. CRITCHFIELD: In the letter, Mr. Chairman, there are eleven questions and what we did is we reviewed our notes from the meeting and the written transcript, which we were ably provided and I'll just quickly summarize the eleven questions.

The first question is how relevant is the bar exam to the testing qualifications of an applicant to practice law in California? Does it have any relation to the amount of discipline that has to be exercised after a person is admitted and can the committee say with validity, after a person passes the bar exam, will he or she be qualified to practice law and all of its manifestations in the state, and if not, why not?

The second question is what are the standards applied for law school accreditation? (3) What recommendations does the Committee of Bar Examiners and the State Bar have regarding the accreditation process? (4) What is the role of law schools in

preparing people for a legal education and for practicing law in the State of California? (5) Why is the bar exam, does it seem like it's constantly changing and we have a summary on Page 5 of that letter, the changes that have taken place in the exam for the past 12 or 14 years. (6) Has the committee "changed the rules in the middle of the game?" (7) Should the curriculum of law schools and pre-law school education be prescribed? (8) What is the relationship between and among the following factors: College training, the LSAT score, the ability to matriculate in law school and to pass the bar exam, and (9) why is it that persons who spend three or four years studying law school have a difficult time passing the bar exam. If the person graduates from an accredited law school, why can't that person be guaranteed to pass the bar exam? (10) Instead of giving a first year law student an examination referred to as the "baby bar", should the CBE give the bar exam in stages after the first, second or third year of law school, and the last question is, is specialization one way of making sure that people who exercise professional responsibilities are, in fact, adequately trained and prepared to exercise that responsibility?

And so we've attempted to answer all of those questions and if anyone wanted to ask any particular question, and I think there are people here who can help expand on that.

CHAIRMAN HARRIS: Do you have any comments at this point or do you want to just simply stand on the letter that you submitted?

MR. CRITCHFIELD: I would submit the letter for the record.

CHAIRMAN HARRIS: All right. Do any of your witnesses have anything to add at this point?

MS. DIANE YU: My name is Diane Yu and I'm chair of the committee. I do have available to you additional people if you want to question them. I recall that last week there was some specific questions about certain portions of the test. We have individuals, nationwide, who can address some of those concerns. It's really a matter of what kind of information you'd like to have. We'll try to supply that.

CHAIRMAN HARRIS: Why don't you, if you don't mind, retire and we would ask you to come back at the end and perhaps respond to questions that may arise out of the testimony.

Dr. Cynthia Schmeiser, from the test development section of the American College of Testing, and also, Mr. John Germany, from the National Council of Bar Examiners. Welcome, it's nice to have you here and thank you for coming. I guess you're aware of what we're here about. We really trying to look at the California bar exam and make a determination as to its relevancy, whether or not, in fact, it is a reliable indicia of professionalism in California relative to the legal practice of law and we'd like hear your answers.

MR. JOHN GERMANY: Mr. Chairman, it might be better if I went first, because that deals more or less with the policy matters.

I speak from the MBE situation. I can refer you back prior to 1972 when the MBE started and in those instances examinations were based strictly on essays and you may remember that it's very difficult to grade an essay examination in which you are totally fair to all applicants. In those days, boards of bar examiners were being sued throughout the country by applicants on the basis that the bar examination was discriminatory, and a group of lawyers got together and decided that there was a better way of testing, which would allow an applicant to take an examination which would test his legal skills, his or her legal skills, and be graded by a machine so that there would be no discrimination whatsoever. And in that way, the MBE was born. It was first given in February of 1972 and California was one of the first states that gave it.

CHAIRMAN HARRIS: Within how many jurisdictions is the exam used?

MR. GERMANY: All jurisdictions, Mr. Chairman, except Iowa, Indiana, Louisiana, who has of course, the Code Napoleon and I guess the State of Washington. But all major jurisdictions give the examination. In fact, members and Mr. Chairman, the MBE has become so well accepted that there are certain states, such as the State of Pennsylvania and others, that say they take the scores from the MBE and if the applicant makes "X" score on the MBE, they don't even grade the essay examination. They only use the essay as a backup to try to get the applicant over the hurdle of passing the bar.

ASSEMBLYMAN WYMAN: Do you think that's a good policy?

MR. GERMANY: Yes, Mr. Wyman, the purpose of the bar exam, really, is to test minimum competence. It kind of makes sure that the law schools do not go extremely haywire in what they are teaching the students.

ASSEMBLYMAN WYMAN: Have you ever tried a case where the judge asked that you use a yes/no device for both attorneys and then he was submitted those results and dispensed justice?

MR. GERMANY: Mr. Wyman, the jury is asked the yes/no verdicts when they make a decision as to whether somebody is liable or not liable.

ASSEMBLYMAN WYMAN: As you know, cases can be heard before the judge without a jury. My point is, I asked this question of our bar examiners and I certainly expressed this legislators opinion who has taken both of those examinations, the multi-state and the written essay examination, that each should be graded separately and that one should not be dismissed in the absence or the arrival at a certain score in the other, but I am coming from the perspective that I think that writing and the ability to express one's opinion, are if you will, traits that need to be trained in our levels of education, particularly in law school, and to the extent that we have tried to reform K-12 education in these last few years in Sacramento, here in the Capitol, we've tried to emphasize those basic techniques and to hone them, and I think if there's any occupation that needs to

see that those abilities are honed, it's the legal profession, because writing really is the gist of the legal profession, so my concern is with the multi-state bar examination, insofar as its ability to test those important attributes for an attorney to practice law, and also, my concern is the effect that some people have when they are confronted with a test like that. Some people are better at writing, other people are better at taking tests. We have law school aptitude tests which now determine whether a certain skew of people even are given the opportunity to study law in the first place, we have examinations that tell a person whether they will even get into undergraduate school, based upon the raw level that they achieve on the SAT and it just seems to me that we're going to be training people in written expression and their ability to convince a jury, if you will, of the innocence of their client, we ought to be testing somewhere along the line, their ability to express themselves in a written manner. And I guess that there's a place for the multi-state bar examination and a right/wrong, so-called multi-guess examination, but one of the reasons we're here and discussing this is to delve into the rationale and be sure we're not going off a cliff, here, and I am not convinced that any jurisdiction should throw out the written work product of law students in an examination if they've passed the multi-state portion. I think the world turned upside down as far as legal education is concerned and I would like to hear from some of the deans who are present today, the Dean of

McGeorge, the school that I graduated and Mr. Connelly graduated from is here, and in the entire time that I attended McGeorge, we never took a multi-state type examination in preparation for passing the courses that we were required to take to get the ticket to go take the bar examination, and I guess I'd like to hear also from the deans who are present, if they are changing the way in which they are teaching the law, in the various law schools in this state and elsewhere, in anticipation of their students having to take that exam and if, in fact, they are not, that's not telling us something as to where the real focus should be, as it relates to training future attorneys.

MR. GERMANY: Let me just correct one thing. This is not a true/false examination, it's not a yes/no examination. You're getting a set of facts and from that you have to make certain deductions from it.

CHAIRMAN HARRIS: Is there a recommended standard in terms of the pass rate, nationally?

ASSEMBLYMAN GERALD FELANDO: How can you sit there and make a statement like that? You still don't have to write.

MR. GERMANY: Make a statement like what?

ASSEMBLYMAN FELANDO: Like describing the test.

CHAIRMAN HARRIS: It is a multiple choice, it's not a yes or no.

ASSEMBLYMAN FELANDO: You do not have to write. I think you sat there and listened to Mr. Wyman for five minutes and I

don't think you heard a word he said. You have to be able to write.

MR. GERMANY: You also have to be able to talk, too, and at the point...

ASSEMBLYMAN FELANDO: That's the problem, there's too much of that.

DR. CYNTHIA SCHMEISER: If I might add something. I'm not familiar with the practices in Pennsylvania, but it would not surprise me if actually both pieces of information, the essay and MBE are used, but that perhaps an MBE score at a certain level is considered to be indicative by past performance that they also will do well on the essay at that particular point and it may be, and again, I'm not proposing to speak for the State of Pennsylvania, but it very well may be that the essay is considered in conjunction with the MBE at that point, and below or at certain score levels, I don't think...

ASSEMBLYMAN WYMAN: And that point was brought out last week. There is a statistical point, and if you get a low enough score on the multi-state, that it would seem that the reading of the written essays would be immaterial, because a person would fail anyway.

I always question those kinds of decisions and I'm pleased and I encourage our State Bar not to make that kind of a determination. They don't - of the three portions of the examination as it was described to me, each portion is separately

graded and then the three are collated to see what the total score is. Nobody is going to second-guess a person who has done poorly on the multi-state and not even graded the other two provisions as is the case in this state.

CHAIRMAN HARRIS: I was asking a question relative to the - do you have a recommended passage rate, nationally?

MR. GERMANY: No, Mr. Chairman, that's left to the individual states.

CHAIRMAN HARRIS: Is there any mean, is there an average?

MR. GERMANY: Well, let me ask Ms. Yu. She is the Chairman of the Board of Bar Examiners for California if she would answer that question. We do not have a recommended...

CHAIRMAN HARRIS: You do not know whether or not in other states there is a mean average for the score. I mean, don't you have a sense of what the passage rate ought to be.

MR. GERMANY: Yes. Other states have that, but each state sets its own.

CHAIRMAN HARRIS: I understand, but what is the average nationally?

MR. GERMANY: Well, it's according to which examination you're talking about.

CHAIRMAN HARRIS: Is there more than one MBE?

MR. GERMANY: No, no, you see, each examination, they change the score on each examination, yes.

CHAIRMAN HARRIS: Why, is each exam a different degree of difficulty?

MR. GERMANY: Yes, and that's why they have what they call a scale score, rather than a raw score.

ASSEMBLYMAN LLOYD CONNELLY: What was the average for the last MBE exam? We're just trying to identify a constant so we can compare it with California's rate.

MR. GERMANY: What was that?

DR. SCHMEISER: For July, 1984?

CHAIRMAN HARRIS: That'll be fine.

DR. SCHMEISER: That one? The average scaled score on the MBE was 139.2.

ASSEMBLYMAN CONNELLY: And how did that compare with California?

DR. SCHMEISER: California's, July '84 mean according to our records was 140.7.

ASSEMBLYMAN CONNELLY: Is that the mean for passage, just so I understand?

DR. SCHMEISER: No, that would be the mean, the average scaled score that would have been obtained by the examinees in California.

ASSEMBLYMAN CONNELLY: I apologize. Maybe I misunderstood Elihu's point.

CHAIRMAN HARRIS: No, you didn't.

ASSEMBLYMAN CONNELLY: I was thinking of a different point. What I understand, and I may be incorrect, is there is a different passing standard from one state to another and what I understood Elihu's question was, is what is the average passing standard? Not the mean performance, and then what is the passing standard in California? The people behind you say that have that, so...

MS. YU: Mr. Chairman, I believe the questions and also the questions that Mr. Harris and Mr. Connelly raised, could be answered by Stephen Klein, our consultant.

DR. STEPHEN KLEIN: Good morning. The problem with the question is as what John alluded to. Each state sets its own standard, but the problem is deeper than that, because each state does not behave in the same way in terms of the kinds of exam that it gives. Let me give you an example. Some states require people to pass both the essay and the MBE in order to...

CHAIRMAN HARRIS: That's not what I want. I want a number.

DR. KLEIN: I understand that you want a number, but the problem is there is no such number. Let me cite an example. If you have a state that says you have to pass both the MBE and the essay, and then the passing score on the MBE might be 135, the passing score on the essay is going to be set whatever the standards are in that state, and the overall percent passing is going to be lower than the percent passing, either the MBE or the

essay, by definition, because in order to pass overall, you have to pass both, so the total percent passing is going to be lower.

Now, what score that state has is sort of meaningless in this context. You have to say, what is the score for the MBE, what is the score for the essay. That is a very different situation than a state such as New York, which scales its essay scores to the MBE and says, all right, you need a score of 134 in order to pass. Oregon has like a 142. They are all over the map. They range from probably low (inaudible), if you use that procedure like California has done for research purposes, but not operationally, if you do that procedure, then we can answer the question, okay, but I'd have to change what the state do. I think that's the key thing. It's not what the states are doing, it's what we would come in and do overall and then say, we can infer what they are doing. And if we do that...

(MULTIPLE VOICES)

CHAIRMAN HARRIS: How do you determine what a reasonable passage rate in California should be?

DR. KLEIN: There is no passing score on the MBE.

CHAIRMAN HARRIS: Not the total score, necessarily, and obviously, this is one-third, one component, how do you determine what is a fairly weighted amount of or a numerical score for the MBE?

DR. KLEIN: Assigning a third of the weight to the MBE? What's the fair score for the MBE?

CHAIRMAN HARRIS: For purposes of the passing.

DR. KLEIN: But there is no score on the MBE for purposes of the passing, that's the point. It's weighted a third. There's 600 points assigned to each of the three parts of the exam and a person needs a total score of a certain number in order to pass the exam and that's the way the exam is set up.

Now, there's no pass/fail number for each part of the exam.

ASSEMBLYMAN CONNELLY: Can you get Zero on the MBE and pass?

DR. KLEIN: You can't get a zero on the MBE. If you answered all the questions...

ASSEMBLYMAN CONNELLY: What is the score that you have to make?

DR. KLEIN: No, there's no score that you could make on the MBE alone, that you'd pass overall, it can't be done.

ASSEMBLYMAN CONNELLY: Let me phrase the question another way. If I received a minimumally sufficient score, minimumally average, on the other two portions of the test, assuming there were no MBE, right, which I assume on the essays is 70, but I really don't know, in that instance what you need on the MBE in California in order to pass?

DR. KLEIN: If your total score was a 420 on the performance test and a 420 on the essay, you would need a 420 on the MBE in order to pass overall in California.

ASSEMBLYMAN CONNELLY: Is that comparable with other states?

DR. KLEIN: When you say comparable with other states, the other states are not comparable, Mr. Connelly, because they vary so radically. I can tell you which states they are comparable to, and which states it's not comparable to, if that would help you.

ASSEMBLYMAN CONNELLY: Let me approach it from a much more simple direction. Does a typical student have to do better on the MBE in California in order to pass the bar, than the typical student in other places in the United States?

DR. KLEIN: Probably.

ASSEMBLYMAN CONNELLY: Okay, now you said, probably, so you must have some quantification of what that probably is. What is that quantification?

DR. KLEIN: All right, that's the procedure which I said I could go back and infer what other states are doing. I'll set up a set of rules and I'll go back and figure out what the other state, in effect, was doing. And if I do that, then I can place California on the picture relative to these other states, and California has one of the most difficult examinations going. There's no question about that.

CHAIRMAN HARRIS: Okay.

DR. KLEIN: But that's the point of all this. It has nothing to do with the MBE, it's the same on the essay. In fact, in California, the essay is harder than the MBE.

ASSEMBLYMAN FELANDO: I have a question. What's the highest score that you can obtain on the essay? How many points?

DR. KLEIN: Six hundred, theoretically.

ASSEMBLYMAN FELANDO: What's the highest on the oral, or what do you call it? The performance?

DR. KLEIN: Theoretically, 600.

ASSEMBLYMAN FELANDO: Okay, I score 1200 on those two, what does my MBE score have to be?

DR. KLEIN: Sixty points. 1260 is passing.

CHAIRMAN HARRIS: Of course, you're never going to score 600 on any one of those.

ASSEMBLYMAN FELANDO: You need a combination of 1260 and it doesn't matter how the combination falls.

DR. KLEIN: You've got it.

ASSEMBLYMAN WYMAN: I think you guys have got to do some reforming.

ASSEMBLYMAN CONNELLY: For those who have failed the bar examination in California, do they get a report as to how they performed on the multi-state and the written?

DR. KLEIN: Yes, they do.

ASSEMBLYMAN CONNELLY: And of those who have failed, how have they done as far as the written essay provision compares to the non-written portions of the exam? In other words, do we find a greater number failed because they don't do high enough on the multi-state and have passed the written, or is there any correlation?

DR. KLEIN: It's the other way around. The essay portion of the test is the harder of the two. The essay portion is the hardest part, the performance test is in the middle and the multiple choice is the easiest part of the test in terms of average scores. So if a person fails the bar examination, in general their essay score is lower than their multi-state score.

CHAIRMAN HARRIS: Dr. Klein, maybe you don't have the policy answer on this, but do you feel that the MBE or does someone from the Committee of Bar Examiners, would they think that the MBE is the representative indices of competence to practice law?

DR. KLEIN: My understanding is they feel it is one of the measures that together with other measures, provide that information.

CHAIRMAN HARRIS: Why can you not retain your MBE score, if in fact, you score sufficiently high, and why isn't it cumulative? Why can't you pass one part and then another.

DR. KLEIN: Well, retaining a score and passing...

CHAIRMAN HARRIS: If I scored 200 on the MBE, why should I have to take the MBE again? Doesn't that indicate that I sufficiently mastered the subjects of the MBE? Why should I have to take that whole exam again, if it's not an obstacle course or a test of endurance?

DR. KLEIN: All right. There's a couple of ways to answer that question.

CHAIRMAN HARRIS: I want to hear both of them.

DR. KLEIN: Okay. Let me give you analogies. Suppose you take a test...let me back up. There's two parts to this. One is being able to take a test and pass that test; the other is taking a test and retaining that score, and those are different.

CHAIRMAN HARRIS: Fine, let me hear both answers.

DR. KLEIN: Okay. Taking the test and having a pass/fail decision made but not retaining the actual score, let's say for the moment.

CHAIRMAN HARRIS: Give me an answer, I am not going to keep repeating the question.

DR. KLEIN: If you just take on the pass/fail basis, you retain the pass/fail basis, that results in a lower passing rate, a substantially lower passing rate, than requiring everybody to take the whole exam. And they have the perception of fairness but it is probably unfair to the applicants if you try to pass that way, all the studies that we've done show that you are going to have a much lower passing rate if you try to pass going that route.

CHAIRMAN HARRIS: Why is that?

DR. KLEIN: Because you're not retaining the actual number of points. Let me give you a hypothetical example. Suppose that you take the MBE and you get a score of 435 on the MBE, we say you passed the MBE, but let's say you're the kind of person that tends to do better on multiple choice tests than you

do on written tests. You turn around to take the essay portion of the examination, you'd have to get a score of 420 or higher on the essay part. That 15 points is not there anymore. You don't get the benefit of those 15 points, because all you've done is you got a pass or fail. You don't carry the actual number of points, that's the distinction between pass and fail.

CHAIRMAN HARRIS: Why shouldn't I have that option?

DR. KLEIN: The actual number of points, the decision, the overall decision, the reliability of the total exam, the total exam reliability, the consistency of measurement and the accuracy of measurement says we'll need all three parts. We need the scores on all three parts.

CHAIRMAN HARRIS: Why? You got my score on the first parts.

DR. KLEIN: But the problem is on any given occasion, some people do a little bit better on one part, and the other part, and that's chance, and we want to eliminate the effect of chance. You're capitalizing on all chance variation. A procedure that says everybody can retain the actual number...

CHAIRMAN HARRIS: Why can't you establish a passage rate for the MBE, and if I passed the MBE why should I have to take it again? Why can't you do that? Why can't you say this is the score you need on the MBE to pass?

DR. KLEIN: That can be done, although I'll tell you, the effect of that is going to be a lower pass rate in California.

CHAIRMAN HARRIS: Why?

DR. KLEIN: Because it is harder to pass separate parts of the test.

CHAIRMAN HARRIS: No, no, no. If you say, this is the score you need to pass the MBE, period. And if I pass the score 150 points, 140 points, whatever that is, if I reach that level, I don't have to take the MBE anymore.

DR. KLEIN: Then you take the essay.

CHAIRMAN HARRIS: I take the essay, now I've got a score of 70 averages, on the performance I got a 70...

DR. KLEIN: And that is going to be harder for you.

CHAIRMAN HARRIS: Well, why shouldn't I have that option?

DR. KLEIN: Why should you have that option?

CHAIRMAN HARRIS: Why should I not have that option.

DR. KLEIN: There's a couple of reasons why you shouldn't have that option. One is that there is a huge logistical problem associated with that

CHAIRMAN HARRIS: That's not my problem.

DR. KLEIN: Well, you asked what the problems are and I'm telling you. One problems is the huge logistical problem. Especially when you talked about having a three part test. The estimates are that that would add about a month to six weeks on score reporting.

CHAIRMAN HARRIS: Why?

DR. KLEIN: You'd have to get the people involved in the administration of the examination to tell you why.

CHAIRMAN HARRIS: The MBE comes back in 30 days, doesn't it?

DR. KLEIN: That's the MBE, but that's not the decision process. The decision pass/fail process has to take all the parts of the test into consideration simultaneously, so we have to go back and check all the records to see...okay, you see the problem, we go to trifurcation. When you trifurcate the examination, you have to keep track of the person's pass/fail status on all three parts over time. It's recordkeeping and it also involves, when we get people who are close to the pass/fail line, we also have double readings to get in terms of the accuracy and the fairness of the scores. So it starts getting a little bit more complicated. You've have to ask one of the people involved with the administration of the examination, the scoring and so on, as to why it would take six more weeks, but that is the estimate that we've heard.

CHAIRMAN HARRIS: I'd like to introduce Assemblywoman Teresa Hughes, Chairwoman of the Assembly Education Committee, Mrs. Hughes, do you have a question?

ASSEMBLYWOMAN TERESA HUGHES: Would you, please, I don't want to take up the time of the committee, briefly give me the parts of the exam and the scores that a person has to have to pass?

DR. KLEIN: All right, there's three parts to the exam: essay, performance test, and MBE. In order to pass you have to have a combined score of 1260 or higher. You can get it by any route. What we do know is that people who score high on the essay also tend to be the same people who score high on performance test and on the MBE. So if you do well on one you are generally doing well on the other.

ASSEMBLYWOMAN HUGHES: What is the nature of the performance test?

DR. KLEIN: Maybe we should have Jane or Diane?.

ASSEMBLYWOMAN HUGHES: Is it a written test? The performance is still a written?

DR. KLEIN: They give you some data and then they ask that you organize that data.

ASSEMBLYWOMAN HUGHES: And then you have to build your case and write your brief, et cetera. Now, please explain to me the logistical problem, you said to Mr. Harris it would be a logistical problem to keep this information, explain that to me what the problem is.

MS. YU: Mr. Chairman, this is Jane Peterson-Smith who is Director of Examinations for the Committee of Bar Examiners.

MS. JANE PETERSON-SMITH: California tests approximately 12,000 people a year. We currently are gathering eight pieces of information on each of those 12,000 people. If you accept scores from previous administrations, you then have to retain records on 96,000 pieces of information a year and...

CHAIRMAN HARRIS: Excuse me Ms. Smith, not if you break it down, not if you break the examination down into parts and you allow people to either have a cumulative score or in fact you can pass a part. I don't understand why I should have to take the MBE twice if I scored a sufficiently high grade, whatever you determine is a sufficiently passing grade on the MBE.

ASSEMBLYWOMAN HUGHES: For instance, Mr. Harris makes a good point. I know people who have taken the exam four or five times. You put people through a tremendous trauma having to go through all the parts of the exam again. If they have passed, if I pass one part of the exam the first time, but I don't pass the other portion of the exam the second time, then I take it the second time and I still pass the portion of the exam that I passed the last time, plus I still don't pass maybe this essay portion and then I take it the third time; I still have to go back over the short essay portion, those portions that I passed before and you put additional pressure on me. So if you don't have any way of keeping those exam files, I as the applicant, I bet you better believe, I've kept the scores that I've gotten the first and the second time as I go up the third time to take it. So the question that Mr. Harris asks you; I don't understand why that's a problem, if the applicant has their scores?

MS. PETERSON-SMITH: We certainly do have the scores. The question as Dr. Klein mentioned, the logistical problem is one of timing. We have all of the data from all examinations computerized back to about 1977, so all data is available to us. The problem is that if you create five and six and eight and ten

different ways of passing the exam by combining certain different kinds of scores, you just add that much more time to the time it takes for us to get an exam graded and results released.

ASSEMBLYWOMAN HUGHES: But it sounds like you're in collusion with bar review courses keeping them in business so that each year I go back and take another bar review course because I think that I'm going to pass this exam. I didn't take bar review course "A", so this time I take bar review course "B" and it still doesn't help me. I still run into this problem and I still have to go through this frustration. How many students--what is the most difficult part of the exam to pass--which part do most students not pass?

MS. PETERSON-SMITH: The most difficult part of the exam is the essay portion.

ASSEMBLYWOMAN HUGHES: All right, do the people who flunk the essay portion, do most of those people who flunk that portion come from schools within our state or out-of-state law schools?

MS. PETERSON-SMITH: The vast majority of our applicants come from inside the state and therefore those who fail are coming from inside the state.

ASSEMBLYWOMAN HUGHES: Those who fail, now let me get this straight, those who fail the essay portion are graduates from California law schools?

MS. PETERSON-SMITH: Yes, ma'am.

ASSEMBLYWOMAN HUGHES: That means there's something wrong with our law schools, then, they don't teach through the

exam and so, that is really quite an indictment of our education system. So what is the Bar doing to help? You want to keep your profession a quality profession and we all want it a quality profession, what can you do to assist law schools in our state to help? Does it mean a revision of curriculum or does it start--are you telling us maybe that we ought to be looking at undergraduate education. Maybe the writing style--is that it, or is it the substance?

MS. YU: You've covered a lot of good points. I think we do see that the problem probably occurs even before law school, that it may be undergraduate and high school. It's a long standing process and apparently written and communication skills, although they are stressed throughout all of these various phases of education, there still is some difficulty in getting that across.

What I would like to say by way of what the committee does is that we do release the essay questions and the performance test questions after each exam with copies of answers that have actually been written on those exams. They're not model answers drafted by anyone, so that law schools and law students can compare their answers with answers that their counterparts actually wrote. So that does help a little bit and I think they can be used as a review.

ASSEMBLYWOMAN HUGHES: Let me tell you the reason for my question. I am concerned about the quality of education in this state and the committee that I chair deals with education on all levels, and we want to see that our students are successful in

mastering whatever skills need to be. It seems to me as the question that Mr. Harris asked you about the separation of the examination, certainly maybe you wouldn't want to do it for a one-time effort, but what benefit other than negative publicity and scare tactics do you arrive at having someone take an exam three and four times, and when they pass the other portion of it, if it's only one portion that they didn't pass, why couldn't that individual, having taken it more than once, I'm not just saying a first time shot, more than once, just be relegated to taking that portion that they consistently fail?

MS. YU: I think that in terms of the reliability or the pass rate, I think Dr. Klein addressed that, that in fact our evidence during the bifurcation period indicated that the pass rate was lower under bifurcation because people would have to score a passing score on all three parts separately, rather than take advantage of their strengths and weaknesses on the balance of that.

CHAIRMAN HARRIS: Excuse me. That's because of the cumulative scoring. That's the reason that occurs. If in fact a 70 is a passing rate. If I pass the essay exam with a score of 70 percent, why should I have to be retested on the essay if it's not an obstacle course or some type of cumulative endurance test?

MS. YU: The bar exam has been viewed as one exam, given in February or given in July, as one test and it hasn't, except for a limited period of time when we did make available the passing in sections, it has always been viewed as one test that you take all at once.

CHAIRMAN HARRIS: Why? Why can't you do this? If in fact, say even if it's 75 points, you establish a passing rate, so that if an individual has a problem, say, with MBE as Mr. Wyman has indicated, maybe he just doesn't do well on those kinds of questions. If that in fact is going to be a part of the examination process because it's fair, because it's a standard that it should be utilized in determining fitness or practice of law, then why should I not just simply be able to concentrate on passing that part of the test? I keep doing essays, I've done as well as I can do, I'm getting 75's on essays, but it doesn't come up and compensate for my low MBE scores. Why should I have to keep taking the essay?

MS. YU: Just from a policy standpoint there were three reasons why we terminated the bifurcated paths. The first one was when we introduced the performance test in July 1983, instead of a two-part test, we had a three-part test. We were not able at that time to put together the administrative and computer capabilities to compare scores from three different parts of the tests as compared with two. We could not do it for that year.

Secondly, we eliminated it because the evidence showed that it was much more difficult to pass in sections that in fact what we'd perceived or what many people perceived as a benefit was, in fact, working against students so we eliminated for that reason, and the third problem was that even if we were able to trifurcate, if we overnight could increase our computer capability by 50 percent, we felt that the four to six-week delay in getting the results out would be unacceptable. So those were the three reasons we stopped in 1983.

CHAIRMAN HARRIS: But then you'd have to admit that the bar exam in California is just as much an endurance test as it is a test of competency.

ASSEMBLYMAN GRISHAM: Did you have at one period of time a bifurcated test where you could pass just one section of it?

MS. YU: No. If you passed, for instance, the multi-state bar, you had up to three board administrations to pass the essays or visa versa. But we did have to keep track of your records and I think three more sittings of the test before you passed the essays.

ASSEMBLYMAN GRISHAM: You actually could like the CPA's, how long did that last; about two years?

MS. YU: About five.

MS. PETERSON-SMITH: Approximately four years for a four-year period one could do that. One also could take the option of repeating both portions of the exam and if that person passed on combined score, that would equal a pass, or it could be a pass on the section coupled with the prior pass so that it became a multitude of different methods of actually reaching that.

ASSEMBLYMAN GRISHAM: I understand. So what you're telling me that when they were testing there were less people passing the bar when they took the one thing and put it aside and then were merely tested on this.

MS. YU: That's right.

ASSEMBLYMAN GRISHAM: And you're now testifying is that if we trifurcate the thing like the CPA's are doing, where you

put one step aside and I think this is what the Chairman and Mrs. Hughes are really advocating, is that you do change your bar situation and go into a tripartite thing where you pass one and then put it aside and move on. You're telling them if you do that you'll have less people passing the bar.

MS. PETERSON-SMITH: Fewer people would pass and everyone's career would be delayed while we put together those scores. Certainly it's feasible.

ASSEMBLYMAN GRISHAM: You can do anything I accept that. But whether the law school professors think that's a good idea, whether or not the people who think they can become better lawyers or not doing it this way, I don't know that answer but it's certainly a change in our 100-year philosophy.

DR. KLEIN: I think what we have is a difference between the perception of fairness and what is actually fair. The perception of fairness is that if I pass one part, that I can put that aside and I can keep on going.

Picture two groups. One group of people are people who have passed one part and they have a choice; they could retake both parts and try to pass, and there's another group who say I'm just going to stop and concentrate on the part that I had failed previously. We have data that tells us what happens to those people, people who have only tried one part versus people who take the whole thing. The people who take only the part that they had failed previously, fail at a tremendous rate. The people who retake both parts, only a very small percentage of them pass solely because of the bifurcation rule. If they pass

they're passing because of their combined score, not because of the bifurcation rule.

CHAIRMAN HARRIS: What's wrong with the option?

DR. KLEIN: Well, the first thing that was wrong with the option is that it is going to lower the percent passing in California.

CHAIRMAN HARRIS: I'm grown, let me make that determination.

DR. KLEIN: The second thing in the logistical problem which Jane referred to before. And the third problem is the test reliability problem. Do you want to go flying with a pilot who passes the take-off test on one day and then a year later can't pass the take-off test but can pass...

CHAIRMAN HARRIS: Let me be quite honest with you Mr. Klein, I think the bar exam in this state is ludicrous. I don't think it is an indicia of somebody's competence to practice law in the State of California. I think that it is basically a farce. I think that it doesn't certainly indicate that somebody should be able to go into court and represent somebody. The trial skills of many of the lawyers in this state are atrocious. The bar exam does nothing to determine whether or not that person should be able to represent a defendant in court. You cannot tell me that this examination, in fact, is a complete indicia of competence in terms of representation of an individual in any legal situation. All you can tell me is that the bar exam has determined that a person has been able to sit down on a given day and pass three functional aspects of a legal practice, that may or may not be relevant to their education.

DR. KLEIN: I think that there are a couple of points. One is that no one is claiming that the bar examination tests everything that a person needs to know in order to be competent to practice law. We have said that. We are just testing some of the things. Second, is that the essay portion of the exam...

CHAIRMAN HARRIS: Excuse me, do you think that that also holds true for doctors?

DR. KLEIN: Oh, yes.

CHAIRMAN HARRIS: When a doctor graduates and passes his exams in California he may or may not be qualified to operate on somebody.

DR. KLEIN: I can tell you what the test part of it does.

CHAIRMAN HARRIS: They give hands-on examinations as well as written examinations.

DR. KLEIN: Right. But I am just referring to the written examination...

CHAIRMAN HARRIS: Yes but they are tested totally. You can't tell me they are tested just on the written. That is one of my complaints. All you are testing is people's ability to write and practicing law is not just the ability to write.

DR. KLEIN: I don't disagree with that statement. Nobody is claiming, though, that the bar examination is testing everything that a person needs to know in order to practice law.

CHAIRMAN HARRIS: Then how do we determine that?

MS. YU: I think that it is covered in our responses to some of the questions that were earlier submitted, that we feel

we are doing a good job in terms of testing legal skills, knowledge, analytical ability and some written skills. We are not able in the current structure of our educational system nor with the great number of applicants coming out every year to give the kind of hands-on test that you are talking about right now. That doesn't mean as a long-range goal we could work towards that end, but it is certainly is not feasible at the present time and we would need enormous support from the schools, students and the practicing bar in order to make something like an internship or hands-on approach, feasible. We anticipate with almost 13,000 people a year to place in internships that there would be some difficulties. We also anticipate that there would be some cost problems because if it were a mandatory part of the bar exam then employers would know that these students have to do it and they could exploit this group quite readily. So there does have to be a great deal of discussion among various segments of the bar and the bench to make something like that work. It is not absolutely impossible but it is impossible right now.

CHAIRMAN HARRIS: All right. Thank you.

ASSEMBLYMAN WYMAN: Mr. Chairman.

CHAIRMAN HARRIS: Mr. Wyman. Then I want to do something else. Go ahead.

ASSEMBLYMAN WYMAN: I think that you touched on a point that I discussed with Mr. Gampell after the hearing last week, the idea of a legal internship. I have a great respect for Mr. Gampell because obviously as the director of the Administrative Office of the Courts he has to observe those who practice in

those courts and perhaps has some meaningful suggestions, and he told me that he has a way that he thinks the bar examination should operate. I wish he were here so he could explain it himself in his imminently articulate manner, but he felt that at the end of the first year, four or five courses that are the core, first-year curricula, should be tested, written, tested; the end of the second year, the second year courses which combine the basic knowledge of the first year and apply them to the second year, that those areas should be tested and then in third year, now you touched on this, this is what's bringing up the idea of an internship, in the third year there should be some practical on-job sort of training and at the end of that third year a person is qualified and I think competently so, to practice law. But I am afraid we are just getting away from, as you indicated, and you touched it when you are talking about written and communication skills. Mr. Harris touched on it when he talked about the ability to go out and work in the community, to work in court, those kinds of skills are not being tested and although we may be coming from different perspectives, I don't believe in dividing up the examination. I don't think that's an approach, because really a person can't just as a CPA, study for one portion because you have to have all the legal background and knowledge. You would simply be studying technique in taking these multi-state sample exams until they totally psyched you out I would imagine. So the best approach is probably just to write and write and write some more and apply the old "IRAC" approach. It works in the law school I went to. It works in many of the...I think that it works, period.

But what is wrong with experimenting with a baby bar type of examination and as we get into accreditation I would like to talk about this. I have always thought that the baby bar was a great idea and it should be applied to all law schools, accredited or nonaccredited law schools. Why should we have accreditation there as an excuse for somebody not to be tested by the state bar for three years? Why should you have that aura over your head? Now I had to break for the military of three years between the beginning and the ending of my law career so it was six years I am thinking about this examination and meanwhile it is changing five or six times while I am overseas. I think that there is a better way and I think that Mr. Gampell suggested one and I think that the state bar has to make this examination relevant and Mr. Harris and Mr. Wyman and a lot of people in this state are very disappointed if we simply move in the direction of an essay, or a true/false, or a variation on that, a multiple choice examination to the exclusion of these skills that we have to utilize whether we are legislators, whether we are public defenders, whether we are district attorneys, whether we are governors, whatever, what is the relevance of this examination to preparing people?

I think the big problem is that law students don't know anything about the bar, the state bar and the examination until they are done and have invested three or four or more years of their life, and then all of the sudden and I have to believe this is the case, Mr. Chairman, all of a sudden because we have so many attorneys in this state, and it is the practicing attorneys

in this state that control the bar of this state, all of the sudden there is an unwritten decision that we better not pass too many simply because we have too many in society already. That is not the student's fault. If we should make some decisions and close down some law schools in this state, then bring that problem to us, let's confront it. If we have per capita too many attorneys in this state, which I think is the case, then let's not take it out of people's hides who have spent their fortune and their time and their family's precious time for years and years only to find that fewer than half of those who take the examination and are trained in this state, pass. That is not an indictment and I would disagree with somebody who said to Mr. Felando, "it's the law schools", It's not an indictment of the law schools. It is an indictment of the legal profession in the State of California.

CHAIRMAN HARRIS: All right, now, I'd like you to retire for a second and I want you to come back, but I'd like to hear very briefly from Mr. Bruce Hamlett, California Postsecondary Education Commission. Mr. Hamlett. Is he here? Okay, Mr. Hamlett is not here.

In that case then I'd like Dean Schaber, please?

DEAN GORDON SCHABER: Thank you very much, Mr. Chairman. I would appreciate just a moment, and I'd like to address what I consider to be two problems, the current ones that are facing law students and legal education and some of the long-range problems, and you, of course, have been mentioning them here this morning.

First, I'd like to make it clear to everyone; I'm not a statistician and I'm not a testing scientist. You've heard from Dr. Stephen Klein who is both of those things and I respect him for those things. He's a consultant for this bar examination, the multi-state bar examination, many state bar examinations and I have the good fortune of saying he's also a consultant for us.

Now, I come from a different perspective, and that is from the fact that I come from the perspective of being Dean of a California approved Law school for 28 years, perhaps too long, but long enough at least to know that the school has had an outstanding bar record. That was when the bar examination was only essays; that was when the bar examination was essays and multi-state, and unfortunately, not when the additional part has just been added. I come with a deep concern and an apprehension about the last two years and the future.

Now, in October of 1982, the performance test was announced to be added for July of 1983. At that time those who faced that additional portion of this examination were seniors. They had had no prior knowledge of the particularity of the thrust that was to be required of them on that examination.

The essay portion of the examination was simultaneously reduced to six questions. What happened, accredited law schools passed 70 percent; all candidates, 49 percent. No one was sure of the effective of this portion, this addition to the bar examination; I was sure of one thing, a sudden, unexpected drop of over 9.5 percent of McGeorge graduates. I asked Dr. Klein to study those results for me. I knew a few things for sure.

First, between 1974 and 1983 the examination had undergone a significant number of structural, procedural and grading changes. The state bar distributed a letter this morning; they counted seven, I count ten.

During the decade the statewide average rate in California declined about 12 percent. Sixty-one percent of the first-time takers passed in 1974. By the end of the decade, 49 percent in July of 1983 and even lower by two points the year before.

Now, I also know that during the last decade, the credentials of the entire law school population of this state rose, went up. Dr. Klein concluded on the overall basis, that the drop isn't explained by changes in the test. It's due to an average performance level drop, in his opinion. But I got some good news from him, and I'm deeply appreciative of it. He said, McGeorge's passing rate on the bar examination is statistically significantly higher than would be expected on the basis of it's graduate's LSAT scores, admission scores. On the average, it's graduates scored 27 points higher on an 1800 point score, exam, than would be expected and this trend held for all of the graduating class, for both the day and the evening divisions, for minority as well as Anglo graduates. But there was a little piece of disquieting news in this report. That disquieting news was this: The graduates did slightly better on the 1983 essay and multi-choice than on the performance test.

Now what about that performance test for just a moment. We've been talking about three parts; the necessity for three

parts of the test and what effect it may or may not have had; I asked myself what were the questions that were asked of these students? What courses were presupposed that had been had in the law school curriculum? Were we able to offer those courses to our students? Did these students understand. Here is the announcement dated January 11, 1984, in which the bar examiners said that while the analysis of the 1983 performance test was not yet completed, they would have a 1984 mandatory continuing experiment in the performance test.

The performance test, Mr. Chairman, says that the day you leave law school, you should be prepared to discuss, not only the drafting of a legal document, a written closing argument, drafting a discovery plan, drafting interrogatories, making a memorandum on client interviewing and counseling, tactical considerations in a trial will be included, law office or business practice "problems" will be included. It would appear that what really happened was, that we had a group of students who suddenly faced something that you as chairman have said here, is there another ingredient to law school education? Should there be a mandatory ingredient in law school education? That's something we should share; we should discuss and if it is to be so, then we need an opportunity to do just that for our students. We teach not only what's on the bar examination, but a great deal more, and we're prepared to respond. I concluded there was too fast and too unilateral a decision-making process involved. My confirmation, after one performance test, one performance test, there was an announcement

in this state, now I thank them, is temporarily at rest, to eliminate the traditional essay portion of the test. I'm also grateful that the bar examiners are considering a request that was made by many of us to restore a committee on cooperation, between the law schools and the bar examiners.

CHAIRMAN HARRIS: That does not exist, or did not exist for a period?

DEAN SCHABER: Yes, it was abandoned over three or four years ago with very few reasons and no announcement, offering professors and deans also a chance to be at the grading calibration sessions has been restored. All of those things will help eliminate some of the suspicion and some of the distrust which obviously has arisen and which is unfortunate.

Then came 1984, Mr. Chairman, a 20-year low point in the examination. What's the explanation for a 59 percent statewide average for ABA graduates; a 41.8 percent statewide average, which is the lowest by six percent than any other year since 1962 when the bar started to keep these records? I was troubled. I called my friend, Dr. Klein and said, help me with the McGeorge students. Tell me about them. The answer is, the precipitous drop in bar performance was not attributable to a decline in admission scores. All right. It's possible that students took time away from studying for the subjects in the MBE to prepare for the performance test. And one thing was sure, the July graduates in '84 didn't do substantially better on the bar

examination expected, given their LSAT scores as they had for one decade before.

ASSEMBLYMAN CONNELLY: Excuse me, Dean, just on that latter point. So that previously there had been a correlation between a high LSAT score and the high percentage pass.

DEAN SCHABER: It wasn't a high, it was that the LSAT, whatever it may be, predicted in a very excellent way, when combined with law school grades, the passing possibility at McGeorge; however, when this administration came about, the admissions, the qualifications of those people remained the same, but the scores dropped precipitously.

The net effect is this: Better students got lower grades. There is no question about it. The median LSAT of the graduates who failed the 1984 bar examination was 10 points higher than the same group of 1983 graduates. Now, better students get lower grades. That's one of your concerns, here. Why? Well, could the logic of human experience tell me, the examination was more difficult; it was calibrated more difficultly; it was graded more difficultly, or did the introduction of the performance test demand that students perform now in areas where they are or feel they are unprepared, because you may wish them to be prepared in these areas and it may be appropriate if we were to have a dialogue somewhere, but the students suddenly, maybe Dr. Klein was right, they took their time and they said, we don't know about these things.

I'd like to make a positive suggestion, Mr. Chairman, and I'd be delighted to answer any questions. I would like to see the bar examiners consider returning, in effect, to a two-day bar examination; essay, with the traditional communication skills and analysis that comes from it, and a multi-state bar examination. By the way, the students do slightly better on the "slightly" is the word, on the MBE than on the essay, even at McGeorge, but Mr. Chairman, the strengths of being able to answer the multi-state bar examination comes from the skills of analysis and critique that is basic to essay communications, and it comes from essay tests. Isn't it time, perhaps, to abate that performance portion until we have some interaction between the bar and the deans about course coverage, about the very things you're talking about. If we're to do these things, we must obviously respond the major significant change in the way in which you teach law school and retain the emphasis at the moment upon writing skills which can be taught, by the way, as well learned, and substantive skills, which can be taught and can be learned, and perhaps in less than 13 subjects, we could still have analytical and diagnostic skills for admission to the bar while we all agree on what additional avenues may be taken to provide a more competent graduate. Thank you, Mr. Chairman.

CHAIRMAN HARRIS: Could I also have Dean Bartosic and Dean Choper and Dean Friedenthal also come forward. I want to ask the deans, collectively, some questions and if I could to it all at the same time, it would be helpful. Mrs. Hughes.

ASSEMBLYWOMAN HUGHES: Dean, since you do represent McGeorge and it's a private institution, as a parent and wanting your son or your daughter to be successful, would you discount the fact that you are employed by McGeorge? Would you advise your children that they would have to go to a California law school to pass the California Bar?

DEAN SCHABER: Would I tell them that they should do it?

ASSEMBLYWOMAN HUGHES: Yes.

DEAN SCHABER: I don't think that's necessary.

ASSEMBLYWOMAN HUGHES: But, the examiners tell me that those people who do go to California law schools pass at a higher rate than those who go to out-of-state law schools.

DEAN SCHABER: I think what they're saying and I'll put on another hat; I'm secretary of the American Bar Association's Council on Legal Education which accredits law schools throughout the United States.

ASSEMBLYWOMAN HUGHES: Yes.

DEAN SCHABER: I'll put on that hat for a moment and I think perhaps what they are saying is this: That the law schools, 175 of them which are accredited; indeed, there are many that do not adequately prepare in the areas or have that kind of student body which would be equivalent to that that you might have taken the test from the California law school. But if you were at Iowa or Michigan or Harvard or Yale or Pennsylvania or a dozen other law schools, there would really be no significant

difference, in fact, their statistical data will tell you that some of those schools do much better.

ASSEMBLYWOMAN HUGHES: All right. Another question I want to ask you. What do you see as the plusses or minuses to an applicant taking only that portion of the exam that they had flunked?

DEAN SCHABER: Well, I'll tell you, I have said I wasn't a testing scientist or an expert. Dr. Klein, as you know, feels it would be detrimental to do that. There was a period of time as was mentioned, in which there was the opportunity. I don't know that we have an answer from the data of those four examinations and administrations which would give us a real sense of judgment on that portion. Obviously, it's done in other discipline. Obviously, you know in medicine there's a test after the academic training. In the CPA there are three portions. There are testing variations and I think that the answer to the question is that I don't think anybody really knows at this moment, that it would be detrimental to the student or to competency to to take it piecemeal.

ASSEMBLYWOMAN HUGHES: All right. I'm sure that you have probably had experience with individuals who score very, very high, who might be graduates of your institution. Does this guarantee that they will be tremendous attorneys?

DEAN SCHABER: No, of course not.

ASSEMBLYWOMAN HUGHES: No, all right, so I think it's true...

DEAN SCHABER: No, you know, this is really a gate-keeping device used to test for minimum standards.

ASSEMBLYWOMAN HUGHES: Right. Don't you think it has a very, very detrimental psychological affect on an individual if they have to continue to take the bar three, four, and five times because there is one portion of that exam that they can't crack and they have to go through the trauma of doing even that portion of the exam that they do well, and in addition to that, try to focus on the essay or whatever the portion is that have.

DEAN SCHABER: I think Dr. Klein said that would be psychological comfort, I don't know is it's testing comfort, but you do know one thing and I hope it's been said here, that Mr. Germany is here as the National Conference of Bar Examiners chief, that each state as we know sets its own passing level with respect to the multi-state portion of the bar. Ours is one of the three or four consistently highest in America. The score you got last year in California on the MBE would permit you to practice law in New York, but not here.

ASSEMBLYWOMAN HUGHES: But you'd still have to take the New York bar.

DEAN SCHABER: Well, sure, if as an applicant you had done it and gotten that same score, you'd have been practicing law in New York; you will not here. That's a matter of adjustment by the bar examiners.

CHAIRMAN HARRIS: I'd like to ask Dean Woody I think from Hastings, who is also here, would you come forward?

I have a number of questions that I'd like to hear your individual or joint responses. Number One: I'm really interested in your position relative to your ability to prepare students for the exam and more specifically, what you deem to be the relevancy of the bar exam and any changes that you think would improve the bar, or would, in fact, be a better indicia of a person's competence to practice law in California. What in fact, when you graduate people, what are you saying to us? Are you saying that these people should be able to practice law or are you just saying that they are prepared to take the bar exam, what does graduation from an accredited law school in California mean and also whether or not, in fact, we ought to limit law school admissions or students to attend only accredited law schools? Any of you can start and you can comment on anything else you'd like, but those are some of the questions I'd like you to touch on.

DEAN JESSE CHOPER: I'll start, Mr. Chairman, at Boalt Hall, I don't think that there is a great deal of consideration given to the bar exam. We've been fortunate to have a very good group of students and a fairly high percentage pass rate on the bar exam. You've asked a series of questions. I am personally somewhat familiar with the California bar exam, at least in respect to the essay questions. I've always thought that they

are fairly good questions, similar to those that you get on many law school examinations. Now, beyond that I don't have any judgment as to how they're graded or anything else.

When you ask what schools represent when they graduate students, there is a chicken and egg problem there. There is a bar examination that relieves a certain amount of pressure on the law schools to assume responsibility for answering the questions; are these people ready to go out and practice law? I think that if there were a situation in which there were no bar exam, law schools would have to think more about that.

CHAIRMAN HARRIS: What do you think about one recommendation or certainly one idea that's been thrown out that would see a phased exam that would be administered by the law schools? For example, why couldn't the law schools administer and MBE after the second year? Why couldn't the law schools administer a performance examination or, in fact, be more involved in the examination process, even if there were to be some final examination that the law student would have to submit to it one sitting?

DEAN CHOPER: I don't quite understand what it would mean for the law schools to administer the exams.

CHAIRMAN HARRIS: Well, first of all, I don't care if they administer it, I'm merely talking about the phased aspect of the examination. In other words, that after the second year, you might be tested on the MBE for example, because by the second

year one would assume the students have taken all the courses that are covered by the MBE.

DEAN CHOPER: I haven't thought about that.

CHAIRMAN HARRIS: I'm just trying to find whether or not there's something to this idea of an endurance test where you sit and all of a sudden it's a do or die exam, you've got all the subjects, you've got three days and you're going to somehow make a determination as to whether or not a person has learned three years worth of law in a three-day examination.

DEAN CHOPER: Well, I guess you want to be careful about not making it a three-year endurance exam, but that is from; my quick reaction would be that a concern of law schools would have to be whether students knowing that in the middle of a law school process, they're going to have to start taking bar qualifying exams that might not interfere with their studying what we think they ought to be studied when they are in law school. I mean, that is a problem I see quickly, but I...

CHAIRMAN HARRIS: We asked you to do that with the baby bar.

DEAN CHOPER: We do. I have no direct experience with that.

DEAN JACK FRIEDENTHAL: I'm Jack Friedenthal, Stanford University. There's some very difficult issues in the question of a phased examination as we talk about it. On the surface, it seems like a good idea, but there are problems. For one thing,

you are going to have to administer this with respect to many students from outside California and a good many of our best lawyers do come from other schools, so we would have some type of problem. Every school in the United States and indeed people from abroad who might want to qualify at some point, but have a difficulty in matching that. We certainly don't want to shut out those people, many of whom are Californians who want to return here who may go to Harvard or Yale or Michigan or any of the other schools, so that poses one problem.

The second aspect of that and the one that you suggest, which again has, at least on the surface on merit, the problem of giving an examination during the year, say after the second year or after the first year; a baby bar and maybe even a second year, the problem there apart from the outside schools, is that we do have a range of levels of law schools in California, as you well know. That would change legal education in some of those schools, primarily those at what I would consider the lower end; that is, those that have the lesser students, they would by and large spend an entire year preparing for whatever particular bar or whatever particular exam you are going to have.

Jesse and I and the others here are lucky because the students we have we can try to train in the techniques of the law as a general proposition. We don't have to concentrate on passage and I think in the long run, what we do is we turn out people who become better lawyers, or we can add courses that are

designed to give students a better view of the world, and indeed, clinical programs. At Stanford, we have a very fine clinical program, instead of clinical, training programs that actually do in so many cases, teach you how to prepare complaints and documents, as well as other things, but we can do that in a context of service and understanding one's obligations to the community without worrying about the bar exam. The bar exam is a second test. It is, as Dean Schaber said, an entry level matter. It's difficult to know where it should be set and it's difficult to know how the law school should respond. But we don't want the tail wagging the dog. We don't want the set bar exam which is going to change the basic legal education in the best form that we have it. And I'm afraid that that's what would happen. What would happen, is we would go to the lowest level making sure that people pass the bar. The purpose of law school is to educate, not to get people through the bar. Now that is a gamble and it hurt, believe me, I did the admissions at Stanford for four years. No one likes to see a student who you've had for three years fail the bar exam. But that happens.

Also, remember that you don't want to change your school in such a way as to deal only with the California bar. Stanford law students, 34 Stanford law students took only the New York bar this time, out of 165 graduates. That's a fairly large percentage if you're dealing only with the California bar, you're cutting some of those people off. Everybody has to kind of look

beyond and some will take the Massachusetts bar, some will take, as we say, 34 took the New York bar, so you do have to look at the fact that your law schools are educational institutions dealing not only with California, and that people will be coming from outside as well.

That doesn't completely answer your question, but it does answer your question, I hope, with respect to the relationship between the law schools and the bar.

CHAIRMAN HARRIS: Okay.

MR. WAYNE WOODY: Wayne Woody, Academic Dean at Hastings. I'd like to associate myself with the remarks of Gordon Schaber, Jesse Choper and Professor Friedenthal, but also, I was intrigued by an earlier statement that the Chairman made in commenting on the practice of the State Bar, and that was, why shouldn't someone who is an adult have an option? And I suppose that that is a prevailing philosophy within the law schools. If all the law that there is out there, it can't all be taught in one law school, but a law school such as ours and we're not unique, may offer 100 different courses in the law school in a given year, and yet all that is required to graduate, is maybe taking 25, 26, 27 courses and those students as adults, are given the opportunity to choose which courses they take in almost all cases except the first year, which we think is a fundamental one, to prepare them for the education experience for the next two years. So that many students may choose to take courses that are

not on the bar and inevitably will, conversely they won't take some courses that are on the bar and they will rely upon their own private study in order to prepare them to pass that portion of the bar. So that none of use view ourselves as the principle gatekeeper, but rather are very content, I believe, that the bar is there to be a second guess in respect to the competency of the people who are graduating and that philosophy, I think, is one that prevails at most of the law schools in the country.

ASSEMBLYWOMAN HUGHES: Mr. Chairman, do I hear the witness saying that, I don't want to put words in your mouth, but you agree with the Chairman that there should be an opportunity for candidates to the bar to have an option? You're saying that on your campus, your students have an option to take certain combinations of courses, and the Chairman has suggested that perhaps there should be an option of the combination of types of bar exams, do you think that that would be feasible?

DEAN WOODY: I think that we're trying to arrive at different things. One, with the law school, it's to prepare one with an educational experience. With the bar, it's to test minimum competency and there can be different ways of arriving at a judgment in respect to either of those.

ASSEMBLYWOMAN HUGHES: Yes, but what I'm asking is do you think that the Chairman's suggestion is a feasible one?

DEAN WOODY: I think it is a feasible one, but I think it would have to be measured against statistical analysis that has been demonstrated over a period of time.

ASSEMBLYWOMAN HUGHES: That's all I wanted to hear.

DEAN FLORIAN BARTOSIC: Florian Bartosic, Dean, U.C. Davis. I agree with all of the comments of my colleagues, Mr. Chairman; I would raise just one additional concern about having a baby bar examination for all law schools. We, like all the other law schools, seek diversity among our student body and I would be concerned about those students who come to us having suffered educational, economic deprivation, being required for an examination after one year. I think those students particularly need to be exposed to a full three-year university legal education before they are called upon to set for any bar examination.

ASSEMBLYMAN WYMAN: To you sir, aren't we more likely to find in the law schools where the academic requirements are more lax, more of the students that you just described, and are they not the ones that have to take the baby bar? In focusing on that, I think that the appropriate approach that I'm talking about, and I don't think you can do it after one year, but I'm talking about all law schools having to go back, those having the accredited law schools, to have a baby bar experience as are other law schools in this state, simply giving the student, if you will, the opportunity to have some dealing with the bar, some headstone so they know what they're going to be coming up against after three or four years, if they're in a night program?

DEAN BARTOSIC: Well I do understand your concern, Mr. Wyman and yet, because we are primarily committed to providing a legal education for the practice of the law, rather than passing the bar examination, I would not favor your proposal.

ASSEMBLYMAN WYMAN: I just see that the bar examination as an opportunity to test people on the competency of courses that I think are necessary in the first, if not the second year, basic facts that are necessary for one to build up their legal portfolio.

May I ask all of you gentlemen to comment on Dean Schaber's proposal that we go to a two-day, multi-state and essay type of examination and may I ask, perhaps, Dean Schaber to conclude after we've heard from you gentlemen as to the prospects for doing that in a timely manner. Could it be done in a year, or what kind of constraints would affect such a change in policy?

DEAN FRIEDENTHAL: I really don't have any judgment.

CHAIRMAN HARRIS: Let me ask a question. Do any of you have any problem with the bar exam as it is currently administered or do you think that it is a reasonable indicia of minimum competency, whether or not, in fact, there ought to be additional factors that are considered in determining minimum competency to practice law, in other words you're graduating people and you say that what you've done is given them a legal education, a legal education for what? For passing the bar, for being responsible adults, for what? Why do you get a legal

education, just because you want a body of knowledge? What are you going to do with it?

DEAN FRIEDENTHAL: Well, a legal education is of course a fundamental basis for practice of law and I think all of us here would agree that our graduates are people who are ready to go into the legal world. I don't think any of us believe that our graduates, the day they walk out of the door, are completely ready to practice law, alone. They need help and they need training. Training programs used to be provided over the years, there were externships after the bar, in which you couldn't become a full-fledged member of the bar for a year, those turned out to be sort of slave labor arrangements that were considered highly undesirable and were eliminated almost universally in the United States because of that reason. They were paying people \$50 a month and that sort of thing, and it was just felt that it was an onus. People do learn by going to work for somebody else; it could be a 150 person firm or it can be a single lawyer. You must have some hands-on experience to do that. What we try to do is turn people out who are ready for that. We turn people out who understand the ways of finding and dealing with legal concepts. And we don't do more than that. At some point, we don't teach drive and dedication and a whole lot of things that actually we hope our students come with.

CHAIRMAN HARRIS: Then you like the bar exam as it is presently constituted.

DEAN FRIEDENTHAL: I think we should continue to experiment with the bar and to test it through experts. But I think with oversight, I think this is a very good experiment. I like the idea that you're calling these people to book. I think it's a darn good idea that they have to show up here and explain themselves. If there's holes in their system, let's expose it. If there are parts of that test that aren't working, let's expose it.

CHAIRMAN HARRIS: What about Dean Schaber's comment. I'm really amazed that for whatever period of time, there has not been this cooperation between the legal educators and examiners, because it seems to me that there is a logical nexus and it seems to me that they ought to be giving you some forewarning of the kind of examination that they are going to, in fact, give, because if you're preparing students, I know that you're not simply preparing them for an examination, but I think certainly it would be irresponsible on your part to say, listen when you graduate from law school, that's the end of our responsibility, you know, next thing, it's on you. We have no knowledge, we have no information, we have no interest in anything other than seeing that the curriculum that we've given you has been successfully completed and I'm interested in whether or not, in fact, there's a way to formalize the relationship between the law school educational community and the Committee of Bar Examiners. Is

that something that, in fact, we can institutionalize, Dean Schaber?

DEAN SCHABER: Mr. Chairman, I sent a mailgram to every member of the Board of Governors in September of 1984, after this examination was given and asked that there be consideration given to the restoration of the Committee on Cooperation between the bar and the law schools and the ability to return to the examination calibration and grading sessions. I wasn't sure what anyone would find, but I was sure that it did not exist for some time and now steps are being taken to restore both of those things and I think that's why I have taken the position and the bottom line to you, Mr. Wyman, is that the State Bar of California, I think, will agree with me that to eliminate the performance test while you study it, while you consider its effect that it has obviously had in '83 and '84, can be done instantaneously. The multi-state bar is not prepared by them, it's prepared by Mr. Germany and his associates and the essay questions are available in all manner for the bar examiners right now. This could be instituted immediately while we go on with both the question the chairman is raising, which is what are those additional skills that we should be testing? That's a serious matter for a curricular decision and for law students.

ASSEMBLYMAN WYMAN: As putting your other hat on representing accredited law schools, what was their request of input from accredited law schools across the country for the development of the performance examination?

DEAN SCHABER: Well, I can't answer that because I didn't get asked and second, I don't know. I do know that some of our staff and others in the state participated, but obviously that would be secret matters in terms of what the composition would be.

ASSEMBLYMAN WYMAN: I didn't mean the specifics of the examination, I meant the areas that certainly seemed external to the legal education that I got at McGeorge.

DEAN SCHABER: The answer is, in 1982, they were given in September for the 1983 July examination. You were already a senior.

ASSEMBLYMAN WYMAN: So the accredited law schools throughout the country, or at least those of you here represented, were not made aware of the fact that these new disciplines or these new focuses which are more practice oriented, would be included in the examination. To that extent, I think it's grossly unfair for a senior to come on and have to deal with those kinds of problems, and I think does focus that person's concern away from the traditional areas they may feel they have strength in anyway, to suddenly find out how you bill a client.

DEAN SCHABER: Well, the answer may be it's assumed to have been taught, but the answer may also have been that while we have excellent clinical legal education at these law schools that are here, it's also a fact that it's not in the subject

discipline of every student; it's an elective and the students have not been told, if you don't know what a discovery and interrogatory plan is, you're unable to focus on this section and I think they took a lot of time to try to find out in their senior year.

CHAIRMAN HARRIS: Should we not have some understanding between the Committee of Bar Examiners and the legal education community that there will be no changes in the examination process? That it not notice at least 12 months prior to such changes? I don't think that's fair at all.

DEAN SCHABER: I don't know the magic date, Mr. Chairman.

CHAIRMAN HARRIS: Well, I'm saying that...

DEAN SCHABER: The answer is yes and the Board of Governors, as you know, has adopted a resolution that major changes will not be made without their consultation, or at least some interrelationship there.

CHAIRMAN HARRIS: I'm saying that when the bar examiners come back and the Board of Governors that they would give us some indication as to what that understanding would be. I don't like changing the rules in the middle of the game. I don't think that's fair at all.

Two other questions and I'll be through. I want to know first of all, do you feel that the current students that are coming into your law schools are prepared to matriculate; if not,

do you have any sense of the need for a pre-law curriculum, a law becoming increasingly difficult and is that something that is advisable? Should there be better coordination, not only between the bar examiners and legal law schools, but between law schools and undergraduate schools, relative to preparation?

DEAN CHOPER: Well I don't have any question about the general credentials of the people coming into law schools, they are extraordinary. They have now leveled off, but it's been a rise over a long period of time. That, however, is no guarantee that they are going to be better lawyers.

CHAIRMAN HARRIS: Have they been prepared? Do you think there should be some core curriculum for pre-law that, in fact, perhaps...

DEAN CHOPER: Yeah, I don't think so, although in listening to the prior testimony and the description of the difficulties in writing skills, that's not new nor is it changing and I don't know where one begins to really get hold of that problem. Maybe it's well before college, well before high school, perhaps.

CHAIRMAN HARRIS: What about any comments on the accredited versus the nonaccredited law schools. We've had a number of hearings on the issue of accredited versus nonaccredited law schools. Some people say we ought to have a free market approach to get your legal education wherever you can and then you go to the gatekeeper and seek admission. Do you have any comments on that?

DEAN CHOPER: Well it certainly places greater importance on the ability of the gatekeeper to open and close the gate properly.

CHAIRMAN HARRIS: Any other comments?

DEAN SCHABER: You know that the American Bar Association's position is simple, that admission to the bar as it is, as a matter of fact, about 47 states or so now, should be preceded by a diploma from an ABA accredited law school. Now I can say that by the way, I'm among the nouveau riche; I was dean of a nonaccredited California law school, and the state bar only accredited law school and an ABA only accredited law school, so I can say that because I genuinely believe that the experience has taught me that there should be the minimal kinds of standards that are now regulated by the American Bar Association.

CHAIRMAN HARRIS: So should we, in fact, give schools a period of time to reach those standards and then if they don't reach those standards, declare that they should cease to exist?

DEAN SCHABER: I think so, Mr. Chairman, I've said that for years. I was dean of one that I said that is this wasn't able to achieve appropriate national recognition, so that our graduates could take the bar in any state, that after a certain period of time, it would be apparent that the need was not there.

CHAIRMAN HARRIS: Do you think the ABA as opposed to the California state standards should be...

DEAN SCHABER: I believe so. I think the California state standards under John Gorfinkle have been good because they have required a greater and greater involvement of those who operate law schools in the educational process, and they have helped, but one more step, I think, is needed.

ASSEMBLYWOMAN HUGHES: A question, Mr. Chairman. I have very strong feelings about accredited undergraduate schools. I think that when a person comes out with a bachelors degree, it should be worth the piece of paper that it's written on and if you graduate from an accredited undergraduate school, you should be someone who meets all of those standards.

But on the other hand, it boggles my mind how people from nonaccredited law schools can be successful at passing the bar and people from your accredited law schools can have such difficulty. Now rectify that for me, because I have that bias about...tell me, how does that happen?

DEAN FRIEDENTHAL: Let me try to explain some of the problems that exist and I am torn about the nonaccredited law schools, being from Stanford and all, I should be against them in a way, but I do see the problem of people who are unable to attend an accredited law school, going to an nonaccredited one, and the reason that some of these people do well, and I have some experience with this, is as follows: Many of the nonaccredited law schools are in areas where it's difficult to get to an accredited law school, I mean, especially in southern California

and the people who go, go at night. There are not always convenient law schools that are open at night. To some of those accredited law schools go people who work in the day, who would be fully admissible to the schools around this table. They are highly intelligent, highly able people. For family reasons they are unable to take off to do the job that we would have them do, going in the day or going, so those people have, I think if you would separate them out, a very good passage rate. What drags down the schools are the people who are very poorly qualified, who go to nonaccredited law schools where during the standard day sessions, they are students who come out of college with low scores, low grades, they do poorly on the LSAT, the forms says admit or conditionally admit, they never turn anybody down because money is at the heart, and so those people do not do well. So on the side of the nonaccredited law schools, there are people who do extremely well because they have some people who find that the most convenient place to go.

On our side, on the other hand, on the side of the accredited schools, the better schools, why do we fail any people, there are of course, a variety of reasons. I can speak only for Stanford, but in the last years, and I say, in the last six or seven years, and I administered the admissions during that period, we had begun to take a chance on a broader range of people. We have felt that it is important for a law school such as ours to give opportunity to people who show promise, although

it may not always be that they have the pure statistics. That's a gamble. Sometimes that gamble does not pay off. We think it's worth it, but it may mean, and by the way, when we talk about our statistics, if you'll look at the three year running average, it becomes pretty good, one year you have three or four more people fail than otherwise, and you say it's not such a good record, but that's predictable. Most of our failures come from within that group of people for whom we do give some reach. Eventually they will pass the bar, usually on the second time. They sometimes need, because they are not quite so skilled, they need that second time. I don't think that's so delimiting or so terrible. It's not nice, and believe me, I was glad when I passed the first time, and even happier when my wife passed the first time, but I will say that I had a roommate at Harvard law school who didn't and he survived very nicely. I'm more worried about the person who doesn't make it the fourth or fifth as we were talking about. So our schools have a variety of reasons, excuses of why everybody doesn't make it and in part because we are reaching out for some people. I'm less worried about that. I'm more worried about cutting off opportunities for others. What I would hope would be as an accommodation that would somehow allow the accredited schools to have a program which would allow the fully qualified student who now goes to the nonaccredited school to make sure that person has a place to which they can get their legal education.

CHAIRMAN HARRIS: I sure would like some answers on that, that's a very difficult question. How, in fact, to provide for an opportunity, while at the same time, making sure that there are some minimal standards for the educational institution.

I said I have two more questions and I still have two more. One, could you give me some perspective on your reaction to the idea of barrister/solicitor designation for attorneys. Whether or not, in fact, people who pass the bar exam should simply not be solicitor or barristers? Should there not be some two-phased examination process that would discriminate between those who, in fact, are capable of simply indicating some rudimentary competence with the law as opposed to those who are competent to go to trial?

DEAN FRIEDENTHAL: Let me say two things about that. First, the English practice and in which has been the case, has been eroding, they're going in the other direction. The practice of law is a complex one, as those who are in the law know. Being in litigation is a strange sort of thing. There are people, of course, who do insurance defense work and try cases all the time. They are many litigators who try very few cases, they go to court. There are business attorneys who have to go to court on motions and the like, those two things meld in a way that makes it, I think, it would be unfortunate to make that distinction. It's a continuum.

CHAIRMAN HARRIS: I appreciate that. Now, a final question. Legal specialization. What is the role, if any, of law schools in the specialization process? Should there, in fact, be a required specialization for people who are going to engage in certain areas of practice and if so, should they be tested on that and should not law schools be involved in the specialization process?

DEAN FRIEDENTHAL: Well, I think a number of law schools are at least in the process, if they haven't already moved toward some greater opportunities for students to specialize. I think the effort from the law school's part has not been from the perspective of practice as it has been for trying to maximize the opportunities that we afford students during the three years they are there. Some student will emphasize a clinical experience, others who don't want that might have some other emphasizes. I imagine the law schools certainly would play some role in any specializations that developed, and indeed, even beyond the normal three years. But I think the impetus for that sort of thing has to come from the bar rather than the law schools. That's not to say we won't be involved, we will be, but the impetus, it seems to me, has to come from the outside.

CHAIRMAN HARRIS: Any other comments.

DEAN WOODY: I would agree with, that it would have to come from the bar and the response of the law schools is likely to be to provide on the continuing education basis,

specializations that are available or masters programs that might concentrate in some area to hone skills, but when someone graduates from law school, they are basically a generalist.

CHAIRMAN HARRIS: I'm wondering whether or not, in fact, that it ought to be closer to what happens in medicine, where, in fact, you have to be certified as a trial attorney or as an antitrust lawyer, or whatever the situation. In other words, for the consumer to understand that just because you're a lawyer, doesn't mean you are competent to deal with certain areas of law. Right now, people say, well aren't you a lawyer? They come to you and ask you to deal with a particular aspect or a particular problem and I think the specialization is something that's a reality and I'm not sure we're dealing with it in a forthright manner. I think basically what we're doing, is saying, well, when it gets to be a problem, we'll deal with it and I think it's a problem and we're not dealing with it. There are people who are holding themselves out as experts who are not, in fact, experts and I'm just wondering whether or not law schools have some responsibility to say, wait a minute, you know, if someone is going to hold himself out as a criminal defense specialist that they ought to, in fact, have the requisite education and some requisite certification that they can hold themselves out that way.

DEAN BARTOSIC: Well Mr. Chairman, I just don't think that the law schools could say that they have prepared anyone to

specialize in anything, I think that's a horrible admission. But I think we'd all agree on that. There would be some interest in responding to something beyond the normal educational process in order to provide people for specialization, but again I want to emphasize, I think the initiative has to come from the bar on that.

CHAIRMAN HARRIS: Right now, you don't see that as a problem?

DEAN BARTOSIC: I was going to suggest, Mr. Chairman, that this is one of those questions that we can explore with the Board of Bar Examiners.

CHAIRMAN HARRIS: Yes, I'll be glad when that formalization and I want to hear about the formalization of that relationship. I appreciate all of your time and thank you for coming, because we're really interested in the subject. We think the Legislature has some responsibility for oversight of the legal profession and what we really want to do is make sure that, in fact, we are providing both some degree of protection to those who would enter the study of law and also those who, in fact, are going to be recipients of the services that are provided by the graduates of your schools. So we appreciate your participation and would certainly welcome any further advice you would care to share with us relative to the bar exam and it's relevance to the practice of law and legal education.

Okay, two deans of law schools; Dean Liontas and also Dean Schleimer, will you both come forward, please.

Okay, would one of you begin. We're going to have to really rush this along, now, I know people are going to go for lunch. (sergeant is passing out materials)

DEAN IRV SCHLEIMER: Chairman Harris and members of the board. First I'd like to thank you for the opportunity to speak at this hearing. I think it's an excellent idea because the legal community and legal education in California is in crisis, there's no question about that.

My name is Irv Schleimer and I serve as Dean of the Pacific Coast University School of Law in Long Beach. It's one of the smallest law schools in California, yet it's one of the oldest law schools in California. It's nonaccredited, as I indicated before; it was established in 1927.

CHAIRMAN HARRIS: I think my good friend, Tom Thompson graduated from there.

DEAN SCHLEIMER: That's right. As a matter of fact, Tom was in my class, I'm a graduate of the school also.

CHAIRMAN HARRIS: He's a very distinguished judge.

DEAN SCHLEIMER: Yes and we have, we estimate about 350 to 500 members of the bar in the State of California from our tiny little school. We, or course, are a night law school, we cater to those students that work for a living, that are raising families, that otherwise wouldn't have an opportunity to go to an

accredited law school, maybe because of money, because many of the law schools, the accredited law schools, even though they do open up particularly in a public school, public law schools, they do open up an opportunity for some students, but for many students they are unable to go and as a matter of fact, I estimate within 10 or 15 years in the accredited law schools, if it continues as it is, there'll probably be about six or nine ABA schools, the tuition will be \$150 thousand, to \$250 thousand or at least the cost of going to those law schools, there will no longer be any law student loans available.

The question is, should we abolish the bar exam? I get the feeling, is it relevant? Well the bar exam not only tests the student, but it also tests the law school. It's a test for both. It's a test for quality of education.

Assemblyman Wyman brought up the first year bar exam. We find that the first year bar exam is excellent in terms of giving the student who goes to law school in the first year, an opportunity to find out how they would perform on a general bar. Not only that, but those students that come from very poor, underfunded educational systems, it gives them an opportunity and experience of the bar exam. So in that sense, it's excellent. What I would suggest is that the first year bar exam be given to all of the law schools in California, but for the accredited schools, they can make it an advisory opinion. In other words, it's not binding. Then it would be up to the student, the

teacher, the administration to determine, should the student continue? As far as the accredited law schools are concerned, I think the law should be changed and allow the student, if the student passes, he should be given up to three years of credit for those courses that they have successfully completed.

As for the bar exam itself...

CHAIRMAN HARRIS: Do you think it ought to be counted toward admission to practice?

DEAN SCHLEIMER: Yes, yes, they can. In other words, if a student does pass the first year bar, why not count that. Why should they be retested for those three subjects that they have successfully completed?

As for the examination, itself, the performance test is really a turkey. The performance test really is not designed to test the ability to practice. First of all, it discriminates against students that are slow readers, which traditionally have come from school districts where they are underfunded, and being a slow reader has nothing to do with intelligence. For instance, my oldest son had a problem with reading. He went to UC San Diego and he learned. He took a course in speed reading and it changed his reading habits where he can read tremendously. Now he on the medical faculty at Johns Hopkins medical school and he does a tremendous amount of reading. So being poor in reading, or in articulation is a learned art. So what I'm saying is, that in those situations where you have these tests; for instance, for

those students, I think that regional schools should be set up. Clinics for those students that have these problems, so the schools can identify them and they can then go receive training.

The reason the performance test is not very good is because a student that's an undergraduate student that majors in English can pass those tests. They give you all the cases on the examination then they ask you to write a paper based on those cases. You don't have to go to law school to answer that. You can be an English major and answer that.

As for the multi-bar examination, every college educator will tell you the worst test that you can give a student is to give them a computer-type test. It's cheap, it's efficient but not very accurate. Furthermore, I distrust computer tests. They can be manipulated. Not that there is manipulation, but the fact that they have to scale, the fact that they have to have a statistician come in and figure out all of the percentages, raises a question of the validity of the tests. If it was a valid test, why not release the test. The reason they don't release the multi-bar test is because there would be an outcry. If they released the questions and the answers, there would be a dispute, so they keep it secret. One of the arguments they raised is well we want to use these tests over again. But they have 6,000 questions in the pool. That's 15 years of tests, so why not release those tests? And so those two sections of the test really have no validity.

The best test is an essay-type test. I've been teaching now, I've seven or eight subjects many times over, over the years, and I find that the essay identifies those students. But I think that the bar examination, if this committee is thinking in terms of changing the bar examination, it should be changed. First of all, I think it can be reduced to a two-day test, particularly if every student takes a first year bar exam, and gets by that first year bar, what it should be is eight essay questions the first day, and 12 issue and rule questions. In other words, the 12 questions you wouldn't have to put down the argument and conclusions as Assemblyman Wyman indicated, the "IRAC" method, just the issues and the rules. This would test the analysis of the student and it also is a very objective way of testing a student. Now alternatively, if they insist that the multi-bar should be put on the examination, then it should be one day eight essay questions, one day eight issue rule test questions, and then one day 200 questions. And that way there would be some basis of testing the student. Now it's chaotic. You have three sections. It's extremely difficult to come up with a test of these students. Now as for a practical experience in law school, our school has many, many practical instruction that goes along with the courses. For instance, I taught constitutional law. I required all of my students to take the subject and submit an appellate brief. I have taught corporation law. I require all my students to draw up a

corporation, a nonprofit, a professional corporation, a business association. In our school we teach trusts or wills. They have to draw up trusts and wills. Moot court trial techniques is mandatory in our school. So when our students get out, they're not legal apprentices. They have some basis to practice law.

CHAIRMAN HARRIS: Are there any indications of how the students from your school have done on the performance part?

MR. SCHLEIMER: In the performance part, I find we have a certain percentage of our students that are paraprofessional. I find that those students -- that for instance they start out as legal secretaries and they become paraprofessionals when they attend our school -- those students do much better than other students because they have the practical experience. You know it's easy to just write the memorandum or whatever when they take the performance test.

CHAIRMAN HARRIS: Next question. What has been the problem with your school becoming accredited?

MR. SCHLEIMER: Well, the problem why our school is not accredited is that the rules that are set up are very subjective. In essence, the accreditation is determined by one person in the state. Now with all due respect to the legal consultant who may retire one of these days, but the fact is that one person makes this determination. For some reason or another, he has been prejudiced against our school since 1968.

CHAIRMAN HARRIS: What if the Legislature set up criteria for accreditation? What would you think about that?

MR. SCHLEIMER: The criteria for accreditation, I think that there should be, first of all, school instruction. Second of all, the teachers should be all members of the bar, particularly California Bar, and so should the dean. There should be certain requirements of education, particularly all of the mandatory subjects on the bar exam, plus mandatory subjects towards the actual practice. Fourth, I think that there should be attendance taken, And this is a disgrace because in the accredited law schools, many of the accredited law schools do not take attendance. For instance, I read an article that Mr. Witkin who's a famous scholar as we all know, went to Boalt, and after two or three months he stopped going, but he took the test and passed. I had the same situation where somebody took the bar review course, who went to a prestigious school --I won't name the school -- and I was just absolutely shocked that he said all he did was get the outlines and take the test over a three year period. By the way, he passed the bar exam. So I think that it should be mandatory -- attendance. And I noticed that Dean Choper was here. Dean Choper, in my estimation, is an excellent teacher. He taught constitutional law at Boalt. And one of the things is that the students used to jam his school, but they used to complain because he took attendance. Well evidently, you know, he insisted and I think any teacher that's worth their salt should take attendance of his students. And I asked some teachers what they do....

CHAIRMAN HARRIS: I think you've made that point. Alright. I think I have a sense of that. So you think though

that the criteria that they use currently are inappropriate, and that there are other criteria that in fact may be a better indicator of the school's fitness as a learning institution. Is that right?

MR. SCHLEIMER: Yes. And I think that it should be transferred. I think there's a legal and ethical conflict to have the bar examiners determine accreditation when the only objective criteria that they use is the first year bar or the general bar. And at the same time, in the same office, give an examination, test the examination, and gather the statistics. I think there's a definite conflict, and that really should be changed. It should be sent to the superintendent of schools or some other state body that should do these accreditation processes.

CHAIRMAN HARRIS: Thank you. Dean Liontas.

DEAN JAMES LIONTAS: Mr. Chairman, I thank you for inviting me to speak here today. My name is Jim Liontas. I'm Dean of Peninsula University Law School and President of the Independent Law School Association. I'd like to start by addressing myself to a comment that Assemblywoman Hughes made about why unaccredited schools seem to be doing so well, and indeed we are doing well. In order to do that, I'd like to put some numbers in perspective that have been kicked around in the newspapers. Of the 7,352 people who took the July 1984 general bar exam, only 278 were from unaccredited law schools. That is, 3.8 percent were from unaccredited law schools. And it made my hair curl, if you can imagine since I have none, to read that the

problem was that these lousy unaccredited law school graduates were causing the problem. Well, we are only 3.8 percent, and we scored comparable to the accredited schools, accredited only by the state bar. And let's keep the distinction, not ABA approved. That is, of the forty-one percent that passed -- well let's take it the other way around -- of the approximately 60 percent that failed, 96 percent of them were from accredited schools. So I don't like the rap that it's unaccredited schools that are causing the problem. We are not. We're scoring comparable to the accredited schools. And I think one of the reasons we are is related to what Assemblyman Wyman said. We do give the baby bar, and the baby bar has been a good thing. As a matter of fact, if one would look at the statistics -- and Dean Gorfinkle was here, you might ask him -- I think it is a statistical fact that there has been almost a precipitous drop in the passing rate of accredited schools once they are accredited. It's easy to prove. It's all about our statistics. So I'm not going to draw a conclusion for now. I'll just state statistical facts and you can analyze them. Now more minorities....One of our concerns is enough minorities aren't getting through the system. Well, more minorities would get through the system if everybody was taking the baby bar, because then it would be graded in a more fair manner. Ten years ago when Peninsula was started, maybe 50 percent passed the baby bar. Now about half that number pass.

CHAIRMAN HARRIS: About one out of four?

DEAN LIONTAS: Pardon me?

CHAIRMAN HARRIS: One out of four?

DEAN LIONTAS: About one out of four, Mr. Chairman, yes. And some of those that flunk are very, very good. We've had minorities flunk that are good students. I mean masters degrees from Columbia would go up and flunk the baby bar exam. At Peninsula Law School at this moment, we have four honors graduates of Harvard. One also has an MBA from Stanford. We don't have poor students, although we have some students from the lower end of the socioeconomic group who have to work, who have to raise families, and who have to come to school at night. And they should be given that opportunity. One of our students was the Mayor of East Palo Alto, present Mayor of East Palo Alto, Barbara Muton. As you know, a Black woman, an outstanding mayor. By the way, she couldn't pass the baby bar, otherwise she'd probably be up here as an attorney. Anyway, she's running East Palo Alto as Mayor. Of the 111 students who passed the baby bar from Peninsula Law School, from my law school, during the period of 1976 through 1984, 111 passed it. You know only two were Black. This concerns me. It doesn't make any sense. It concerned me enough that I sought out members of the Board of Governors.

CHAIRMAN HARRIS: And you had 111 Black students?

DEAN LIONTAS: No.

CHAIRMAN HARRIS: Well, I don't know what the relevance of the statistic is.

DEAN LIONTAS: Of 111, Mr. Chairman....

CHAIRMAN HARRIS: Okay, only two are Black. But how many Black students were there?

DEAN LIONTAS: Pardon me?

CHAIRMAN HARRIS: I don't understand the relevance of that point if only two were Black and you only had three. What does that mean?

DEAN LIONTAS: Well, but we didn't have only three. If you'll look at the material that I passed out....

CHAIRMAN HARRIS: Yes, I know, but I can't read it and talk to you at the same.

DEAN LIONTAS: Typically 15 percent are Black in our school, typically one third are women, and so forth.

CHAIRMAN HARRIS: Alright.

DEAN LIONTAS: No Asians have passed either, I might add, and only two Hispanics. So the relevance is that somehow the baby bar is discriminating in a special way against minorities, because we have far more than less than 2 percent start that are minorities, and yet less than 2 percent are passing -- 2 out of 111.

CHAIRMAN HARRIS: I don't know if I can necessarily draw that conclusion, but it's okay. Go ahead.

DEAN LIONTAS: Now because I feel the baby bar discriminates so much against people, although I think it should be taken by everybody, I did some looking into the codes. And the Business and Professions Code Section 6060.5, apparently which I've quoted in the material I've handed out to you under the....I gave you two headings, two letterheads. Let me find it here. In the Peninsula University letter on page two, clearly the Legislature, I'm reading, clearly the Legislature did not

want the discrimination to develop based on law school attendance when they enacted Section 6060.5 of the Business and Professions Code, which states, and I quote, "neither the Board, meaning the Board of Governors of the State Bar, nor any committee authorized by it, shall require that applicants for admission to practice law in California pass different final bar examinations depending upon the manner or school in which they acquired their legal education." Yet only students from our unaccredited schools, yes, because of their school, because it's unaccredited, must pass an outrageously difficult baby bar exam. The word outrageous was Senator Nicholas Petris' characterization of this exam when he introduced legislation in 1982 to take this thing out of the baby bar. So since the baby bar is really a condition precedent -- our students have to pass it before taking the final bar exam -- in reality, and for all intents and purposes, we're being asked to pass a different final bar exam, I think, in violation of Business and Professions Code Section 6060.5. And I'd appreciate it very much if this committee were to take steps to eliminate Business and Profession Code Section 6060, subparagraph G, which requires that only our schools take the baby bar. I'd be glad to answer any questions, but I'd like to make one more comment. Dr. Klein testified and others have testified that more people pass the MBE on a relative percentage than essays. You know, that doesn't surprise me at all. The MBE is scored by computers. It's objectively scored. The essays are subjectively graded. Somebody decides what's a passing paper, and that somebody is a bar examiner. So it doesn't surprise me

at all that the MBE passing statistic is higher. It's objectively graded, and the same MBE exam is given in 43 jurisdictions at the same time. As Dr. Schleimer said, that's probably one of the reasons I don't want to release too much information about it. But essays are subjectively graded, and the process of accreditation is subjective. Mr. Chairman, if you ask me the same question you asked Dean Schleimer about.... Our school is ten year's old. Why shouldn't we be accredited? Well, we haven't applied for accreditation because we observed certain truths. I mean we are practical people. We note that the average existence time for a school that has been accredited in the last ten years that we have been around is a little over 11 years, so we think we are now probably getting ready to apply if we're going to stand the chance. But there are subjective standards. We all received in the last few days these standards for accreditation put out by the bar examiners, and I just want to call your attention only to one standard, I think it will make the point about subjectivity that Dean Schleimer mentioned. There's a standard here called standard C, and I'd like you to know what that is about. Standard C says the school shall have a competent dean and a competent faculty. And then they give a lot of information on what's competent. You can read it. I'm not going to take your time. It's nearly lunch time. I want to point out to you that what's going on here is a very subjective judgment. I'm not being critical of Dean Gorfinkle, but how can somebody come into somebody's school, sit in on one class, and draw the conclusion that an instructor doesn't have sufficient

quality? How do you measure quality of an instructor? Bar examiners are supposed to examine, they are not bar educators. Schools are supposed to teach. Now we think that the finished product that we produce, RJD's, are best measured on the bar exam and they are doing very well.

CHAIRMAN HARRIS: You don't have any problem with the bar exam?

DEAN LIONTAS: No. As a matter of fact, in the last bar exam, Mr. Chairman, Peninsula University beat 78 percent of the schools accredited by the State Bar. This is in the material that I presented to you. We've never had any problem with the bar exam.

CHAIRMAN HARRIS: What was your passage rate on that exam?

DEAN LIONTAS: Pardon me.

CHAIRMAN HARRIS: What was your passage rate on that exam?

DEAN LIONTAS: Forty percent. We passed two out of five and we beat 14 of 18 accredited schools -- 78 percent of them who had lower than 40 percent passing rate.

CHAIRMAN HARRIS: Alright. Are there any other questions that.... We have one more dean. I'm not sure of the school.

ASSEMBLYMAN WYMAN: Mr. Chairman.

CHAIRMAN HARRIS: Yes, Mr. Wyman.

ASSEMBLYMAN WYMAN: The issue of accreditation really hasn't been addressed. Would it be possible for....

CHAIRMAN HARRIS: We are going to ask them to come forward....

ASSEMBLYMAN WYMAN: I'm going to have to excuse myself. I had some questions on.... I guess my main question, and it really relates to the facts of accreditation, and how once a school has received accreditation there is some quality control. How is it removed? Has it ever been removed? What are the criteria for removing it? And, of course, I tend to agree with these gentlemen. I think we need to tighten up the criteria for accreditation. I mean if a person is a member of the State Bar, and the dean is, you just list these things. There shouldn't be so much subjectivity.

CHAIRMAN HARRIS: We are going to look at that. And I promise you we'll address that, Mr. Wyman.

DEAN LIONTAS: One bit of subjectivity could be removed, Mr. Chairman, is what Dean Schleimer touched on. And that is, in the past, the Bar Examiners have gone in, looked at faculties and said your faculty is not competent to be accredited. It doesn't have sufficient quality, whatever quality is. However, they refuse to give the name of the professor or his deficiency. It's a "catch 22". So I recommend strongly that if accreditation is going to continue, the standard C would require the examining body to list the names of the people that they found weren't qualified and what was wrong with them.

CHAIRMAN HARRIS: Thank you. Sir.

DEAN VICTOR BERTOLANI: My name is Victor Bertolani. I'm the Dean of Lincoln Law School in Sacramento. We are a state

accredited school. We have been accredited since 1978, and we have been operating since 1969. We have over 400 graduates, 81 percent of them are through the bar examination. Last results, and I say not just with any braggadocia, but just to give you where I'm coming from, the last two years we have been the number one night school, ABA, state accredited, whatever you want to call it. That includes our friendly rival across town, the high-priced spread called McGeorge. Now I'm going to give you some one-liners because I have the difficult task of talking to the jury when they should be at lunch. So it's time to look at these things....

CHAIRMAN HARRIS: Your job is not going to be as difficult as that of the bar examiners.

DEAN BERTOLANI: The State Bar, let's take the State Bar. I deal with them in two capacities. On their testing, Gordon Schaber has given you a good run down of their testing, suspicious of one other thing -- that they use that LSAT kind of thinking with the MBE and the way they set up the grading. They have kind of cleaned up their act a little bit, but they do read those MBE's first. Or they get some sampling of those first, and they fulfill their own prophecies where if we're not careful, we'll be giving people tests when they are ten years old and verifying Mark Twain's old adage that when you're born, it's all over. Okay. I think if they would just give us some notice, that's all I ask. I think 12 months is too short. I have now put performance type courses in my class in the second year. Whenever you go to third and fourth year students and say you've

got to take something, it breaks down the entire credibility of the school. What have you been doing there for three years? That's it for the State Bar's testing arm. The State Bar's accrediting arm -- they have been personified in John Gorfinkle, but he's not the only one. At both my interim reviews and my final reviews, he brought ex-deans in from other law schools. I have found him to be demanding, I found my accrediting process went through about a five-year haul, I found him to be fair and sensitive, and I have no complaints about them.

CHAIRMAN HARRIS: Do you think the accrediting process is fine?

DEAN BERTOLANI: I think the way he's been running it is rigorous, and it's fine. On Gordon Schaber's comment, and this is probably the most serious but subtle thing that came in today, we need some minimal standards that can only be administered by the American Bar. Like we can only dispense knowledge of the law which is used by all of us from the sacred halls of Berkeley or Cambridge. That's just nonsense. And that's what's coming. I'm telling you that's a powerplay, that the Dean of Stanford, Friedenthal, called it the way it was. You know, I would like to stay here and say to these men, I don't want you in the unaccredited law school business, because they are competitors. I don't have an unaccredited law school competing in Sacramento, but I would have to....

CHAIRMAN HARRIS: You say you don't, or you don't want....What did you say?

DEAN BERTOLANI: As a businessman, I probably....

CHAIRMAN HARRIS: You said you don't want one, but there are unaccredited law schools....Okay.

DEAN BERTOLANI: But whether or not I want them makes no difference. They are entitled to be here. I was once unaccredited. How can I pull up the ladder. And that's what you are getting from Schaber. He's pulling up the ladder. And he of all people, I taught with him over there for seven years, he knows. He's the ABA's man in Sacramento, and take it for what it is. I esteem him in every way. In some sense, he's the Henry Ford of legal education. The techniques that I studied under him for seven years over there, I've used to create Lincoln, that's the low-cost spread. And now there's somebody with another idea that thinks maybe they can educate people a little differently. We are dealing in a consumer society. So that was I think the most serious thing that I wanted to address. And I hope I haven't bored you.

CHAIRMAN HARRIS: No you haven't.

DEAN BERTOLANI: I tried to make my point and get out.

DEAN LIONTAS: Mr. Chairman, I'd like to comment on what Mr. Bertolani said.

CHAIRMAN HARRIS: Yes.

DEAN LIONTAS: I'd like to second all he's said because what he said about the ABA versus state bar accredited also applies to state bar accredited versus unaccredited. We shouldn't be put out of business.

DEAN BERTOLANI: One more one-liner, and this is putting me on the line because bar results come and go, and you can't

feel hubris just because you get a couple of good results. You get a bad result, you're like a wine maker. Italians always use that example. The problem that you have here is that the State Bar is doing a good job but they are remiss in one department. And this may come back to haunt me. They've got to maybe start reviewing once in a while whether some schools should lose their accreditation.

CHAIRMAN HARRIS: Okay. Thank you.

DEAN LIONTAS: I proposed that, by the way, in my materials which I have passed out in case you want to look at them.

CHAIRMAN HARRIS: Fine. We will review them. We will look at it all. Alright. We've got two more witnesses. I want to hear from the State Bar again. Is Dean Shotwell here? Would you come forward please? Hi. How are you? I'm really interested in your perspective as a representative of one of the top five law school feeder institutions in the nation. Do you feel that we are doing enough at the undergraduate level to provide students with the foundation for law school?

MR. WILLIS SHOTWELL: Yes and no. The thing about it is, the writing skills that are needed are just not there. I don't know where they are going to come from. I think they have to start at the third grade, but that's my personal opinion. That's where I learned it. Back in the Middle West they started me with composition and rhetoric in the third grade, and I learned to write before I got to junior high school. But it's just not done and, as a consequence, I have read literally

thousands of personal statements that students have written. And I can tell you that, over the last 12 years, there are less than two dozen that did not require rewriting, reorganization, all kinds of changes in order to make them decent.

CHAIRMAN HARRIS: What about the idea of a set pre-law curriculum?

MR. SHOTWELL: Well, I don't think that's really necessary. As long as they can learn to reason -- you can learn to reason taking mathematics, you can learn to reason in philosophy....

CHAIRMAN HARRIS: So you just think advisory pre-law counseling is sufficient?

MR. SHOTWELL: Yes.

CHAIRMAN HARRIS: One last question. Could you please describe the role played by the part-time person your institution employs to increase minority interest in law school.

MR. SHOTWELL: Yes. David Dominguez works for us in our office. He works primarily with the minority pre-law coalition on the Berkeley campus. He does several things. One of the things is he has what he calls the Boalt shuttle. He takes students to different classes at Boalt, but before he takes them there, he gives them one of the cases that will be studied that day. He helps them analyze that case, and then he helps them see what is going on in the class so they will have an understanding of what the class is about. That's one of the techniques. He has also recently developed another one in which he is teaching them how to use a legal library and how to do legal research. I have a copy of it if you would like to have it.

CHAIRMAN HARRIS: I'd love to see that.

MR. SHOTWELL: And after he teaches them how to do this legal research, he then makes them write up a case. Indeed, they are going to be having a sort of a test of that next week at their pre-law society meeting.

CHAIRMAN HARRIS: The pre-law society, is that a....

MR. SHOTWELL: Minority pre-law coalition.

CHAIRMAN HARRIS: Okay. Is that the only pre-law society at Berkeley?

MR. SHOTWELL: At this time, yes. The pre-law society has been almost entirely student-run, and it depends entirely upon whether or not the carry-over occurs when the previous student graduates.

CHAIRMAN HARRIS: I see. One last question. What about the LSAT? Do you counsel for the LSAT? Do you provide tutoring for the LSAT? Do you have any feelings at all about its relevance?

MR. SHOTWELL: Well, I feel that it is designed supposedly to test the skills that are needed to function well in law school. Certainly the reading comprehension section does test whether or not they can read well. The logical reasoning section is a good section in that it does test whether you can reason. You don't have to reason by analogy. You just have to do it. But there is one section that, as far as I'm concerned, is totally irrelevant, and it's a section that's a logic game. You know there are six men standing in front of a betting window. Two are wearing blue hats. Two are wearing red hats. One is

wearing a yellow hat. One is wearing a green hat. At all times there must be a certain combination. Which of the combinations doesn't fit? That to me is totally irrelevant to the practice of law. The writing section, they have added recently a writing section. Unfortunately, it's still in a sort of an experimental stage, and they don't know how they are going to be using it. But certainly there are three sections out of the four that do test skills necessary. In terms of preparation for it, it depends on how the student learns best. If he's the kind, or she's the kind who can tie their derriere to a chair and grind their nose through the material until they master it, all they have to do is write back east and they can buy any number of previous tests for \$5 a piece. And they can just sit down and go through them. If they are the kind who prefers to learn best by having a lecture and then studying, why there are numerous courses, unfortunately quite costly, that they can take. Because we have had budget cuts at the university, particularly in student affairs for the last five consecutive years, I think it is, we have had to cut out the program that we had on our campus in terms of preparation for the LSAT.

CHAIRMAN HARRIS: Thank you. Do you have any questions, Mrs. Hughes? Thank you very much. I'd like to ask David White and Stan Naparst. Are they both here? Attorneys at law. White I believe you represented a class of students that failed the bar as the result of a scaling?

MR. DAVID WHITE: That's correct, Mr. Chairman. As you recall, both Mr. Naparst and I testified before this committee

some time ago as petitioners before the Committee of Bar Examiners to challenge the scaling of the July, 1983 bar examination.

If you'll recall, the substance of our complaint was that the scoring rules had been changed after they had been initially announced and raised rather than having a traditional 70% passing standard which had been announced for that examination. The actual passing standard was a 71.1% passing grade, and a large number of individuals, some of whom were represented by me, and one of whom was Mr. Naparst, were denied admission to the Bar even though they had achieved the 70% standard. Subsequent to the Committee's holding legislative hearings, the Committee of Bar Examiners held their own hearings at which the Committee testified and independent experts testified and petitioners testified. What was very clear at that hearing was that the administrative procedural rules and due process rights which any other profession in this state would have had were not applicable to the Committee of Bar Examiners, that applicants to the Bar were denied the right to cross-examination, were denied the right to subpoena, and were essentially denied due process rights which any other profession would have been allowed. Despite that fact, we were able to make enough of a case so that the Committee of Bar Examiners, on its own motion, decided to admit the individuals for the July, 1983 Bar Examination, who had in fact achieved a 70% passage rate, so that Mr. Naparst is now an attorney, not as a result of that, but also as a result of his having passed the February 1984 Bar Examination. Overall, about

300 people were admitted to the Bar who otherwise would not have. The unfortunate aspect of that was that the people who took the examination in February 1984 and July 1984 also had the rules change, also had a Bar passage requirement that was above 70%, even though 70% was the announced standard, the Committee of Bar Examiners denied those petitions without comment. I represented individuals as other lawyers did before the California Supreme Court in an attempt to get a writ of review. That petition process was denied without comment and without reasons. Again, what was clear through that process is that, despite what Mr. Gampell said last week, the applicants to the Bar do not sit in relation to the Supreme Court in the way that applicants to any other profession do -- accounting, medicine, what not. Those professions have the opportunity to have an administrative hearing to review the decision of the Board of Examiners, and if that decision is to be appealed, a writ on mandate can be gotten from a state court. That is not the process which is allowed for lawyers. The fact is that would be lawyers are denied their day in court.

ASSEMBLYWOMAN HUGHES: You mean that there's no due process for people taking the Bar. There is no law and order.

MR. WHITE: I do not think that they have the same opportunity to have independent review of Bar examination decisions that other applicants to other professions do.

CHAIRMAN HARRIS: Do you think that should be done by statute?

MR. WHITE: I think that's something this Committee can seriously consider doing, which is to give the same rights to Bar applicants that are already available to other applicants to other professions. The fact that no reasons were given by either the Committee of Bar Examiners or the Supreme Court seems to me to be an indication that there were not reasons to be had. I would like to indicate that the State Bar's own official journal, The California Lawyer, in commenting on the process as it announced the success of the July 1983 applicants in having the 70% standard reestablished, admitted that the fundamental issues of scaling and the limitation of the pass rate had not yet been decided. The fact is that they were not decided by the Committee or the Court. I would like to briefly review because the reason I was involved in this lawsuit is because I have had a history of involvement with research about the Committee of Bar Examiners and the Bar examination in general. I testified before Judge Miller's committee in 1976, when Assemblyman Brown had a bill before this Legislature which would have allowed individuals to pass the Bar examination if they passed any individual part of the Bar examination. At that point it was either the multi-state or the essay examination. The fact was that in response to that bill, the bifurcated scoring procedure was established. At that time the chair of the Committee of Bar Examiners announced that

on April 21, 1977 the Committee announced several changes in the California Bar examination process. The most fundamental was to afford applicants the right to take the entire examination at a single administration or to take the MBE and essay sections separately. That was in 1977 that it was announced. Dr. Klein has recently admitted in statements before the National Conference of Bar Examiners that the bifurcated techniques are very nice for PR purposes and applicants think they have a break, but it will have no effect on the overall pass rate. So the net effect was that instead of Assemblyman Brown's bill becoming law and individuals being allowed to pass a single section of the Bar examination, which were designed to test the same thing -- one was in written form, one was in multiple choice form -- the Committee adopted a bifurcated Bar standard and then abolished it. I think it was clear from the testimony of Dr. Klein that the reason very few people are able to pass under the bifurcated scoring system is because they are being held to a higher standard. You do not get the points that you earn on individual sections. You only get the credit for passing or failing. So, for example, if you earn above 420, which is 70% of 600 on the multi-state Bar examination, you do not get those extra points carried over. You only get credit for having passed that section. If you were allowed to have those points carried over from time to time, I think many more people would be able to take the opportunity to have the multi-state Bar examination and the

essay pass in different time periods to focus on those different techniques and have the scores rather than just the pass/fail score recorded. Finally, I'd like to refer to the comments which seem to be pervading the Committee's responses, which indicate that it's the students rather than the Bar examination that's causing the problem. And let us recall that we are meeting today in an unprecedented time. A drop of more than 7% in the Bar passage rate, from 49% to less than 42% of the people are passing in California. The lowest Bar passage rate in recorded history for California, the largest drop in over 21 years of recorded history for the California Bar Examination and yet the Committee says that there was something wrong with the students. Let's go back to 1960 at Boalt Hall when any applicant who had a B average as an undergraduate and indeed some who did not have such an average could obtain admission to Boalt Hall without regard to his or her LSAT score. I'm quoting from the brief that was submitted to the Supreme Court in the Bache case by the four UC deans. Yet at that time, three years later in 1963, the people who took that Bar Examination had a 54% Bar passage rate. And yet here we are today with much higher Bar standards, much higher LSAT standards at Boalt Hall, and yet the Bar passage rate is much lower nationwide. A couple of other examples, taking Boalt Hall again as an example, in 1967 the median LSAT score was 638 for admittees to Boalt Hall. Three years later, the statewide Bar standard was 56% passing. In 1976, the LSAT score of

admissions was 712 out of an 800. The LSAT scores had gone up about 80 points and yet the Bar passage rate for those people had gone down from 1968.

CHAIRMAN HARRIS: Was your point that the Bar Exam is an obstacle course and not a test of competency. Is that the point you're trying to reach.?

MR. WHITE: I think it's an obstacle course that's becoming more difficult despite the fact that people who are applying to law school and graduating to law school come in with higher credentials than they did in the past. The only consistent fact is that as more individuals become lawyers in California, it becomes harder to become a lawyer in California. I would like to finally close with the multi-state Bar examination because that's what I'm most familiar with. The fact is that it is a secret examination. Copies are not routinely released after the examination. Even the Committee is only given 48 hours, I think, to look at the exam and then send it back secretly. The fact is though that in 1972, the National Conference of Bar Examiners did release a full form of the Bar Examination, but they didn't release the correct answers. So that when the four Bar review courses had to come up with answer sheets around the Washington, D.C. area, when those answer sheets were compared, they disagreed on 69 questions -- over 35% of the examination. If those Bar review courses had been graded only on the questions that they agreed on, they would not have passed the California

Bar examination. So that even though it is a machine-scored examination, it is not an objective examination.

CHAIRMAN HARRIS: Mr. Naparst.

MR. NAPARST: I just want to say something to Assemblywoman Hughes. The rule of law is that the only due process you have is to take the exam over again if you failed. You get another hearing, that's all. As a result of sitting through two days of hearings, I have more questions than I have answers, and so I'd just like to have the Committee ask the Bar Examiners, when they come back, a few questions. We heard today that 1260 is the passing score, yet in the announcement of the last exam they keep saying 1260. But when you go into the actual grading of the exam, in the first phase you have to get over 1279 to pass. If you have between 1260 and 1279, you don't pass. You go to the next phase. So on one hand they're announcing the passing score as 1260, and yet you get 1260 and you don't pass. And I'd like to know why. And if you could ask them I'd appreciate it. There are also some allegations that the MBE has gotten a lot more difficult. And I haven't heard any answers to my question that I asked. I sent a letter to the Committee. I'd like to know how they talk about equating the exams. I put up an expert last year at the hearing that said that part of the problem with the scaling of the exam last year was that there was not a total equating. And their own data showed that the July 1983 exam was the most difficult exam that they had given since

they started creating a difficulty index. So I'd like to know do they truly equate or how do they know they're really equating. And I'd like to know if the MBE has gotten more difficult. And one of the things I'd like to suggest, I'd like to make some suggestions to the Committee. One is that I think this has been a good hearing, but there hasn't really been the questioning on the statistical aspects of the Committee. And what I'd like to suggest is something that happened in 1948 when the Gallup Poll and all the other polls made mistakes in the presidential election. They turned around and asked the American Statistical Association to set up a committee to look at polling. And as a result of that, polls became more scientific and they're generally more correct. And I'd like to ask this Committee to ask the chair people of the statistics department at Stanford, Berkeley, and the big schools, to set up a committee to look at this thing. Because I don't know if this Committee has the expertise to do it, but I think these people, an independent, not related to the educational testing service of the American Council on Education, to look at this because I don't think that we're hearing the whole truth here. I think that this exam is getting more difficult. And as part of my research I went back and looked at the, in 1933 there were these same allegations. During the Depression you had 30%, and after the 1933 exam people came forward. They said you are screwing us over. You just want to keep the number of people down. And I went into the State

Archives and looked at the briefs, and what happened is the Bar Examiners...It's an unprecedented case of the American law. The Supreme Court held a whole day hearing in which everybody who wanted to come forward. And then the Bar Examiners reread the papers of everybody who got between 60 and 69 , and nearly everyone of those people passed. And I'd also like the Chairperson to ask the Committee why is it that when they have a second reading of the papers that the grades are always lower, because you need 1279 to pass in the first phase. You go into the next phase, they reread the paper, the grades are uniformly lower. And I'd like to know why that is, because I think they're just taking and making people to flunk. I'd like to see some legislation, too. I'd like to see 70% as a passing standard put back in. David mentioned that the Committee scaled the exam and we didn't have 70%. Well, now they sort of conceded our point, because starting, I think, with this exam, there's no longer any short answers in a performance test, and there's no longer any scaling because there's no short answers. But what's going to happen now is the performance test is going to become the most difficult part of the exam, and you can look for declining pass rates as a result. So I'd like to see 70% put in. I'd also like to see the Business and Professions Code amended....

CHAIRMAN HARRIS: I'm going to cut you off and I'm going to tell you why. I want all the questions you have in writing. We will review and we will submit them to the Bar Examiners and

ask them to respond rather than to go through them now because we're not going to be able to get answers to all those questions right now anyway. Any other thing you'd like to sum up with in terms of....

MR. NAPARST: Well, I'd just like to see some legislation that...three things, they're real quick. One is that the people be able to look at their, if they flunk, look at the intermediate gradings on the papers. And this is a result of the Sewell case. I'd also....I don't know, this hasn't come out. The Committee of Bar Examiners has approximately a million dollar surplus as a result of the Bar exam. You know last September it was about a million, and I'd like to see some of this used for continuing education in the first year. New Jersey has a plan whereby people, the exam doesn't mean that much in the first year. People then have to do a number of tasks and they get graded, and that leads to admission. And so I'd like to see some of this money used for education of people in the first year. And then I'd like to have something like they have in some states where the Bar examiners sit down with the people and tell you what did you do wrong on your essays, because right now the model answers really don't do it. There are outline essays with point assignments to each thing on the outline, and I'd like to see those given out to the people and there be a system whereby people can sit down and find out what they did wrong, because right now you really don't know. You see people get the same

answer as the model answer and they got a 60 and the answer was a 90 answer. And Dr. Klein's own data shows that some people get a 30 point disparity between two graders on exams. So, that's what I have.

CHAIRMAN HARRIS: Thank you very much. Now Diane and Mr. Klein and anybody else from the Bar or the Committee of Bar Examiners.

MS. YU: I think we're going to hear from Dean Gorfinkle.

CHAIRMAN HARRIS: Fine. I certainly want Dean Gorfinkle to come forward.

MS. YU: I want to introduce Dean John Gorfinkle who's the educational standards consultant to....

CHAIRMAN HARRIS: Before you do that, I want to know how do you plead.

MS. YU: I'm going to take it under submission. First thing, I don't know what your timetable is. We can respond to some of the questions that are fairly brief.

CHAIRMAN HARRIS: I have until one o'clock. I know a few of you may have to go, but I'd like...,

MS. YU: Okay, that's fine. And I think some of the others we could follow up in writing if that's helpful to you.

CHAIRMAN HARRIS: Alright, that's fine. We will be submitting other information. I don't think we need any more public hearings, but we may require or ask for other meetings just to pursue some of the things that have been talked about.

MS. YU: Sure. Okay. There is one thing I'd like to say preliminarily and that is that, contrary to popular belief, I think this has been probably a useful exercise for us as well, notwithstanding the amount of time and effort put into it, but one of the things.... I've been Chair since October, and one of the concerns I've had since assuming that thankless task is that....

CHAIRMAN HARRIS: Thank you.

MS. YU:would be that it probably is an important goal for the Committee to have better communications with the different entities and groups of people that were affected. To that end, we have initiated certain things which I think are helpful to that purpose. One is that we will be meeting again with the law schools next month. We set up a statewide meeting in Los Angeles. On the agenda are a number of topics which include the format content of the exam, the results from the recent exam, and a potential setting up of a joint committee, which is, I think, what Dean Schaber was referring to. So we are interested in reinitiating the dialogue on that respect.

CHAIRMAN HARRIS: Excuse me. Would you consider the possibility of the Committee of Bar Examiners putting together some type of review course, or some type of assistance?

MS. YU: Yes. That was my next point. The other group that I think we need to confer with other than just by mail is the applicant group. And to that end we are going to be

producing what I hope will answer this. We are going to be making a video tape which law schools, bar review courses, students could use which will answer the most frequently asked questions about the exam. I have made myself available.....

CHAIRMAN HARRIS: I'm sorry. I want to go one step further. What I was willing to suggest, the one thing that seemed to come out was the sense among some that the performance part of the examination was a last minute entry into the race, and that some students had not been given appropriate notice for that. And I'm wondering whether or not in fact the Committee of Bar Examiners would be prepared in two or three locations to have some type of minimal weekend review course for those students who have graduated from law school, but who in fact are waiting to take the Bar exam. I think that certainly that would be a gesture of good faith, so that those students who in fact were not prepared in law school for the performance part of the examination, who may not have the money to take a Bar review course, would be in fact able to get a sense of how they should approach those questions, how they should prepare for those questions. And I think that certainly would be one factor that might be to ameliorate that....

MS. YU: Right. Well, it's certainly a possible thing we can explore. I'd be happy to bring that up. One thing that should be pointed out that I know the notice on the performance test had offended some of the people who have testified before

you. It's interesting to note that the scores on the performance test in July of '83, the first year we gave it, were higher than the scores in July of '84 when they had had by then two years notice. So I'm not entirely sure what the prejudice is. It may just be again the perception as compared with the reality. I'd also like to indicate that we have reinvited members of law schools to attend our calibration and grading sessions. We had been doing that for a number of years, but for some reason in the late 70's early 80's, there was a drop off in attendance, and we found that most the deans of law schools were not sending anybody from their schools anymore. We've reinitiated it anyway in case they're interested.

CHAIRMAN HARRIS: What about the idea of a baby bar for everybody?

MS. YU: Well, I think you've heard the reaction from the accredited schools who are against it. It's not something that we have really talked about in the committee. It's one of the things I've got on my agenda to bring up, because as you have gathered, we haven't had a Committee of Bar Examiners meeting between these two.

CHAIRMAN HARRIS: Maybe it serves to give those in fact who are still not prepared, even though they're matriculating, even though they have been admitted to a law school. Maybe it ought to give them an indication that they ought to reassess their career. Or maybe it ought to give them an indication as to whether or not they ought to go back and prepare themselves.

MS. YU: Well, as I heard one of the deans indicate, they were talking about whether it be advisory as opposed to mandatory, and those are two very distinct issues because....

CHAIRMAN HARRIS: I mean they'd be advisory to the school. The school could decide whether or not they in fact want to let....

MS. YU: Scores and performance on advisory tests are not very reliable because the motivation on the part of the student simply isn't there.

CHAIRMAN HARRIS: Oh, no, no, no. It's advisory to the school. It's not advisory to the student. The school could decide whether or not....

MS. YU: They would grade the tests in essence.

CHAIRMAN HARRIS: That's right. Or you could grade it. But the problem is you'd get a score. You'd say this student scored 75% on the baby bar. At that point maybe the school will compare the student's grades and the baby bar exam and makes a determination as to whether or not that student ought to continue, or whether or not that student ought to repeat the first year. That's an example.

ASSEMBLYWOMAN HUGHES: I think this is extremely important when we have a large number of students in our state who are going to professional school on student loans. And before they get too far in debt, maybe they ought to be changing the direction as Mr. Harris has said. And this would help in

terms of the large numbers of public funds that are utilized and never utilized to any fruition.

MR. JOHN GORFINKLE: I'd like to make one comment on this.

CHAIRMAN HARRIS: For the record, would you....

MR. GORFINKLE: John Gorfinkle, consultant on the Accreditation Committee. I meet with these schools constantly. If you put in a first year law student examination, you have to make it mandatory. And I pass on that as a condition just as it is now for the unaccredited school, or you are placing every one of the schools in a vise where tuition demands, student pressures, and so on will prevail upon the school to let people continue regardless. And I think if it is to be a meaningful test, if it's to be an accurate test, it has to mean business. You can't play poker for match sticks. You can't make this a....

CHAIRMAN HARRIS: What do you think about the idea?

MR. GORFINKLE: I would favor it if it's feasible. I see no objection to it. And in line with that approach, I met two weeks ago with the deans of every one of the state accredited law schools for a full day session in Los Angeles for the purpose of discussing whether the law schools were prepared themselves to inaugurate on a statewide basis their own first year law students examination which they would use. And one of the conditions that we laid down was that if you mean business on this, you have to stick by your guns on the test scores. You can't have it maybe yes and maybe no.

CHAIRMAN HARRIS: Well, could you then not retest on some of those questions, or at least not have a different exam? For example, you could give a two day exam. In other words, what I'm suggesting is that if a person passes this first level examination, not that they might not even be retested on those subjects, but then in fact that they would not have to just simply repeat that exercise.

MR. GORFINKLE: There are a number of variations. I think that we would make a mistake if we lost sight of the one, what seems to me in the discussion to be the primary objective, and that is alerting the student in the law school who has eventual chance of failure or success. If we concentrate on that, these other matters maybe yes, maybe no. They're not significant in that basic determination. And the interesting thing is that we could prepare a test which would be, in part, a simulation of the MBE, which we have done, and we could prepare a part which is a simulation of the final essay portion.

CHAIRMAN HARRIS: What I was suggesting, I guess, was simply that if in fact there are certain first year core curriculum -- criminal law, torts, contracts, whatever....

MR. GORFINKLE: There is one problem there and that is in several of the night schools....

CHAIRMAN HARRIS: You can take it after....

MR. GORFINKLE: They have several procedures in criminal law, but these are insignificant....

CHAIRMAN HARRIS: Well, they may have to make some changes.

MR. GORFINKLE: These are details that could be worked out.

CHAIRMAN HARRIS: Right. But as soon as they take certain basic courses, then it would seem to me that it would be the final exam, if you would, or the Bar exam would be a much.... You could test other things, a broader spectrum of testing, if in fact in that final examination perhaps you again have one day of MBE courses that would retest some of those subjects -- the criminal law, the torts, and the contracts -- and then have another day either a performance, or still have a three day exam. Again, I want to emphasize to you my concern is not increasing the passage rate. That's not really my prime concern. My prime concern is making sure that in fact the process is consistent, that the process is fair, that students know what the rules are, both at the time they enter law school and the time that they graduate, and to make sure that in fact the examination is really a test that will give some protection to the public, as well as some indication as to again minimal level of competency. I'm just talking randomly, but....

MR. YU: I agree. You won't find a disagreement with your....

CHAIRMAN HARRIS: I'm not trying to beat you guys up about, well I want you to pass 75% or 80% of the students who

take it. That means that we've got a good exam if 80% of the people pass. I mean that could be ludicrous. What I'm saying though is that there ought to be a way to cut the wheat from the chaff. There ought to be a way to not have the Bar exam become a turnstile for people's lives. In other words, there are people who have taken the exam eight, nine, ten, twelve, fourteen times....

MS. YU. Twenty-six times is the record, I think.

CHAIRMAN HARRIS: Twenty-six times. I know a guy that I was studying with that I got really nervous when I found out how many times he had taken the Bar. I said I'm not going to learn a lot from this guy and obviously it's not going to help my track record. But I'm trying to figure out how in fact we heighten the odds so that if a student decides to matriculate in law school he knows that hey, I've got a chance. Okay, I've passed this hurdle, I'm moving on.

MS. YU: Actually in line with that, the committee has always been concerned about disclosure by law schools to students as to where they stand, or what their sort of performance has been on the Bar exam. And we did at one point contemplate mailing our exhaustive statistics out to everybody, but found that that would be difficult.

CHAIRMAN HARRIS: I don't think you need to do that. I think we talked about disclosure, and I think that may be very appropriate. Dean Gorfinkle, one thing I'd like you to comment

on if you would, the issue of accreditation versus unaccredited. I know we have had previous discussions and hearings on the subject, but I certainly would like you to give me your thoughts.

MR. GORFINKLE: All right. First, as to the unaccredited, the only control that now exists in the State of California with respect to unaccredited law schools and the Committee of Bar Examiners is Supreme Court Rule 957 which enables the Committee to deny credit for law study to the student if the law school violates Rule 957. This is very basically enforcement in the wrong place. The victim is the one who is penalized. As a consequence, the Committee has taken the position that we cannot do very much in the way of maintaining effective supervision over unaccredited law schools. And any unaccredited law school that seeks consultation and assistance, we will work with them. But if they do not seek consultation and assistance, and I might say that one of the reasons why one of the unaccredited schools represented here today is not accredited is that the dean has refused every offer made to visit his school, and so that we have no way of knowing what's going on except by a sketchy annual report.

CHAIRMAN HARRIS: What about the idea of statutory minimums?

MR. GORFINKLE: We were before this Committee on that subject a couple of times and we were turned down. I would be very happy, if the Committee wishes, to consider certain statutory minimums....

Mr. Rosenthal and I did a draft on that a few years ago and we would be happy to revive it.

CHAIRMAN HARRIS: That's fine.

MS.YU: I will tell you that the Committee is still interested in seeing whether or not there can be a better way dealing with unaccredited schools.

CHAIRMAN HARRIS: And again, perhaps to refresh your memory on the subject -- I don't think the subject was so much about the accreditation. The concern was that we not unnecessarily limit the ability of minorities, working people, so on and so forth to matriculate, and that we not simply use traditional standards for purposes of accreditation but to make sure that in fact for example, if there were going to be minimum standards from the terms of competent faculty, that they be clear and consistent to make sure that if in fact -- you know I remember one of the objections that was stated at that hearing, was that one of the accreditation criteria was whether or not you had a library, and one of the Dean's, in fact Dean Liontas indicated well there's a library right across the street, why do I have to have a library in my school, if in fact my students have access to a library. Well from my perspective, I would not like to see that as a minimum requirement for accreditation. I don't care if the school has a library, I can find a library, I'd go to the County Bar, you know County Law Library if I need access to a library. But whether or not the school has competent faculty, whether or not the school has other minimum standards much more important to me, and that's why I think that there may

be some mediant of mind, some common ground, at least that's terms of minimum standard. Now if you want to go beyond that for purposes of California Bar Accreditation or ABA accreditation, then I think that there -- you understand what I'm saying?

MR. GORFINKLE: The accreditation standard on library contains a specific provision that if there is a public law library that is reasonably accessible to students and faculty, the contents of that library will be considered in determining --

CHAIRMAN HARRIS: Okay, yes I understand that, I wasn't making -- I was giving you an example though.

MS. YU: Alright, all I will say, the Committee is still interested in the thrust of a bill like that but we were so blooded and bruised last time, we're not willing to do it without some support or some suggesting there is a change of heart on the part of the Legislature, but we'll be happy to work with you on that.

CHAIRMAN HARRIS: Bloody and bruised?

MS. YU: Blooded and bruised, right.

CHAIRMAN HARRIS: This committee blooded and bruised someone?

MR. GORFINKLE: Well, I don't bruise easily.

CHAIRMAN HARRIS: Oh good, good yeah you don't look any--

MS. YU: In a very nice way.

DR. STEPHEN KLEIN: Mr. Harris, on the -- just getting back on the baby bar issue, on the consumer protection end of it to the students, schools today can provide students with the

percent passing gregarious first year grade point averages. You can say if you're--

CHAIRMAN HARRIS: I'm not worried about that, I'm worried about something that in fact gives you a -- not for your school, but for all people who in fact are trying to matriculate, and in fact who are going to be judged not on the school standard, but upon your standard.

MS. YU: Right.

DR. KLEIN: No, what I was driving at though, the school standard, whatever the school standard is, you go to a school and you say the top twenty percent at that school may have a bar passage rate at 80 percent, and another school, the top twenty percent may have a bar passage rate of a hundred percent. Within the school, the school could say these are out grade point averages and if you're in this zone this is your chance of passing. You'd give them the same information right away because it's based upon the standards at the school and what happens at the school in terms of bar passage rate. So in the interim, before thinking about the longer term question of the baby bar for everyone, there's information they could provide right now which would be helpful.

CHAIRMAN HARRIS: I think there would be great resistance to a baby bar if in fact it was simply going to be repeated in the bar exam. If it could, people would say you know, why? But if in fact there's an indication that you can pass over one of the hurdles after the first year, that certainly would be indicating whether or not you're on the right track, and

whether or not -- I think there may be more acceptance of that idea, so I really would like to get some feedback from your Committee.

MS. YU: Right, okay. What I'll do is refer that to our committee and we may get back to you once we've done a little checking on that, okay? Thank you.

CHAIRMAN HARRIS: Yes, anybody else--

MR. GORFINKLE: Did you want to discuss anything in the accreditation program?

CHAIRMAN HARRIS: Well the main thing I want to tell you that I'm interested in the accreditation questions, and I wanted you to understand that my hesitancy has only been relative to closing the door to access. There are many nontraditional students that cannot get into traditional schools, and I want to make sure at the same token that we're not simply giving people who are in unaccredited institutions license to kill, a license to give people a sense of hope where nothing really exist, a sense that they are in fact in law school when in fact what they're really in is some kind of day-care facility or night-care facility as the case may be. So I'm not unwilling to set standards. I do want to make sure that the standards are relevant to what I consider to be minimal requirements for the purpose of the Legislature, not for the purpose of the Committee. I think you can set up your own standards as it relates to what the California Bar examiners of the California Bar Board of Governors feel is appropriate just as the ABA does, but I'm just talking about minimal legal standards that the State might set up.

MR. GORFINKLE: Well I think in that connection, the criteria that is set up in the fact under standard (e) in the fact it's affecting accreditation provide a great deal of flexibility and leeway for the law schools under the State Accredited System. Much greater leeway than the ABA.

CHAIRMAN HARRIS: But what I'm saying, I think what I'm talking about probably would not be that extensive and probably would be much more objective in terms -- for example, competent faculty, that's very subjective. I don't think the Legislature can define competent faculty, that's something that you can determine, but I think we can in fact say if for example one of the things were to be that you had to be a member of the State Bar in order to be on the faculty, I don't think we'd do that, I think that we'd probably knock out half the faculty of California law schools. But if we were to make that a criteria, that we can do, that's objective okay. I don't want to get off into things that you or the Committee can subjectively determine based on experience and other factors.

MR. GORFINKLE: Let me just run through very quickly, realizing that time is of the essence. The physical plant is in general terms except for the number of classrooms that they should have and waivers can even be granted on that. True, the quality of the faculty is a subjective factor but there are objective criteria or at least statements as to the various matters that will be looked at in evaluating, and our experience has been in this regard, that those schools that either video tape or audio tape class sessions that are visited by inspectors,

have no difficulty identifying the incompetent faculty, because in most instances the faculty -- we have said for example, and this is one instance, there are two of us on a visit. You have three members of the faculty that in our opinion should not return next year. The following week the Dean called me and said we're not waiting till next year, so and so, and I'll bet he's one of the three -- I said you win, is not returning next quarter. They can identify these because the arrows are glary. The program and curriculum of the school is objective. This is where one of the schools testifying today failed utterly to provide a reasonable law school curriculum. Courses are given every third year, and it's not fair to law students to find out that courses A that they need for course B is not going to be given for two years after course B. Grading and evaluation of students is matched against performance on the first year law students examination. Not how many people pass, but what is the correlation between grading in the school and performance on the first year examination? Do they somewhat correlate? The quality of examination. Admissions as I say are very relaxed, no LSAP is required if the applicant is a college graduate. We ask for no SAT score if the applicant has little or no formal prelaw education, so there's nothing else to evaluate, and we ask the school in admitting a person who comes in in the special category to say we considered these factors and decided to admit. Just show us you use some judgment. I don't think that the claim that these are subjective is meaningful, and finally, and this is not said out of modesty, I have no role to play other than as an

advisor. One of the schools here who was an applicant, was visited by a member of the Committee who is now a United States District Judge, and was visited by two other members of the Committee because I disqualified myself at the request of the school, and the three members of the committee made the decision to turn down the application. So it is not modesty, it is a fact that I do not make decisions.

CHAIRMAN HARRIS: I understand.

MR. GORFINKLE: Now one other thing that was right, revisitation. Since the 1981, 1982 academic beginning of that year, every state accredited law school in this state has been visited at least once. Anyone who has not been visited at least twice during that time is on the calendar for next year. We have now pending, and I do not want to reveal any names because it would be disastrous. We now have pending, proceedings to remove accreditation from a school that in the judgment of the committee, is failing to conform to the standards, and the committee -- once these proceedings are out of the way, we'll be considering another school. So this is not a license in perpetuity.

CHAIRMAN HARRIS: Alright. First of all, let me just say this. I want to assure you that I'll be prepared to carry a bill on accreditation and disclosure, but I want to work with you on it.

MS. YU: Okay.

CHAIRMAN HARRIS: I don't want you coming out of left field and I don't want you digging up Wally Ingalls, I'll take care of it, but I want to see something.

MS. YU: Okay, that's fine. In fact last year I set up an ad hoc committee on legislation, so maybe we could get together on that. In fact, I have invited you to address our committee and I'll do it again. I hope you can do that at some point.

CHAIRMAN HARRIS: Okay. You always meet at such exotic places, I can never get away. Okay.

MS. YU: Or at the State Bar building.

CHAIRMAN HARRIS: Right, yeah right.

MS. YU: Very exotic.

CHAIRMAN HARRIS: San Francisco is exotic.

MS. YU: That's right, that's right. You had asked, I don't know if you have some other questions, but last week you had asked for some recommendations.

CHAIRMAN HARRIS: Yeah, I want to let you conclude with that. I want to ask you next -- about the Bar Exam (inaudible), you'll get back to us on terms of some procedure of notification. I think the cooperation between the beams and the Committee Bar Exams will satisfy a lot of that. I would like to see either from the Board of Governors or through the Committee Bar Examiners own rules that there be some notice provision about any changes in the examination that will be given at least some--

MS. YU: Right, that has been addressed by the Board of Governors.

CHAIRMAN HARRIS: What is that?

MR. BURKE CRITCHFIELD: And we'll be back with a report on that.

CHAIRMAN HARRIS: Oh, okay. The question has been addressed, the answer has not been -- alright, that's fine.

MS. YU: Right. the language hasn't been worked out, but we agree in principal as to how to proceed in future changes.

CHAIRMAN HARRIS: Alright, okay.

MS. YU: The other thing is that, I believe Mr. Naparst mentioned the New Jersey bridging the gap program where persons who have taken the Bar Exam must participate in certain mandatory clinics and skills. That's something that has been written up in the ABA magazine, something we'll be referring to our Committee too.

CHAIRMAN HARRIS: So you'll look at that?

MS. YU: Yes. Right now bridging the gap programs are not mandatory in the State, and there are some mixed results as to the efficacy but we'll look into it certainly.

CHAIRMAN HARRIS: Of the efficacy of the -- what do you mean?

MS. YU: Well, some programs work better if they're mandatory and others work better if they're optional. We're going to try to get some data from other states and see whether or not it would be possible to devise something.

CHAIRMAN HARRIS: It seems to me that if you can put in a qualification of professional responsibility that can be passed subsequently by course or by exam or however that's done, that there could be either prior to graduation or after graduation, some certification of some experience factor either a certified and approved bridging the gap program that could be offered by

the school as part of its regular curriculum or in fact one after that particularly in terms of things like trial practice. That's the thing I'm really particularly concerned about.

MS. YU: Right, right. The hardest thing is getting some kind of quality control, but I think if we concentrate in certain locations we might be able to do it. We'll work on it.

CHAIRMAN HARRIS: I think that you should do one thing. If it's an ABA or a California accredited law school, then I assume that you ought to be able to presume if the course is adequate. If it is an unaccredited law school, then perhaps the course would have to be available somewhere else (inaudible). So everybody would have access to that kind of a program is what I'm saying.

MS. YU: In our agenda when we meet with the law school deans next month, we have some format and other construction questions and that is when we can try to insert. I think that would require some interaction with them.

CHAIRMAN HARRIS: Okay. Now, any other answers?

MS. YU: Well there are a few items of -- well a few recommendations, a few items. First, on the statistics with respect to some of the schools that related their statistics, there is always a problem with statistics because the number of students tested from unaccredited law schools is so small. Two of the schools that you've heard from today, Pacific Coast and Peninsula, they tested fourteen in the last Bar Exam at Pacific Coast, nine at Peninsula with three and two passing respectively, so the statistics may not sound all that bad but the numbers are

pretty minuscule. There are a few inaccuracies I should correct, number 1 the exam is not graded officially by Bar Examiners but by teams of graders who are supervised and trained before they grade. The MBE scores are not revealed to the readers, so they do not know how people did on the MBE at the time they're reading the essays or performance test, but up to 50 percent of the minority students taking the California Bar come from the four UC Law Schools, and one other school which we think is USC, I'm not sure, but that the vast majority of minority students come from the ABA approved schools, not the state accredited or unaccredited schools. On scaling, the Committee did make a finding that the fairness issue -- that the appropriateness of scaling was not the issue, but the ambiguity of the notices was really what turned the Committee around, and that finally one suggestion we have really, with respect to the minority pass rate and whatever would be that perhaps some of the expertise in this State, from law school deans to placement officers to bar examiners to professors, might be put together in some kind of group effort to look at this question in some depth. California is currently the only state that regularly collects data on minorities, so it's the only state where some study of this nature could be done. I notice that you and Assemblywoman Waters were very interested in that, and Hughes, and yes last week Waters also was concerned about the minority situation. I think perhaps we could put together some of the expertise, we've got a lot of ABA people, we've got a lot of good bar examiner people, we might be able to come up with something that would be helpful.

CHAIRMAN HARRIS: Let me ask you one other thing. We talked about minimum standards for law school admissions, I'm sorry -- for law schools. Should we talk about minimum standards for admissions? For example, some law schools will allow you to attend even though you haven't gotten an undergraduate degree. Should we begin to look at some of those criteria as well?

MS. YU: Some of those are taken care of. We do have some undergraduate requirements that --

CHAIRMAN HARRIS: I mean should we in fact acquire Bachelors or Arts or a Bachelor of Science or some undergraduate--

MS. YU: Well, I think a part of the problem is there always is going to be a conflict between diversity and what that brings by way of benefits, and standardization or whatever. It's always hard to get those things to balance out properly, but we do have standards on undergraduate background prior to your being able to take the bar exam, and there are ways people can qualify even if they haven't come in the normal or traditional route.

CHAIRMAN HARRIS: For example if you've been a legal secretary or for example if you've worked in a law office.

MS. YU: Right now your past employment isn't factored in.

MR. GORFINKLE: I'd like to address that for just a moment.

CHAIRMAN HARRIS: Wait a minute now, I thought you could still be allowed -- you're allowed to take the Bar Exam--

MS. YU: Oh yes, oh I'm sorry, yes I'm saying your prior experience is not -- your previous jobs are not really taken in. If you decide to come in through either the judges study or law office study, you have to meet certain requirements for those programs, that's true.

CHAIRMAN HARRIS: Yeah okay.

MR. GORFINKLE: Speaking as a Dean of the Law School, I would not like to see any specific floor of an educational requirement. If you have an accredited law school, and they are using their own good judgment, let them make those decisions based on all applicable facts, and there wasn't a year that I was dean that we didn't have one or two applicants with no formal college education at all who established other criteria and turned out to be outstandingly good students, and I would let them have that opportunity.

CHAIRMAN HARRIS: What's an important recommendation, do you know?

MR. GORFINKLE: And it's written into our accreditation standards and it's also in the ABA standards in almost the exact same words. I was a draftsman of both at the same time, and the ABA and the California followed the same language and I forgot.

CHAIRMAN HARRIS: Okay.

MS. YU: Nobody believes, but we really are very sensitive to these issues of diversity and having different avenues if we're going to be open at least be related in some way and that you have persons of any background who show their minimum skills to be able to practice law, I mean that isn't

really something the Committee disagrees with. I guess there are disagreements from time to time as to how best to accomplish that and believe me the Committee bends over backwards to try to uncover every possible route to maximize the conflicting goals that we're operating under.

CHAIRMAN HARRIS: How long before I can expect to get some report back from either the Board of Governors or the Committee Bar Examiners on specific recommendations relative to the things that have been discussed at this hearing? We'll get you a transcript as soon as we can, but we're interested in basically seeing either what legislative or what administrative responses you might suggest to the areas of concern that have been raised. We'd like to get some reasonable time frame work so that we don't simply have a hearing that have no conclusion.

MS. YU: Okay, looking ahead to April, we're spending most of our April meeting talking with law school people. May is question selection. At their June meeting, we should have a fair amount of time to go into this.

CHAIRMAN HARRIS: And we expect to have this by June 30th?

MS. YU: We could certainly strive for that, I think that's something along that line, sure.

MR. CRITCHFIELD: Mr. Chairman I think it has been brought out that the Board of Governors is very sensitive and concerned about this issue too, and has established better communication with many bar examiners, so whatever the Committee comes up with I'd like to have it come before the Board as well.

MS. YU: Oh that means July.

MR. CRITCHFIELD: Well if we could have it for our June meeting.

CHAIRMAN HARRIS: When is the June meeting?

MS. YU: Our June meeting is with the 6th 7th and 8th.

MR. CRITCHFIELD: That would be alright, because we're the last of June.

MS. YU: This is assuming we can get something in writing to you -- we'll try to work it out.

CHAIRMAN HARRIS: Why don't we say by August 1st? Is that alright?

MR. CRITCHFIELD: That would be fine.

MS. YU: That's fine.

CHAIRMAN HARRIS: If you can get it in sooner that would be fine.

MS. YU: Fine, and if we get some parts done earlier do you want those or you'd want it all together?

CHAIRMAN HARRIS: No, we'd like it as soon as possible. What we really want is, we just want to get some sense of where we're going relative to the Bar Exam. Let me sort of sum this up by saying that I hope that no one consider this some kind of an indictment, that we on purpose will simply oversight and review. I think the Bar exam is a very important process both for the students and for the public at large. I don't think that we intended to nor did we uncover any major problems. I think that there are problems with the Bar, I think that their recognition of that exist within the Committee Bar Examiners, that it is an

evolutionary process, one that's ongoing. There's no problem with any of that. Our concern simply is that it be approved, that it be the best possible examination, that it continue to be exemplary for other states and other institutions. One of the things I wasn't able to get into today, was looking at other Bar Exams in other states. I know that there are a number of people taking the California Bar, and after taking it once, they run for the border and they look for Pennsylvania and DC and Florida and a number of other states where they can be admitted to practice because they don't see much future as practitioners in California, given their first experience with this Bar Exam.

MR. CRITCHFIELD: Yes but Mr. Chairman I found out after attending the American Bar Convention that if you're admitted in California it doesn't give you the right to go anywhere else because we don't allow anybody else in here.

CHAIRMAN HARRIS: Right, there's no reciprocity in California.

MR. CRITCHFIELD: None, and in Alaska I found out that if you have a thousand dollars and you practice in another state then they'll allow you to practice there.

MS. YU: Pay your way.

CHAIRMAN HARRIS: The one exception is DC. I was admitted on motion there. If I had to take another bar exam, I would have shined it on.

MS. YU: I think they terminated that.

CHAIRMAN HARRIS: They've terminated it?

MS. YU: Because I missed the deadline.

CHAIRMAN HARRIS: You missed -- sorry about that. Okay, is there any other questions that you have or any other information, any conclusions you'd like to read.

MS. YU: No, I do want to thank you and the seriousness of which you're undertaking this and if you -- are you going to be able to -- do you want to submit new questions to us or do you think we should just pick up on what we've gathered?

CHAIRMAN HARRIS: We may do that. We may also ask if we may have a meeting with you and Ms. Smith, other appropriate individuals from the Committee as we proceed with our own deliberations, and we're going to review the transcript, we'll review questions and the statements that have been submitted to us, and out of that we'll probably have continuing dialogue, but--

MS. YU: Fine, that's fine. Would we be able to refer to any of the other materials submitted by other witnesses here? That might help, because some of the ideas we might be able to use, I'm not--

CHAIRMAN HARRIS: We will get a transcript of this within the next four weeks, and we will get a copy of that transcript to you and certainly to the public at large.

MS. YU: And the attachments and everything else. That's very good, thank you.

CHAIRMAN HARRIS: All the written information that is pertinent to the record will be submitted, and if it's not, if we have it we certainly will make it available to you.

MS. YU: Okay, I want to thank you and one last remark. I read that Winston Churchill once said that he was being encouraged to be a martyr but he wanted it to be postponed and I appreciate the postponement of my martyr.

CHAIRMAN HARRIS: You're welcome, you're welcome, but the stake is still up and the fire is hot. Thank you.

APPENDIX A
Questions and Responses to the Questionnaire
to the Board of Governors

RESPONSE TO THE QUESTIONNAIRE TO
THE BOARD OF GOVERNORS

Assembly Judiciary Committee Hearings
March 19 and March 26, 1985
Sacramento, California

Dated: February 28, 1985

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APPENDIX A:

RESPONSE TO THE QUESTIONNAIRE TO
THE BOARD OF GOVERNORS

Senate Judiciary Committee Hearings, March 12, 1985
Sacramento, California

QUESTION #1: Please describe the administrative oversight role the Supreme Court of California plays vis-a-vis your day-to-day activities.

The Supreme Court does not provide day-to-day administrative oversight of the activities of the State Bar. The Court has referred to the State Bar as an arm of the Supreme Court for the purpose of assisting in the matter of discipline and admissions. Chronicle Publishing Co. v. Superior Court (1960) 54 Cal.2d 548, 566. However the State Bar itself is established pursuant to the California Constitution (art. VI § 9) and governed pursuant to the provisions of the State Bar Act (Bus. & Prof. Code §§ 6000, et.seq.).

The State Bar is a public corporation. It is established as a constitutional agency under the judicial branch of government. All persons licensed to practice law in California are members of the State Bar. California Constitution, article IV, section 9. All property of the State Bar is held for essential public and governmental purposes in the judicial branch of government, and all income therefrom is exempt from taxation. California Business and Professions Code sections 6008 and 6008.2.

The State Bar of California was initially integrated in 1927 pursuant to statute. California Statutes 1977, chapter 34. See California Business and Professions Code sections 6000 to 6206.

All State Bar functions are public as established by California law. Constitutional, statutory, rule and decisional duties fall into several categories, among which the principal ones are:

1. The State Bar, in the exercise of its constitutional duties, appoints four members of the Judicial Council and two members of the Commission on Judicial Performance. California Constitution, article VI, section 6, 8.

2. The State Bar is the administrative arm of the Supreme Court of California. Brotsky v. State Bar 57 Cal.2d 287, 300 (1962). The State Bar is charged with the administration, implementation and enforcement of legislative and Supreme Court standards governing admission to practice law, e.g., California Business and Professions Code, §§ 6046, 6060-6066; Cal. Rules of Court, rule 957; In re Admission to Practice Law, 1 Cal.2d 61 (1934), the discipline of

persons admitted to practice and those who would seek readmission after disbarment or resignation, e.g., California Business and Professions Code, sections 6075-6086.6; California Rules of Court, rules 951-952; Jacobs v. State Bar, 20 Cal.3d 191 (1977), mod. 20 Cal.3d 316a (1977); Chronicle Publishing Co. v. Superior Court, 54 Cal.2d 548 (1960); In re Walker, 32 Cal.2d 488 (1948). The State Bar must administer, implement and enforce programs ordered by the California Supreme Court concerning specialization, Bar Misc. No. 3339 (1971), and practical training of law students, Bar Misc. No. 4089 (1978).

3. The State Bar is charged with the administration, implementation and enforcement of state law governing law corporations. California Business and Professions Code, sections 6160-6172; California Corporations Code section 10830; pt. IV, div. 3, tit. I of California Corporations Code (commencing at § 13400, et seq.).

4. The State Bar is required to assist the California Law Revision Commission, California Government Code section 10307, and it aids in all matters pertaining to the advancement of science of jurisprudence and to the improvement of justice in California. California Business and Professions Code section 6031.

5. The State Bar or a designated agency of the State Bar is required to evaluate the judicial qualifications of all potential appointees and nominees for judicial office who are nominated by the Governor of California pursuant to subdivision (d) of section 16 of article VI of the California Constitution. Statutes 1979, chapter 534, section 2 (adding Cal. Gov. Code, § 12011.5). The State Bar is also required to establish and promulgate rules and procedures regarding the investigation of the qualifications of candidates for judicial office. Statutes 1979, chapter 534, section 2(e).

6. The State Bar is required to establish, maintain and administer a system and procedure for the arbitration of disputes concerning fees charged for professional services by members of the State Bar or by members of the bar of other jurisdictions. California Business and Professions Code §§ 6200-6206.

As can be seen the State Bar has many statutory functions other than those it performs in the discipline and admissions fields as administrative arm of the Court. The actions of the State Bar's Committee of Bar Examiners and of the State Bar disciplinary process are subjected to the review of the California Supreme Court (Bus. & Prof. Code §§ 6066 and 6082). Other actions of the State Bar are subject to review by the California Supreme Court pursuant to Rule 952(c) of the California Rules of Court. In the field of admissions the Court has reviewed individual petitions of candidates for admissions to practice. Upon its independent review the Court may uphold the administrative determination of the Committee. See Greene v. Committee of Bar Examiners, *supra*, 4 Cal.3d. 189; Bernstein v. Committee of Bar Examiners, *supra*, 69 Cal.2d. 90;

Konigsberg v. State Bar (1959) 52 Cal.2d. 769; Staley v. State Bar (1941) 17 Cal.2d. 119; Salot v. State Bar (1935) 3 Cal.2d. 615; Henderson v. State Bar (1934) 219 Cal. 696; Large v. State Bar, supra, 218 Cal. 334; Spears v. State Bar, supra, 211 Cal.183. The Court may reverse the Committee's determination. See Siegel v. Committee of Bar Examiners, supra, 10 Cal.2d. 156; Raffaelli v. Committee of Bar Examiners, supra, 7 Cal.3d. 288; March v. Committee of Bar Examiners, supra, 67 Cal.2d. 718; Hallinan v. Committee of Bar Examiners, supra, 65 Cal.2d. 447; Howdon v. State Bar (1929) 208 Cal.604; Brydonjack v. State Bar, supra, 208 Cal.439. The Court's power over the Committee is not limited to the review of individual petitions. The Court can undertake a general review of the entire examination and admission process. See In re Admission to Practice Law, supra, 1 Cal.2d 61.

Thus the Court does necessarily exercise ultimate oversight of the State Bar's activities in the admissions and discipline areas through its rulings on challenges filed with the Court by dissatisfied bar applicants and members of the State Bar who have been recommended for discipline.

QUESTION #2: Please describe the State Bar's specific role in the process of examining applicants and admitting attorneys to practice.

Business and Professions Code section 6046 provides that the Board of Governors of the State Bar may establish an examining committee having the power:

1. To examine all applicants for admission to practice law;
2. Administer the requirements for admission;
3. To certify to the Supreme Court for admission those applicants who fulfill the requirements of the State Bar Act.

Thus the State Bar Board of Governors creates the Committee of Bar Examiners and appoints its members. This Committee is principally responsible for administration of the admissions process.

Subject to the approval of the Board, the Committee may adopt such reasonable rules and regulations as may be necessary or advisable for the purpose of making effective the qualifications for admission (Bus. & Prof. Code § 6047).

The Committee's Executive Director answers to the Committee on all day-to-day operations but is specifically charged with answering full compliance with Board policy, relative to fiscal matters, personnel matters, contractual matters and other such matters. The Committee receives legal advice from and legal representation by the State Bar Office of General Counsel.

The Committee reports monthly to the Board Committee on Admissions and Discipline. Each month the Chair of the Board Admissions and Discipline Committee reports to the full Board. In addition, Board members serve as liaison to the Committee, attend its meetings and report regularly to the Board.

Attorneys are admitted to practice by the Supreme Court and not by the State Bar or the Committee of Bar Examiners.

QUESTION #3: How are your processes funded?

- What percentage of attorneys' dues are used to defray the expenses of administering the bar examination?

No attorneys' dues are used to defray expenses of administering bar examinations.

- What percentage of the costs of administering the examination are borne by the bar applicants?

Approximately 90 percent of the operating expenses of the Committee of Bar Examiners are paid by registration and examination fees. The balance of the funds come from miscellaneous sources. (See answer to Question #4 in Response to Questionnaire to The Committee of Bar Examiners, p. 7.)

QUESTION #4: Please explain why the so-called "Wisconsin approach" to bar admission would not be appropriate for California.

- Would the "Wisconsin approach" be appropriate for those who graduate from an American Bar Association approved school? A California accredited school?

Wisconsin's "diploma privilege" allows applicants who have successfully completed a legal education at the University of Wisconsin or Marquette to be admitted to practice without taking a bar examination. Graduation from one of those institutions is not automatic admission to the bar, however; one must meet the requirements of Wisconsin's rules, including taking specific courses and earning a minimum grade average. In effect, Wisconsin's admitting authority necessarily supervises legal education and failure to exercise strict supervision would mean that the law schools, not the Supreme Court, would be determining through their admission processes who can practice law in California.

In 1984, Wisconsin admitted 442 by diploma, 141 on motion (attorneys in practice three of last five years), and 183 by examination. West Virginia is the only other state that admits in-state ABA graduates without examination; Mississippi, Montana, and South Dakota have eliminated the practice.

In considering such a proposal for California, differences between Wisconsin and California should be noted: Wisconsin has 442 ABA graduates attending two schools; California tests 5,815 ABA graduates from 16 schools. It is also worth noting that Wisconsin's examination standards are significantly lower than California's: Wisconsin requires an MBE score of 125, while California's pass level is approximately 140.

For further information regarding Wisconsin's rules for admission, the Committee may wish to contact Erica Moeser, Director of the Board of Attorneys Professional Competence, 110 E. Main Street, Room 623, Madison, WI 53703. Ms. Moeser may be contacted at (608) 266-9760 and has indicated she would be pleased to comment further on this issue.

QUESTION #5: What are the merits of requiring that trial attorneys and non-trial attorneys take and pass the same examination?

- Please evaluate the relative merits/demerits of reforming our current system to allow for two different classifications of attorney - e.g. - trial attorneys and non-trial attorneys.

The State Bar Board of Governors has appointed an Interim Commission to the Consortium on Lawyer Competence and Legal Education for the purpose of studying and recommending possible modification in legal education and training. The use of internships for training lawyers is one of the items that has been expressly referred to this Commission for study and report. Although not presently being considered by the Commission, the double track system of practice suggested by the question could also be studied. However, at the present time the Commission has provided no report or recommendations.

Commenting specifically to the suggestion that the bar be bifurcated into trial attorneys and non-trial attorneys we do note the following.

The practice of law has traditionally enjoyed broad scope. In many small or rural communities a general practitioner can meet all or most of that population's needs. Even in urban areas, one of the attractions of the profession is the potential for opening up one's own office and handling whatever client problems walk in the door. A system requiring applicants or existing attorneys to choose whether they will undertake trial work or not may be both discriminatory and unworkable. Would all present lawyers be grandfathered in? After all, they were certified and admitted without restriction. Yet if the goal of the "barrister/solicitor" system is to improve the quality of legal services, they should be included in the new form of testing also.

Furthermore, how would the two-tiered exam be devised and administered? The English model presupposes many educational and training experiences alien to American legal education and bar preparation. The sheer volume of California applicants makes it difficult to design and carry out a reliable and valid means of administering an internship/clerking program for would-be "barristers" by the Committee and a separate exam for aspiring "solicitors" at a cost that can be borne by the applicants.

QUESTION #6: Please describe California's current process of specialization for those attorneys who meet specified requirements.

Since 1972 the State Bar of California has had a Pilot Program on Legal Specialization adopted by the Board of Governors and approved by the Supreme Court. California was the first state to have a formal specialization program. Pursuant to that program, specialists in the field of Taxation, Criminal Law, Family Law and Workers Compensation have been established.

In 1983 the Board, after extensive study and debate requested the Supreme Court to make the specialization program permanent. The Board then developed rules and regulations and specific standards for the permanent program and submitted these to the Court. The Court permitted briefs in opposition and support of the proposed program to be filed and set the matter for special hearing before it on January 24, 1985. The State Bar request is still pending before the Court and at the present time the pilot program is still in effect.

Needless to say, the record filed with the Court by the State Bar in explanation of the program is enormous. It can, however be made available if the Chair wishes. Attached as Appendix A is a copy of the request itself (without supporting documents). It sets forth the highlights of the permanent program, the history of the process by which it was adopted, the manner in which it is significantly different from the pilot program and a short comment on programs in other jurisdictions.

- Are current malpractice restrains adequate to prevent attorneys from practicing outside their specialty or should all attorneys be subject to a specialization process?

Both the pilot program and the permanent program provide that a certificate of specialization is not necessary to practice in any field of law and persons who are certified in a particular specialty are not precluded from practicing in other fields.

We are aware of no published studies which show what effect the threat of a malpractice action has on lawyers who are not certified specialists but who wish to practice in a specialty field or on lawyers who wish to practice outside their field of certificates. Rule 6-101 of the Rules of Professional Conduct provides as follows:

- "(A) (1) Attorney competence means the application of sufficient learning, skill, and diligence necessary to discharge the member's duties arising from the employment or representation.

(2) A member of the State Bar shall not intentionally or with reckless disregard or repeatedly fail to perform legal services competently.

"(B) Unless the member associates or, where appropriate, professionally consults another lawyer who the member reasonably believes is competent, a member of the State Bar shall not

(1) Accept employment or continue representation in a legal matter when the member knows that the member does not have, or will not acquire before performance is required, sufficient time, resources and ability to, perform the matter with competence, or

(2) Repeatedly accept employment or continue representation in legal matters when the member reasonably should know that the member does not have, or will not acquire before performance is required, sufficient time, resources and ability to, perform the matter with competence.

"(C) As used in this rule, the term "ability" means a quality or state of having sufficient learning and skill and being mentally, emotionally and physically able to perform legal services."

Violation of the Rules of Conduct subjects a member of the State Bar to professional discipline. Again, however, we know of no studies that demonstrate the affect of the threat of discipline on an attorney's decision to take or not to take a case.

- Would a profession-wide specialization process require the type of clinical internship, before admission to practice, that exists in the medical profession?

The answer to this question would depend upon what type of profession-wide specialization process were developed. It should be noted, however, that the State Bar after a thirteen year pilot program on specialization continues to take the position opposed to "profession-wide" specialization.

The proposed program now before the Court expressly provides that any lawyer in any field can practice in a specialty field whether or not he or she is certified. Further, in the permanent program, the State Bar has dropped the "years in practice" requirements that exist in the pilot program standards. The standards in the permanent program are directed to performance of specific tasks rather than to time of service.

QUESTION #7: Should continuing education be made mandatory for continued active membership in the state bar?

The State Bar has been studying mandatory continuing education since 1971. In April 1983 the Board of Governors adopted the following:

"WHEREAS since 1971 the State Bar of California has seriously studied mandated continuing education as a means of maintaining and improving attorney competence; and

"WHEREAS the State Bar devotes substantial resources and funds to programs designed to identify, prevent and remedy incompetent delivery of legal services as well as assist lawyers to maintain and improve their competence and has determined that any measurable benefits to be realized from mandatory continuing legal education are far outweighed by the detriments, including costs to the lawyers and the consumers of legal services, therefrom; and

"WHEREAS the State Bar approves the concept of continuing legal education, sponsors a major program of such education and considers continuing education the professional responsibility of every member of the Bar; and

"WHEREAS the Consumer Affairs Department of the State of California has concluded that mandatory continuing education is ineffective in maintaining competence; now, therefore, it is

"RESOLVED that the Board of Governors opposes the concept of mandatory continuing legal education, opposes S.B. 469 and authorizes representatives of the Board to convey this opposition to the Legislature and other appropriate persons."

SUB-APPENDIX A
Appendix A



REQUEST THAT THE SUPREME COURT OF CALIFORNIA
APPROVE THE STATE BAR OF CALIFORNIA PROGRAM
FOR CERTIFYING LEGAL SPECIALISTS AND
MEMORANDUM AND SUPPORTING DOCUMENTS IN EXPLANATION

I.

RECOMMENDATION

The State Bar of California respectfully requests that this Court approve the State Bar of California Program for Certifying Legal Specialists as adopted by the Board of Governors at its August 13, 1983 and July 27, 1984 meetings (see Enclosures 1, 3 and 4); and that the program as set forth therein replace the Pilot Program in Legal Specialization of the State Bar of California.

Should this Court determine to approve the State Bar Program for Certifying Legal Specialists, the State Bar also requests that this Court include in its Order language to effect the following transitional principles:

Subject to such further order or orders as the Supreme Court may require, the State Bar of California Program for Certifying Legal Specialists shall become operative with respect to a particular field of law, and the Pilot Program in Legal Specialization of the State Bar of California shall terminate if applicable to that field of law, ninety (90) days following published notice to members of the State Bar that the Board of Governors of the State Bar has adopted policies, rules and regulations, and standards for certification and recertification in the field of law to be governed by the State Bar of California Program for Certifying Legal Specialists and that the policies, rules and regulations, and standards have been filed with the California Supreme Court.

Subsequent to this filing, it is the State Bar's intent to publish a notice to the members of the State Bar that the State Bar has adopted Policies, Rules and Regulations and Standards for Certification and Recertification in each of the specialty fields and filed them with the Supreme Court. It is our intent that upon publication of such notice, the ninety (90) day period referred to in the foregoing will commence. The State Bar anticipates, however, that the Program for Certifying Legal Specialists will not actually take effect until thirty (30) days following the Court's Order approving the program or ninety (90) days following publication of notice to the members, whichever comes later.

II.

INTRODUCTION

On September 8, 1983, the State Bar of California filed the following documents in the Matter of the Approval of the State Bar of California Program for Certifying Legal Specialists (Bar Misc. No. 4781): (1) A recommendation of the Board of Governors that the Supreme Court of California approve a permanent program for certifying legal specialists (see Enclosure 1—August 13, 1983 Resolution Adopted by Board of Governors); (2) Report and Recommendations of the Board Committee on Lawyer Services concerning a proposed Legal Specialization Program (materials before the Board of Governors at its August 13, 1983 meeting); and (3) The State Bar of California Record of Study Concerning a Permanent Program for Certifying Legal Specialists (Volumes I through V).

The Court was advised at that time that certification of legal specialists and the proposed program were the subject of debate before the 1983 Conference of Delegates and that the State Bar would advise the court of any action taken by the Conference. On September 11, 1983, following debate on the proposed specialization program, the Conference of Delegates adopted Late Filed Resolution No. 3, expressing disapproval of the August 13, 1983 action of the Board of Governors and calling upon the 1983-84 Board to reconsider and reverse the action of the previous Board. On September 16, 1983, the State Bar filed with the Supreme Court a copy of the Late Filed Resolution. On September 19, 1983, the State Bar informed the Court that the Board of Governors would be considering the Resolution at its October 15, 1983 meeting. On November 10, 1983, a copy of the transcript of debate concerning legal specialization and the Late Filed Resolution No. 3 was filed with the Court, and the Court was advised that the Board of Governors was continuing its deliberation on the issue.

In response to the 1983 Conference of Delegates request that the Board of

Governors reconsider its August 13, 1983 action, the Board, at its December 17, 1983 meeting, amended the Rules and Regulations of the State Bar Program for Certifying Legal Specialists (hereinafter "Rules and Regulations") in light of issues raised in the Conference debate and authorized publication for comment of the amended Rules and Regulations. (See Enclosure 2 — December 17, 1983 Resolution Adopted by the Board of Governors.) In February 1984, the Board Committee on Lawyer Services authorized publication for comment of the Standards for Certification and Recertification of Legal Specialists in Criminal Law, Family Law, Taxation Law and Workers' Compensation Law (hereinafter "Standards").

During May and June, 1984, following consideration of the comments received and following extensive redrafting of the Rules and Regulations and the Standards in light of those comments, the Board Committee on Lawyer Services recommended to the Board of Governors the adoption of re-drafted Rules and Regulations and Standards.

At its July 27, 1984 meeting, the Board of Governors, pursuant to the previous Conference of Delegates request, again considered whether there should be a permanent program in legal specialization and determined by a vote of 17-3 (with one abstention) to reaffirm its recommendation to make the program permanent. At that time, the Board also adopted the amended Rules and Regulations and the amended Standards in each of the four specialty areas and directed that they be filed with this Court. (See Enclosure 3—July 27, 1984 Resolution Adopted by Board of Governors.)

Deliberations and study thus concluded, the State Bar augments with this filing the Record of Study Concerning a Permanent Program for Certifying Legal Specialists by filing Volumes VI through VIII and files this Request and Memorandum and Supporting Documents in Explanation.

III.

HISTORY OF THE FORMULATION AND DEVELOPMENT OF THE STATE BAR OF CALIFORNIA PROGRAM FOR CERTIFYING LEGAL SPECIALISTS

A comprehensive, detailed history of the development of the State Bar of California Program for Certifying Legal Specialists is outlined in Enclosure 5. Each significant event, action taken or document filed in the Record of Study Concerning a Permanent Program for Certifying Legal Specialist (Volumes I through VIII) is set forth by chronological date and, where applicable, referenced to the specific Volume Number and Appendix where the pertinent documentation can be found.

This section is intended only to provide a general overview of the developmental stages of the program.

The State Bar's formal interest in the issue of identifying legal specialists for the public began in June 1966 when the Board of Governors appointed a committee to examine the issue. Based on that study which included public hearings and a survey of the Bar, the Pilot Program in Legal Specialization was adopted by the Board of Governors in 1970 and the Supreme Court of California approved the program in 1971. This program established the nation's first legal specialization plan.

Rules and Regulations and Standards for Certification were developed and the program implemented in three initial areas of law: Criminal Law, Taxation Law, and Workers' Compensation Law. In February 1976 (five years after adoption, although less than four years of actual operation of the program), an evaluation was undertaken. A number of recommendations resulted in amendments to the program and on January 19, 1977 the Supreme Court approved those amendments. During the next two years, new committees were formed, public hearings were conducted and comment sought regarding four additional specialty areas: Probate, Labor, Bankruptcy and Family Law. The Board of Governors in 1979 added Family Law to the program, declined to add Bankruptcy or Labor Law, and recommended further study of the Probate Standards.

In September 1979 the Board of Governors resolved to recommend to the Supreme Court that the pilot program be replaced by a permanent program. In October 1979, however, the State Bar Conference of Delegates requested the Board of Governors retain the pilot program status and the Board of Governors agreed to reconsider its September actions. After appropriate notice and receipt of comments, the Board of Governors determined to retain the pilot status of the program and referred the issue of the status of the Legal Specialization Program for study to its Board Committee on Lawyer Services.

From 1979 to 1983 debate continued, in-depth studies and public hearings were conducted; comments were invited, received, and considered; and reports were drafted. At its August 13, 1983 meeting, the Board of Governors resolved to recommend to the Supreme Court that the Pilot Program in Legal Specialization be replaced by a permanent program entitled, The State Bar of California Program for Certifying Legal Specialists (hereinafter "Program"). (See Enclosure 4.) At the same time, Policies Governing the State Bar Program for Certifying Legal Specialists (hereinafter "Policies") were adopted for guidance in drafting the implementing documents. (See Enclosure 6.) Subsequently, Rules and Regulations and Standards for Certification and Recertification in each specialty area were drafted, published for comment, hearings held on each, and considered by the Board of Governors at its July 27, 1984 meeting. At that meeting, the Board of Governors resolved to adopt and ordered filed with this Court the Rules and Regulations and the Standards for Certification and Recertification. (See Enclosures 7 and 8, respectively.)

At this time, the State Bar augments the Record of the Study Concerning a Permanent Program for Certifying Legal Specialists (Volumes VI through VIII) and files with this Court this Request That the Supreme Court of California Approve the State Bar of California Program for Certifying Legal Specialists and Memorandum and Supporting Documents in Explanation.

IV.

SIGNIFICANT DIFFERENCES BETWEEN THE PILOT PROGRAM
IN LEGAL SPECIALIZATION OF THE STATE BAR OF CALIFORNIA
AND THE STATE BAR OF CALIFORNIA PROGRAM
FOR CERTIFYING LEGAL SPECIALISTS

The State Bar of California Program for Certifying Legal Specialists as adopted by the Board of Governors and presented herewith to the Court for approval contains several significant changes from the Pilot Program in Legal Specialization. (See Enclosure 9—Draft Copy of Pilot Program, indicating additions and deletions.)

In order to ensure that program components are consistent with approved goals, Policies Governing the State Bar Program for Certifying Legal Specialists (Enclosure 6) have been adopted by the Board of Governors. Rules and Regulations of the State Bar Program for Certifying Legal Specialists (See Enclosure 7) and Standards for the Certification and Recertification of Legal Specialists in Criminal Law, Family Law, Taxation Law and Workers' Compensation Law (See Enclosure 8) have been developed and adopted by the Board of Governors to implement the Program in light of the Policies.

In order to assist the Court in understanding how the Program will be implemented, the Rules and Regulations are set forth at Enclosure 7. The Standards, or specific criteria, established for certification and recertification in each specialty area are set forth at Enclosure 8. For information and convenience purposes, we have cross-referenced each significant change in the Program to the specific section(s) of these implementing documents. (See Enclosure 10.)

The following discussion sets out the major changes and purposes as determined by the Board of Governors during its considerations of this recommendation for the approval of the Program.

THE STATE BAR OF CALIFORNIA
PROGRAM FOR CERTIFYING LEGAL SPECIALISTS

FINDINGS BY THE BOARD OF GOVERNORS:

CHANGE: The following findings are now expressly stated in a newly created preamble to the Program:

1. The People of the State of California, in order to obtain counsel of their choice, must be able to identify members of the State Bar who specialize in and have demonstrated proficiency in fields of law; and
2. The legal profession, in order to fulfill the needs of the consumers of legal services, should encourage the maintenance and improvement of attorney competence in specialized fields of law, and assist in the identification to them of attorneys who choose to specialize.

COMMENT: Based on these findings, the Board concluded that a legal specialization program is necessary in the State of California. It was found that the purpose for the program is of benefit to both lawyers and the public by identifying to the public those lawyers who have demonstrated proficiency in specified fields of law and by encouraging the maintenance and improvement of attorney competence in those specified fields of law. The findings emphasize the public need to identify lawyers who are proficient in special fields of law.

SECTION I. ESTABLISHMENT AND COMPOSITION OF THE BOARD OF LEGAL SPECIALIZATION.

CHANGE: The composition of the Board of Legal Specialization has been changed to increase from thirteen to fifteen members, to reflect the same method of selection and assure the same diversity as other State Bar Committees, and to require at least three public members.

COMMENT: The current composition of the Board was appropriate for the creation and development of the Pilot Program. The change clarifies that appointments shall

be based on the same criteria established for other State Bar committees.* The provision for at least three public members recognizes the public service aspect of identifying and establishing criteria for legal specialists. The change also reduces the appointment period, consistent with other State Bar appointments, from a three-year term to a one-year term.

SECTION 2. DUTIES OF THE BOARD.

CHANGE: The requirement that the Board of Legal Specialization report at least annually to the Board of Governors has been expanded to include the requirement that the report be filed with the Supreme Court and that the report shall contain an evaluation of the program, identification of problem areas and recommendations for appropriate solutions. Accordingly, Section 13 of the Pilot Program, which deals with duration and evaluation of the Pilot Program, has been deleted.

COMMENT: This evaluation of the program and problems will permit the Board of Governors to determine if the goals of the program are being met and whether or not modifications are necessary. The requirements for filing with the Supreme Court will assist the Court in its continued review of the Program.

SECTION 3. LIMITATIONS ON THE POWER OF THE BOARD.

CHANGE: Section 3(e) placing limitations on the number of specialty fields in which a lawyer may be certified has been deleted.

COMMENT: This section has been deleted to conform to the elimination of the substantial involvement requirement for certification provisions in Section 5, infra.

SECTION 4. ADVISORY COMMISSIONS.

CHANGE: The composition of the Advisory Commissions has been changed to establish the number of members at nine, to require appointments to the Advisory

* See the State Bar's Program to Encourage the Opportunity of All Members of the State Bar to Participate in Activities of the State Bar. (Record of Study Concerning a Permanent Program for Certifying Legal Specialists, Vol. V, App. 25.)

Commissions be in accord with State Bar appointment policies and procedures, to reduce the appointment period from three years to one year, and to require the appointment of a public member.

COMMENT: The changes essentially establish the same criteria as in the establishment and composition of the Board of Legal Specialization and conforms appointments procedures to the same basis as other State Bar committees.

SECTION 5. STANDARDS FOR CERTIFICATION.

CHANGE: The Requirements which permitted "Grandfather" certification have been deleted.

COMMENT: The "grandfather" provisions were deleted based on the conclusion that such a requirement was an undesirable means of identifying proficiency. The Board of Governors also determined that "grandfathers" would be subject to the new program requirements as soon as possible after the effective date of the Program.

CHANGE: The requirement of a minimum of five years in practice to qualify for certification has been deleted and the language requiring substantial involvement (percentage of time in practice) has been deleted. Time in practice and substantial involvement by percentage of time in practice have been replaced by a requirement for "the performance of a minimum number of designated tasks."

COMMENT: The performance of designated tasks contained in the permanent program replaces the time in practice and substantial involvement requirements of the Pilot Program. The Board of Governors concluded that by selecting specialists based on the completion of those tasks essential to demonstrating proficiency in the specialty field, the five years in practice requirement and the substantial involvement standard could be deleted, and that the same or better effect could be achieved through the performance of tasks requirement.

In order to assure that the tasks requirements do not create artificially high barriers to certification and recertification, the Policies adopted by the Board of Governors to govern implementation of the Program direct that the types and minimum number of tasks to be performed shall be drafted to:

- (1) provide broad access to practitioners in the specialty field;
- (2) not arbitrarily exclude certain practitioners by reason of their association with a limited practice office;
- (3) not be arbitrary in the amount or nature of the requirements set;
- (4) avoid requirements which encourage unnecessary litigation;
- (5) provide alternatives or equivalents to assure that practitioners are not arbitrarily excluded.

The numbers and types of task vary in each of the specialty areas and reference should be made to the specific Standards for Certification and Recertification.

CHANGE: Provisions to allow for alternative equivalent requirements for both performance of designated tasks and continuing legal education requirements have been added. The written examination requirement has been amended to allow for waiver, if "additional and substantially more stringent standards are required..."

COMMENT: Equivalency requirements for performance of designated tasks, continuing legal education, and the examination are added to the Program to fulfill the policy that practitioners shall not be arbitrarily excluded. Equivalency requirements were not intended to be a means of "grandfathering". Instead, equivalency requirements are intended to provide flexibility and alternatives by substituting standards which would demonstrate equal proficiency in the specialty field.

While no change has been made in the Program document with regard to continuing legal education, the Policies provide that a specific curriculum be set for basic certification and minimum requirements of study for recertification; at least partial credit for certification and partial or full credit for recertification should be available through self-study of approved materials, broadening the methods by which credit can be obtained beyond teaching and attendance at approved courses. Again, the specific requirements for each field of law are found in the Standards for that particular specialty.

CHANGE: A requirement has been added that the Board must file a copy of the specialization examination and the proposed grading formula with the Supreme Court thirty (30) days before the examination.

COMMENT: This section was added to provide the Court with continuing information for its review concerning the operation of the Program and the application of the Standards through the examination process.

CHANGE: A verification of demonstrated proficiency through a system of independent inquiry and review has been added.

COMMENT: The independent inquiry and review process will be used to solicit information to determine that an applicant for certification has achieved recognition as having a level of competence indicating proficient performance in handling the usual matters in the specialty field and reject those who have not reached that level.

This requirement was added to provide an additional indicator of skill and competence by obtaining information regarding past and present level of performance based on observations by others. This mechanism will provide a measurement not provided by the other requirements which essentially indicate only level of knowledge. It was felt that this system will more adequately measure those other elements of proficiency in the practice of the specialty.

The independent inquiry and review requirement shall apply to both certification and recertification applicants and may not be waived by equivalents. As soon as possible after the effective date of the program, all specialists

certified under the Pilot Program must fulfill this requirement. Confidentiality of sources and information shall be maintained. An appeal is provided for those not certified as a result of such inquiry and review. Safeguards have been built into the procedure to avoid any unnecessary barriers to those who can demonstrate proficiency. For details of the procedures adopted for the conduct of independent inquiry and review, see Enclosure 7 -- Rules and Regulations, Section VI.

SECTION 6. RECERTIFICATION.

CHANGE: The requirement of 10 years in practice prior to recertification has been deleted. The requirement that an applicant recertify by substantial involvement and either completion of continuing legal education or a written examination has been changed to require completion of performance of designated tasks and educational requirements or equivalent requirements set by the Board. A verification of demonstrated proficiency through independent inquiry and review has been added.

COMMENT: These changes were made to conform the requirements for recertification to the changes in the initial certification requirements set forth in Section 5 except that the written examination requirement for recertification has been deleted.

CHANGE: A provision has been added which will allow the Board to consider judges for recertification who resume the practice of law and who were certified specialists prior to assuming the bench.

COMMENT: Those certified specialists who temporarily left their practice because of judicial service during the Pilot Program were required to apply for initial certification again upon returning to private practice because of the rule requiring at least five years certification prior to recertification. This change would allow the Board of Legal Specialization to consider applications for recertification from practitioners, formerly judges, who had been certified before their appointment to the bench. Time away could then be considered.

SECTION 7. DENIAL, SUSPENSION AND REVOCATION OF CERTIFICATION OR RE-CERTIFICATION.

CHANGE: Language has been added which states that the certificate for a specialist who does not meet or ceases to meet the standards may be denied, suspended or revoked. Failure to abide by the Rules of Professional Conduct has been eliminated as a cause for denial, suspension or revocation.

COMMENT: The reference to the Rules of Professional Conduct has been deleted to clarify that separate findings will not be made or proceedings will not be conducted by the Board of Legal Specialization for alleged violations of the Rules, but pursuant to established State Bar disciplinary procedures. It was also deleted as duplicative of the subsection following stating that discipline pursuant to the State Bar Act, which incorporates violations of the the Rules of Professional Conduct, may be cause for denial, suspension or revocation. The changes further specifically authorize that any denial, suspension or revocation will be pursuant to procedures adopted by the Board of Legal Specialization.

SECTION 8. CERTIFICATION AND RE-CERTIFICATION.

CHANGE: This section has been amended to clarify the rights of one who has had an application for certification or recertification denied, or certificate of specialization suspended, or revoked by the Board of Legal Specialization to seek reconsideration of that action. This section requires that the Board shall establish procedures for reconsideration. This section also provides for a right to a hearing pursuant to procedures established by the Board of Governors, and the right to petition the Supreme Court pursuant to Rule 952(c), California Rules of Court.

COMMENT: The Board of Governors was aware that procedures developed to grant, deny, suspend or revoke a certificate must afford the individual due process required by law. This section has been amended to make applicable to specialization matters those procedures already established within the State Bar Court which adjudicates

most State Bar regulatory matters. Hearing panels formerly comprised of members or appointees of the Board of Legal Specialization and Advisory Commissions will be replaced by referees of the State Bar Court Hearing and Review Department. Detailed procedures governing notice, reconsideration petitions, hearing and review procedures are set forth in the Rules and Regulations, Sections VIII - X. (See Enclosure 7).

SECTION 10. ADDITIONAL FIELDS.

CHANGE: The limitation to the initial jurisdiction of the Board of Legal Specialization has been deleted and the provision for the addition by the Board of Governors of additional specialty fields of law reworded.

COMMENT: This amendment deletes reference to the Pilot Program and grammatically rewords the section.

SECTION 11. ADVISORY COMMISSIONS.

CHANGE: This section mandating the appointment of specific types of practitioners to the three original Advisory Commissions has been entirely deleted.

COMMENT: This change conforms the section to the appointment policies in Section 4, supra.

SECTION 11. (Renumbered from Section 12) FINANCING PROGRAM.

CHANGE: This section allows the Board of Legal Specialization to charge such other fees as may be necessary to defer expenses of operating the program.

COMMENT: This addition confirms the Board of Governors resolve that the Program be completely and absolutely self-supporting. It further clarifies that the Board may charge fees other than those specified in the section, for example, fees for educational program approval.

Other minor additions or deletions have been made throughout the program document but are essentially for grammatical or drafting purposes or delete provisions which specify the status of the program as a pilot program.

V.

LEGAL SPECIALIZATION PROGRAMS IN OTHER JURISDICTIONS

In 1971, when California became the first state to adopt a certification program, the concept of formal recognition of specialists was not new. In fact, it had been discussed within the American Bar Association (ABA) since the early 1950's. After much study, the ABA decided to leave development of specialization programs to the states and to study these programs as they were developed. (American Bar Association Report to the House Committee on Specialization adopted February 13, 1978.)

After studying other state programs, the ABA published its "Model Plan for Legal Specialization" which was modeled after the California Pilot Program. The ABA Model Plan does not require an examination. It does require a minimum time in practice, substantial involvement in the practice in the specialty field, and continuing legal education.* This model is available for adoption or revision by any state contemplating formalized specialization.

Specialization plans have been approved in Arizona, Arkansas, Florida, Iowa, Louisiana, New Jersey, New Mexico, North Carolina, South Carolina, Texas and Utah. (A program has been approved in Connecticut but is currently being re-studied. Georgia has an approved program which has been indefinitely suspended.) Specialization plans are pending in the Supreme Courts in the District of Columbia, Kansas, Missouri, Nevada,

* California, after several years of experience with its program, has recommended that a requirement of performance of designated tasks replace the minimum time in practice and substantial involvement requirements as a better method of measuring demonstrated proficiency in a field of law.

Rhode Island, Tennessee, and Virginia. Many other states who have not adopted a specialization program are in the process of considering the concept. (See Enclosure 11: Specialization Plans - State Status Report, ABA, August, 1984).

VI.

CONCLUSION

The Board of Governors has stated two goals for the State Bar of California Program for Certifying Legal Specialists: (1) to identify for the public attorneys who have demonstrated proficiency in specialized fields of law; and (2) to encourage the maintenance and improvement of attorney competence in specialized fields of law.

The Board believes that the public consumers of legal services and the profession of law itself will benefit from both the concept and the conduct of the Program as adopted by the Board of Governors and as submitted to this Court for approval.

After thirteen years of experience under the Pilot Program in Legal Specialization, and after extensive research, analysis, evaluation and public debate, the Board of Governors concluded that the status of the legal specialization program should be changed from pilot to permanent. (See Record of Study Concerning a Permanent Program for Certifying Legal Specialists, Vols. I - VIII; and Enclosure 12 herein -- Table of Contents to Record.) To effectuate this change, the State Bar respectfully requests that this Court approve the State Bar of California Program for Certifying Legal Specialists as adopted by the Board of Governors on August 13, 1983 and July 27, 1984 and as set forth in Enclosure 4 of this Request.



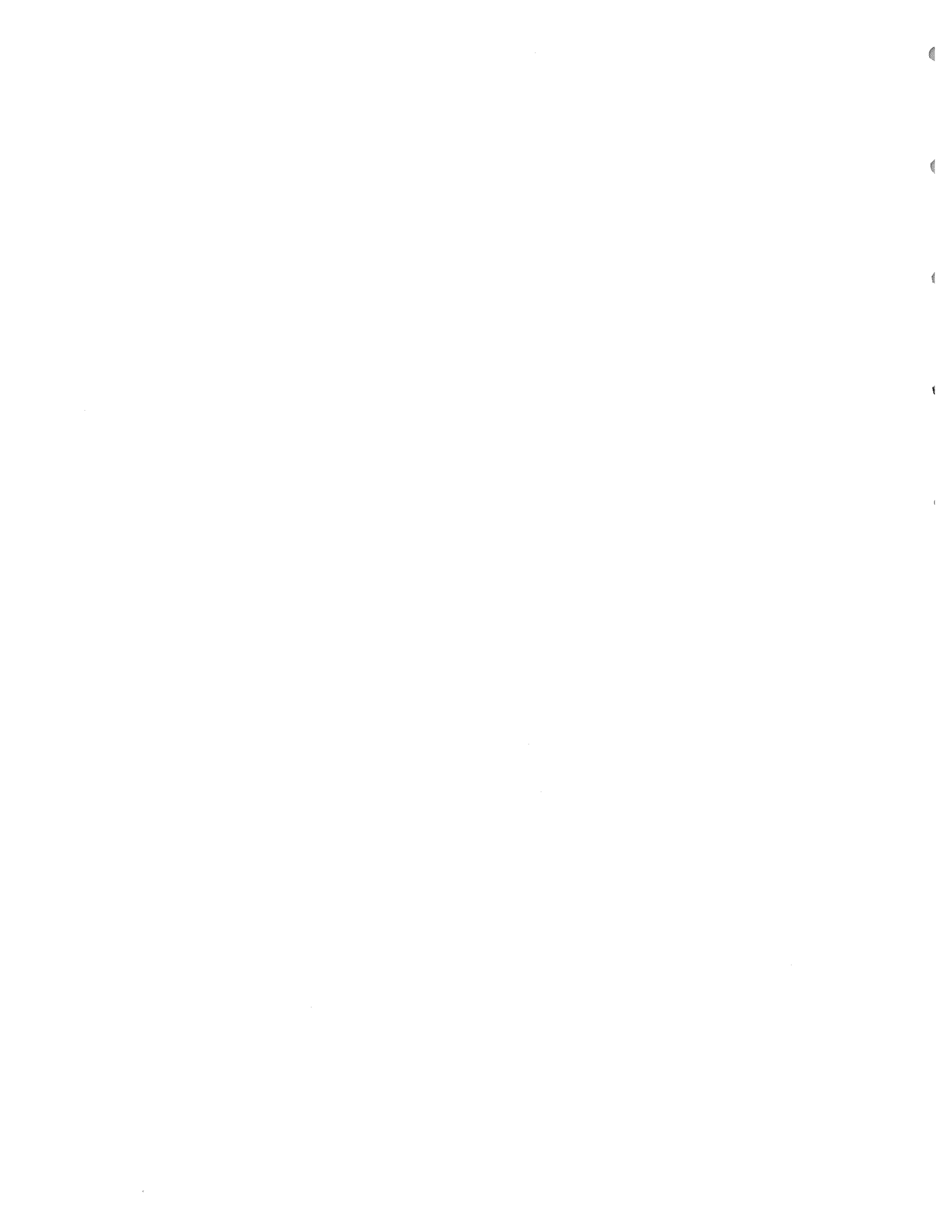
APPENDIX B
Questions and Responses to the Questionnaire
to the Committee of Bar Examiners



RESPONSE TO THE QUESTIONNAIRE TO
THE COMMITTEE OF BAR EXAMINERS

Assembly Judiciary Committee Hearings
March 19 and March 26, 1985
Sacramento, California

Dated: February 28, 1985



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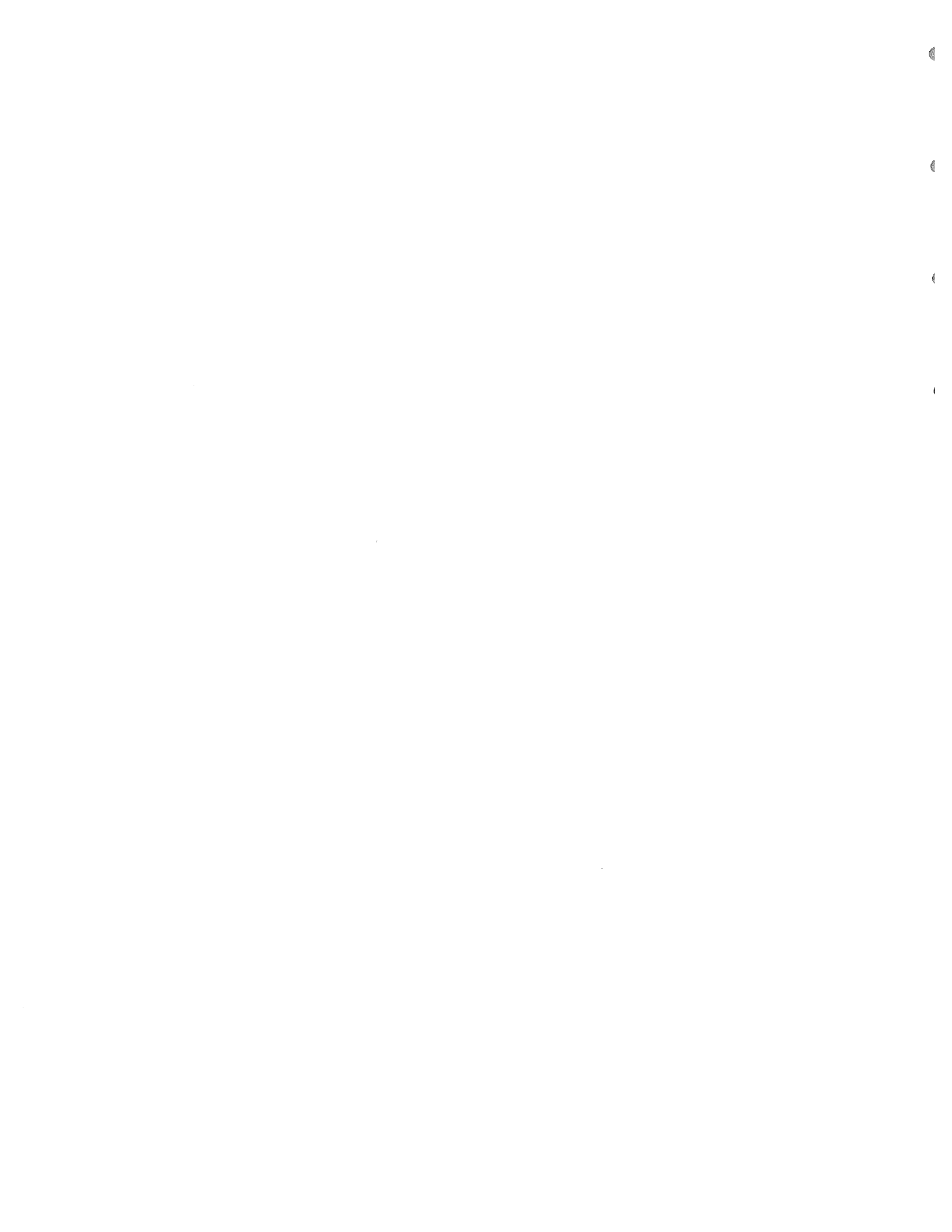
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RESPONSE TO THE QUESTIONNAIRE TO
THE COMMITTEE OF BAR EXAMINERS

Senate Judiciary Committee Hearings, March 12, 1985
Sacramento, California

QUESTION #1: What is the specific role of the Committee of Bar Examiners ("CBE") in the process of admitting attorneys to practice in California?

In California, admissions to practice law have been held to be an exercise as one of the inherent powers of the Court. In re Lacy (1938) 11 Cal.2d 699, 701. See California Constitution, Art.VI, Section 9. An attorney is an officer of the Court. Determining whether a person shall be admitted is a judicial function. In re Levine (1935) 2 Cal.2d 324, 328; Brydonjack v. State Bar (1929) 208 Cal.439 at 443.

The Committee of Bar Examiners is primarily responsible for the administration of the bar admission process. In re Admissions to Practice Law (1934), 1 Cal.2d 61, 67. The Committee operates as an administrative arm of the Court. Chaney v. State Bar of California (1967) 386 F.2d 962, 966; 57 Ops. Cal. Atty. Gen. 583, 584. Its purpose is to relieve the Supreme Court of the onerous duty of examining applicants for admission and to investigate their fitness. Spears v. State Bar (1930) 211 Cal.183, 191. Bar examiners are aids to the Court in the discharge of the duty of ordering admissions to the Bar. Brydonjack v. State Bar, supra, 208 at p. 446; In Re Chapelle (1925), 71 Cal. App. 129, 132.

The Committee has the power to (a) examine all applicants for admissions to practice, (b) administer the requirements for admissions to practice and (c) certify to the Supreme Court for admissions those applicants who fulfill the requirements. Business and Professions Code §§6046 and 6064; also see §§6060, 6060.5 and 6062; California Rules of Court, rule 957;* Rules Regulating Admission to Practice Law in California, rule 1, §2.

Subject to the approval of the State Bar Board of Governors the Committee may adopt such reasonable rules and regulations as may be necessary or advisable for the purposes of making effective the qualifications for admissions. Business and Professions Code §6047. However, the Committee has only those powers which have been delegated to it by the Court or the Legislature. See In re Chapelle, supra, 71 Cal.App. at p. 133.

Actions of the Committee are subject to the review of the California Supreme Court. Business and Professions Code §6066; California Rules of Court, rule 952(c). The Committee's actions are merely recommendations and are not binding upon the Court. Siegel v. Committee of Bar Examiners (1973) 10 Cal.3d 156, 173; Greene v. Committee of Bar Examiners (1971) 4 Cal.3d. 189, 191; Bernstein v. Committee of Bar Examiners (1968) 69 Cal.2d. 90, 97; March v. Committee of Bar Examiners (1967) 67 Cal.2d. 718, 720; Hallinan v. Committee of Bar Examiners (1966) 65 Cal.2d. 447, 450; Spears v. State Bar, supra, 211 Cal. at p. 191.

Thus the Court has reviewed individual petitions of candidates for admissions to practice. Upon its independent review the Court may uphold the administrative determination of the Committee. See Greene v. Committee of Bar Examiners, supra, 4 Cal.3d. 189; Bernstein v. Committee of Bar Examiners, supra, 69 Cal.2d. 90; Konigsberg v. State Bar (1959) 52 Cal.2d. 769; Staley v. State Bar (1941) 17 Cal.2d. 119; Salot v. State Bar (1935) 3 Cal.2d. 615; Henderson v. State Bar (1934) 219 Cal. 696; Large v. State Bar, supra, 218 Cal. 334; Spears v. State Bar, supra, 211 Cal.183. The Court may reverse the Committee's determination. See Siegel v. Committee of Bar Examiners, supra, 10 Cal.2d. 156; Raffaelli v. Committee of Bar Examiners, supra, 7 Cal.3d. 288; March v. Committee of Bar Examiners, supra, 67 Cal.2d. 718; Hallinan v. Committee of Bar Examiners, supra, 65 Cal.2d. 447; Howdon v. State Bar (1929) 208 Cal.604; Brydonjack v. State Bar, supra, 208 Cal.439. The Court's power over the Committee is not limited to the review of individual petitions. The Court can undertake a general review of the entire examination and admission process. See In re Admission to Practice Law, supra, 1 Cal.2d 61.

*Rule 957 and Business and Professions Code §§6060, 6060.5 and 6062 charge the Committee with specific administrative functions relating to the admissions process, e.g. approval of colleges and universities for pre-law study, accreditation of law schools, registration and inspection of non-accredited law schools, etc.

QUESTION #2: Please describe the administrative structure of the Committee of Bar Examiners.

The Committee of Bar Examiners, composed of nine lawyers and two public members, is appointed by the Board of Governors of the State Bar of California. The public members of the Board of Governors choose the two public members of the Committee of Bar Examiners. The Board of Governors also designates those to be Committee Chair and Vice-Chair. The Committee's day-to-day activity is guided by the Rules Regulating Admission to Practice Law in California, which Rules can be amended only upon approval of the Board of Governors.

The Committee divides itself into six subcommittees designated as the Subcommittee on Operations and Management, the Subcommittee on Examinations, the Subcommittee on Moral Character, the Subcommittee on Petitions and Litigation, the Subcommittee on Educational Standards and the Subcommittee on Long-Range Planning. It is through these Subcommittees that the Committee oversees the total operations of the Committee in the execution of its three basic assignments; the testing for academic qualification, the examination of moral and fitness qualification, and the somewhat limited oversight of legal education. The gathering of decision-making data for the Committee is accomplished through a full-time staff of approximately fifty-five authorized positions. The staff is headed by an Executive Director and augmented by a Senior Administrative Assistant who serves as assistant to the Executive Director. The top level of management is comprised of a Director for Operations and Management and a Director for Examinations. Reporting directly to the Director for Operations and Management is the Assistant Director for Operations and Management-Fiscal Control. Reporting directly to the Director for Examinations is the Director of the Measurement Center, a person of high expertise in statistics and computer science. Attached as Appendix A is a staff organizational chart which displays the further breakdown of staff assignments and responsibilities. Special investigation in the examination of moral and fitness qualification is conducted by the Office of Trial Counsel of the State Bar of California, but under the direct supervision of the Committee's Subcommittee on Moral Character.

Law school oversight is channeled through a consultant (rather than an employee) who works almost full-time for the Committee.

The staff is augmented by part-time personnel. The examination readers, a changing cadre which includes many younger lawyers who are willing to follow the somewhat rigorous schedule of examination paper reading, number approximately 200 at one time. There are eight Reappraisers. This group has been selected over the years from the most experienced reader cadre. In addition to technical involvement in examination structure, the Reappraisers perform, in advance of score announcement, services which

approximate the appeal and examination review process of other jurisdictions that enjoy much smaller examinee populations.

Approximately 20% of all of the bar examinees in the United States and its territories are California bar examinees. This group is accommodated at approximately nine examination sites rather than one or two sites as is standard in most jurisdictions. For these reasons there must be retained a large number of temporary employees to proctor these examinations and process the resulting 104,000 answer booklets and 26,000 answer sheets per year, shepherding them through a triple-grading process.

The Committee also administers the First-Year Law Students' Examination. That examination is costly in development. The decreasing number of examinees in recent years has reduced overall administration costs but has increased the cost per examinee.

Twice each year the Committee, in organized fashion, takes a critical look at itself. The initiation of the self-analysis, generally speaking, generates within the Subcommittee of Long-Range Planning. It is a unique Subcommittee in that it has from time to time been successful in including persons of high expertise on its membership, such as former chairs of the Committee and chairs, former chairs and members of the Board of Managers of the National Conference of Bar Examiners. The Subcommittee has no power to act, but its recommendations do receive serious consideration by the Committee in its decision-making relative to major long-term issues.

The Committee's staff is housed in each of the State Bar buildings, one in San Francisco and one in Los Angeles, and maintains a smaller site known as the Measurement Center in San Mateo, California. It relies heavily upon electronic data processing and is "on-line" from the three sites to a contractor's mainframe in Berkeley, California.

Under Board of Governors' policy, the Committee's Executive Director answers to the Committee on all day-to-day operations, but is specifically charged with insuring full compliance with Board of Governors' policy relative to fiscal matters, personnel matters, contractual matters, and matters pertaining to the State Bar's Memorandum of Understanding with Local 250, SEIU, AFL-CIO/CLC.

The Committee receives its legal advice and, in matters of litigation, is represented by the Office of General Counsel of the State Bar of California.

The Committee must respond to both statutory mandates and the rules of the Supreme Court. In so doing, it is the agency that certifies to the Supreme Court those whom it finds qualified for admission to the bar of the State of California.

QUESTION #3: Please describe the relationship between the CBE and the following:

a) The State Bar of California

Business and Professions Code section 6046 provides that the Board of Governors of the State Bar may establish an examining committee having the power:

1. To examine all applicants for admission to practice law;
2. Administer the requirements for admission;
3. To certify to the Supreme Court for admission those applicants who fulfill the requirements of the State Bar Act.

Thus the State Bar Board of Governors creates the Committee of Bar Examiners and appoints its members. This Committee is principally responsible for administration of the admissions process.

Subject to the approval of the Board, the Committee may adopt such reasonable rules and regulations as may be necessary or advisable for the purpose of making effective the qualifications for admission (Bus. & Prof. Code § 6047).

The Committee's Executive Director answers to the Committee on all day-to-day operations but is specifically charged with answering full compliance with Board policy, relative to fiscal matters, personnel matters, contractual matters and other such matters. The Committee receives legal advice from and legal representation by the State Bar Office of General Counsel.

The Committee reports monthly to the Board Committee on Admissions and Discipline. Each month the Chair of the Board Admissions and Discipline Committee reports to the full Board. In addition, Board members serve as liaison to the Committee, attend its meetings and report regularly to the Board.

b) The Supreme Court of California

The relationship of the Committee to the Supreme Court of California is set forth in the response to Question (1), supra, pp. 1-2.

c) The California Legislature

Pursuant to statute (Bus. & Prof. § 6046) the Legislature has authorized the Board of Governors of the State Bar to establish a committee to carry out the State Bar's admission function. The Legislature has also set forth certain requirements that must be met by all applicants for admission to practice law. See Business and Professions Code section 6060 (general bar applicants) and section 6062 (out-of-state attorneys). These are minimum standards and the Court may adopt additional standards. Stratmore v. State Bar (1975) 146 3rd 887, 889.

d) The California accredited law schools

Business and Professions Code section 6060 (e) and (g) provide that applicants for admission must either graduate from a law school accredited by the examining committee, attend such a school for four years or study law in another approved manner for four years. Section 6060 subd.(g) provides that persons who attend a law school accredited by the Committee are not required to take the first year law student's exam. Rule XVIII of the Rules Regulating Admission to Practice Law in California contains the standards and procedures for a law school to obtain accreditation by the Committee. These standards are adopted by the Committee and approved by the Board of Governors pursuant to Business and Professions Code section 6047.

QUESTION #4: What is the cost of operating the CBE?

The Statement of expenditures for the Committee of Bar Examiners for the past five years is as follows.

<u>Year</u>	<u>CPI (A)</u>	<u>Expenditures in Historical Dollars</u>	<u>Expenditures in Constant Dollars</u>
1980	254.9	3,574,862 ^(B)	3,574,862 ^(D)
1981	294.0	3,684,548 ^(B)	3,194,510
1982	293.9	3,846,544 ^(B)	3,334,960
1983	307.3	4,089,823 ^(B)	3,392,073
1984	325.8	4,431,085 ^(C)	3,466,931

(A) San Francisco-Oakland Area

(B) Audited

(C) Unaudited

(D) Includes the cost for special sessions during the July 1980 examination.

- From what sources do you derive your funds for operations?

Taking 1984 experience as typical, sources of revenue are as follows:

Registration and Examination Fees	3,849,125 (90%)
Interest Revenue	208,026 (5%)
Other Revenue ^(D)	<u>228,775 (5%)</u>
	4,285,927 ^(E)

(D) Other revenue includes such items as grants, sale at cost of prior examinations and furnishing, upon request, customized certificates of admission, charges for processing insufficient funds checks.

(E) Rounded to nearest dollar.

QUESTION #5: The bar exam is supposed to measure minimum competency. How does it succeed in this respect?

- a) Are all competent applicants admitted?
- b) Are all non-competent applicants denied admission?

QUESTION #6: How is the bar exam determinate of the basic qualifies an attorney must possess?

[NOTE: Question 5a and 5b and Question 6 are interrelated, and for this reason will be answered as one question.]

These two questions inquire about both the reliability and validity of the bar exam. In this context, reliability refers to the consistency with which the exam measures whatever it is that it is measuring. For instance, if the Committee of Bar Examiners (CBE) constructed two complete bar exams (e.g., one for July and one for February), how much would an applicant's chances of passing be affected by the particular exam he or she took? Validity refers to the degree to which the bar exam tests for the skills and knowledge an applicant must have in order to practice law competently. In other words, does the bar exam test for competency or does it measure something else? Data regarding the reliability and validity of California's bar exam are presented below:

Reliability. Reliability refers to the degree to which the exam would make the same pass/fail decisions about individual applicants regardless of which version of the exam they took (or who graded it). The two major factors influencing the reliability of the bar exam are the number of questions each applicant has to answer and, in the case of the written portions of the exam, the number of times each answer is graded. In general, the longer the test (i.e., the more questions asked), the higher its reliability. Reliability is related to test length because as more and more questions are asked, there is less and less chance that an applicant's total score is a function of a few lucky or unlucky guesses or of happening to study or not study a particular topic that is covered by one of the questions. Thus, a three-day bar exam produces a more reliable pass/fail decision than a two-day exam.

July 1984 data show that a two-day exam -- consisting of one day Multistate Bar Examination (MBE), one half day Performance Test (PT), and one half day essay (three questions) -- made the same pass/fail decisions in 88 percent of the cases as another two-day exam that was composed in the same way (but with a totally different PT problem and set of three essay questions). Applying standard statistical procedures to these data indicates that if applicants

sat for two California bar exams, each of which was three days in length, the pass/fail decisions made on one exam would agree with the decisions made on the other exam in well over 90 percent of the cases.

The foregoing analyses were based on data from a single reading of each applicant's essay and PT answers. However, there is ample evidence in both the general measurement literature and studies of past California examinations to indicate that the reliability of scores on a written portion of an exam increases when those scores are based on the average of two independent readings of each answer rather than just on reading. Because of this positive relationship between reliability and number of readings per answer, the CBE requires that all applicants have their answers read twice if their scores after one reading placed them near the pass/fail line. In this way, reader resources are concentrated on the applicants whose pass/fail status is in doubt which in turn increases the overall reliability of the pass/fail decisions.

Although the exam does not produce perfectly reliable scores, the scores it does produce meet or exceed generally accepted professional standards for important licensing and admissions tests. Analyses comparable to the ones described above indicate that bar exam scores are certainly far more reliable than law school grades. Moreover, to make bar exam scores (and the pass/fail decisions based on them) even more reliable than they are now would be impractical or threaten the exam's overall validity. For example, reliability could be increased somewhat if the exam was expanded to five days or if it consisted entirely of two or three days of multiple choice questions. These considerations have led CBE to continue to use the present three-day (double read) format.

Validity. In order for a test to be valid (i.e., measure what it is supposed to measure) it must first be reliable. No matter how appropriate a test's questions may appear to be for a given purpose, the test cannot be valid unless the scores assigned are reliable (as they are on the bar exam). It does not mean that the test is valid. Thus, reliability is a necessary but not sufficient condition for validity.

There are a variety of ways of measuring an examination's validity. All of these methods begin by asking: What is the test supposed to measure? In the context of the bar exam, the answer to this question is generally "some of the abilities (skills and knowledge) that are essential to the competent practice of the law." The CBE does not claim that the bar exam measures all the skills that are needed for practice nor is a claim made that those who do especially well on the exam will be much better lawyers than those who just pass. Instead, the goal of the exam is to identify the applicants who have yet to master some of the basic skills and knowledge that are required for competent legal practice.

Law professors, judges, and other members of the bar as well as the general public might very well disagree as to how these basic legal abilities should be defined. But, even if their definitions differ, they still might agree on which applicants do and do not have the basic competencies (thereby making moot further debates on this topic). To paraphrase a classic legal criterion, 'they know it when they see it' even if they don't agree on how to describe it. For these reasons, empirical evidence of validity is given far more weight than subjective appraisals of test quality.

Empirical data on the validity of California bar exam comes from several sources. For example, there is a strong correspondence between law school grades and bar exam scores. Students with relatively high law school grade point averages (i.e., compared to their classmates) have a much higher passing rate on the bar exam than those with relatively low GPAs. Thus, whatever criteria the CBE is using to measure competence, the law schools must be agreeing with it because they rank order their students in much the same way as the CBE. This is illustrated in the following title:

Relationship Between Law School Grade Point Average
and Passing The California Bar Examination Among
First Time Takers at One ABA Approved California Law School.

Class Standing Based on Grade Point Average in All Required Courses	Percent Passing
Bottom 20%	47
Next to the Bottom 20%	68
Middle 20%	82
Next to the Top 20%	95
Top 20%	100

The percent passing in the top 20% of the class and in the next to the top 20% were both two times greater than the percent passing in the bottom 20% of the class.

Because of the very large differences in admission standards among even ABA approved law schools, a high GPA at one law school may result in the same passing rate as a relatively medium or even a low GPA at another school. And, this occurs even though within a school, there is close relationship between grades and bar exam scores. Thus, law school grades cannot serve as a proxy for bar exam scores.

Perhaps the best empirical study of the bar exam's validity was done five years ago. In that study, a group of almost 500 applicants not only took the regular bar exam, they also took a two-day Assessment Center type test. This test involved both written and oral tasks. On one day, the applicants served as counsel for the defendant in a simulated case and on another day, they served as counsel for the plaintiff in a totally different case. Professional actors who were specially trained for their parts played the roles of clients and witnesses for the oral tasks. An applicant's performance on an oral task was videotaped for later evaluation.

Two studies were done on the grades assigned in the Assessment Center. In the first study, an analysis was conducted of the degree to which the applicants who performed well in the very realistic Assessment Center case situations also did well on the bar exam. The results of this study showed that there was a very high, but certainly not perfect, correlation between bar exam and Assessment Center scores. This finding and other data led to the conclusion that the bar exam was measuring many but not all of the important skills that are required for legal practice. It was therefore decided to increase the bar exam's validity by expanding the exam to include a performance test section.

In the second study, an independent panel of 25 members of the bar (law professors, practicing attorneys, and judges) evaluated how well a sample of 18 applicants performed in the Assessment Center. This expert panel was split into six subgroups. Each subgroup spent two days evaluating the answers and videotapes of three applicants (without knowing how well these three applicants performed on the bar exam or what scores they received from the regular Assessment Center graders). After concluding this in depth analysis, each subgroup decided which if any of its three applicants demonstrated minimum competency to practice law. In other words, a subgroup could pass one, two, or all three of its applicants.

An analysis of the panelists' evaluations of the relative performance levels of the 18 applicants showed that these evaluations corresponded very closely with both the grades assigned by the regular Assessment Center graders and the scores these applicants earned on the bar exam. Moreover, the panelists' judgment of where the pass/fail line should be drawn (i.e., as indicated by the bar exam scores of the applicants they passed versus failed) corresponded to an examination difficulty index of 143; i.e., the same pass/fail line as is used on the bar exam. Thus, not only does the bar exam make very similar relative judgements about applicant abilities as a much more in depth, expensive, comprehensive, and performance based measure of legal skills; but the bar exam also puts the pass/fail line in the same place.

Other studies that bear upon the bar exam's validity have shown that scores on all three parts of the exam are not biased against minority groups, that the problem situations in the questions

posed to the applicants are realistic and material to the practice of law, that the subject matter areas covered are appropriate, and that the difficulty of the exam has remained relatively constant across administrations. Variations in passing rate can be explained largely in terms of fluctuations in applicant ability (such as between February and July) and differences in how well applicants are prepared to take the various parts of the exam.

In summary, whatever abilities the bar exam is measuring, they are the same ones that law professors and other members of the bar consider important for basic legal practice. Moreover, the bar exam measures these abilities as reliably and fairly as seems possible given the testing time and other resources that can be devoted to this task. This does not mean that the test cannot eventually be improved. It is just that right now, it is reflecting the level of exam quality that is consistent with the state of the art in licensing testing.

It should be noted that the bar exam does not test for many of the qualities that would help predict whether an applicant would function well as a lawyer, e.g., maturity, common sense, oral skills, attentiveness to client concerns, and integrity.

QUESTION #5: (Continuation)

- c) Please provide a list of the substantive changes to the actual bar examination that have been made since 1970 (e.g., the performance section was added to the July 1983 examination).

Attached is Appendix B, a document entitled "Changes in the California Bar Examination, 1977-82." The major substantive changes to the exam have been:

Addition of the MBE, 1972

Reduction of essay questions,
15 to 12, 1974
12 to 9, 1979
9 to 6, 1983

Addition of a separate test of professional responsibility, 1975

Addition of performance tests, 1983

QUESTION #7: Are there alternative methods which may measure competency in a better, more accurate way?

- Historically, have there been any other measures of competency? If so, why have they been done away with?

Historically the bar exam has taken many forms. When applicants were few in number, oral tests were the norm. Written tests assumed their major role when it became impractical to examine orally the increasing number of aspiring lawyers.

One alternative method of testing was the Assessment Center approach. The major problems with this approach are cost, bias (when oral tasks are used), test security, and standardization. The average cost per applicant in the Assessment Center was probably in excess of \$500 when one considers test development, equipment, actors, scoring, etc. Bias can be introduced whenever the person doing the grading can see the applicant as distinct from just evaluating an applicant's work products. Test security and standardization are related to each other in that both go to the issue of fairness. An exam should not be more difficult for one applicant than it is for another. However, it is not possible to test all applicants on the same day with an assessment center, and thus, to maintain security, we have to use different tests on different days which in turn reduces standardization and thereby fairness. All of these issues also are related to internship type programs and oral tests.

QUESTION #8: Please describe the appeals process for complaints regarding the administering and grading of the exam?

- How many appeals, on average, are there after an administration and grading of the examination?
- How large a staff do you have to process the appeals?

Bar applicants who wish to make specific complaint on formal request to the Committee regarding the administration or grading of the examination or regarding other matters are provided with a copy of Instructions and Information Relating to the Petitions Process (Appendix C). When they have filed their petition in accordance with these requirements, the petition is referred to a petition analyst.

Petitions are reviewed daily. The petitions analyst "logs" the receipt of all petitions, reviews every petition and identifies inadequacies (not verified under penalty of perjury, required supporting documents not included), or in-house investigation which must take place. The analyst corresponds with the petitioner, advising of any deficiencies and of the date of the meeting at which the petition will be considered. The petitions analyst also performs all in-house investigation, discusses substantive questions with appropriate staff members and reviews documents, policies, and computerized records to secure all information relating to the petitioner's unique plea.

Processing the petitions requires that the petition and supporting documents be organized in a standard format to be reviewed by the Committee. The format is designed for easy access by the Committee to easily know the relief sought, applicable rules and policies, facts, applicable precedents, and the result of any investigation undertaken by staff. Staff's final charge is to research Committee precedents and report them to the Committee.

All petitions are then reviewed by the Subcommittee on Petitions and Litigation composed of members of the Committee of Bar Examiners. The petitions are forwarded to that Subcommittee two weeks prior to a regular Committee meeting. A telephone conference call is arranged the week prior to the Committee meeting during which the Subcommittee with appropriate staff discusses in detail all petitions. Any petition which the Subcommittee determines to grant is deemed granted and the petitioner is so advised immediately. The Committee may also recommend denial or defer for further discussion by the entire Committee. Such recommendations are considered and acted on by the full Committee at its next meeting. Petitions for which the Subcommittee wishes a full Committee discussion generally involve policy items. The petitions analyst prepares a list of these recommendations and forward it and the petitions to the full Committee.

During the regular committee meeting, the recommendations of the Subcommittee for all petitions, is considered prior to final action by the Committee and that action is communicated to the Petitioners usually no later than the Thursday after the adjournment of the regular meeting. Petitioners may also telephone the Committee's office on Monday following the meeting to gain knowledge of the Committee's action.

Thirty to fifty petitioners are considered each month. Not all these relate to the bar examination. In a typical general bar examination cycle, the Committee reviews an average of 80 exam-related petitions -- requests for special accommodations, complaints regarding a site, reconsideration of grades, etc. Following the release of results for each examination, the Director for Examinations receives and responds to approximately 100 requests for reconsideration of grades.

QUESTION #9: In your opinion, what are the factors responsible for the abysmal bar passage rate of 41.8% from this past July's examination?

- Do you foresee ways by which the declining bar passage rate could be turned around?

Attached as Appendix D is an analysis of the July 1984 examination prepared for the Committee by Stephen P. Klein, Ph.D., the Committee's Statistical Consultant. This is on file with the Supreme Court as part of the Committee's semi-annual report filed with the Court (Bar Misc. 4718). Discussion of the relative difficulty of the July 1984 Bar Examination is contained on pages 11, 12. In his conclusion, Dr. Klein states:

"Analyses of the July 1984 exam indicated that it was no more difficult (in terms of the questions asked or the leniency with which the answers to them were graded) than were previous July exams. However, applicant scores on all three sections (MBE, Essay, and Performance Test) were below the averages on these sections in prior years (see Table 13).

"A comparison of the July 1983 results with the July 1984 data revealed that the large drop in the percent passing between these two years was due to a sudden and marked decline in MBE scores. Because the MBE portion of the exam is objectively scored, this decline could not have been due to any increase in grading standards. Thus, it was apparently due to the July 1984 California applicants being less well prepared to take the MBE than previous groups of California July applicants.

"The grading of the Essay and PT written answers was only slightly less reliable than the grading of these answers on the July 1983 exam. However, both the Essay and PT total scores continued to maintain an adequately high level of reliability given that they are combined with the MBE in making pass/fail decisions.

" In terms of average scores, applicants did better on the MBE than on the PT; and better on the PT than on the Essay. This relationship held for all four of the largest racial/ethnic groups taking the exam (Anglo, Asian, Black, and Hispanic). Thus, no group was especially hurt or helped by the inclusion of a particular section. After controlling for differences in the relative difficulty of the sections, male applicants tended to score higher than females on the multiple choice sections of the exam whereas females tended to score higher than males on the written sections."

Furthermore, as the CBE has observed in the past, first-time takers from ABA-approved law schools did far better than those graduating from state-accredited and unaccredited law schools (60% pass rate for ABA applicants as compared to 29% and 21%, respectively). The continuing presence of repeaters also operates to affect adversely the pass rate: out of 1,864 repeaters with more than two exams, only 13% passed in July 1984. California has extremely liberal policies regarding access to the exam -- it is the only state to allow all five entry routes, via ABA-approved school, state-accredited school, unaccredited school, correspondence study, law office and judges' chambers study. It also poses no limit to the number of times an applicant may sit for the exam, which results in repeaters being counted in the failure statistics over and over again. As a result of such policies aimed presumably at extending greater opportunities to take the exam, the California pass rate has generally been lower than that of other large or comparable jurisdictions, which restricts access to ABA graduates and/or limit the number of times a repeater may take the exam.

QUESTION #10: Why is the passage rate on the attorneys' bar examination continually low?

- Why not allow those who pass the bar examination in another state to be admitted on motion in California so long as they achieve a score on the multistate bar examination equal to, or superior to, the California standard?

The pass rates for attorneys taking the California bar exams are as follows:

	Attorneys Taking Attorneys' Exam			Attorneys Taking General Bar			TOTAL ATT'YS	OVERALL
	Take	Pass	%	Take	Pass	%	PASS %	PASS %
7/84	143	46	32.2	567	254	44.8	42.3	41.8
2/84	125	57	45.6	520	242	46.5	46.4	29.5
7/83	126	59	46.8	584	271	46.4	46.5	49
2/83	144	38	26.4	598	273	45.7	42	27.7
7/82	141	37	26.2	515	208	40.4	37.3	47.5
2/82	160	55	34.4	545	269	49.4	46	31.4

There are two main reasons why the Committee does not allow persons who have passed the bar in another jurisdiction to be admitted to practice in California so long as they have attained a multistate bar exam score equal to or greater than the California standard. First, the Committee has never taken the position that the MBE alone is a complete enough measurement tool in determining minimum competency to practice law. On the contrary, the Committee believes that written skills, the ability to organize, to weave the facts in with the law, and to show how one has reached a certain conclusion, should be tested in a bar exam. Consequently, the Committee's long standing rules dictate that both the California General Bar Examination and Attorneys Bar Examination contain a written exam. (See Rule XI, § 114 and Rule XII, § 121.)

Second, the Committee would be waiving certain California law subjects (i.e., wills, trusts, community property and corporations) by adopting the above approach, which would be both undesirable and unfair.

QUESTION #11: Why was the practice of allowing a bifurcated passage of the bar examination (i.e., passage of part of the examination at separate administrations of the examination) discontinued?

Bifurcation was introduced with the July 1978 bar examination in order to grant applicants the chance to pass the test in sections rather than in one sitting. Thus, if an applicant received a passing score on the MBE and within the next 21 months obtained a passing score on the essays, the applicant would pass the exam. The Committee of necessity had to maintain score records throughout the 21-month period to determine whether bifurcation had operated to pass each applicant.

With the advent of the performance test on the July 1983 bar exam, the picture changed. Since the exam now had three parts -- MBE, essays and performance test -- allowing applicants to pass in multiple sittings as opposed to a single administration meant that trifurcation was required. The Committee lacked the computer capability to record and retain three scores for each applicant over four administrations of the test.

In addition to the administrative barrier, the Committee reviewed data revealing that bifurcation actually benefitted a very small percentage of applicants. The popular conception that it was easier to pass over the course of more than one exam administration was not borne out by the facts. The applicant who takes the entire exam all at once may pass the test even if he or she did poorly on one section, because the other section's score brought the total points up to the passing score.

Studies showed that applicants were not passing the examination by taking it in sections. That is, most applicants passed by their combined, total scores, using extra points on one part of the exam to make up for what would otherwise have been a failing score on the other part. For example, of the 3,366 who passed the July 1982 examination, only 77 passed as a result of a prior section pass. Secondly, with the addition of the performance test, it would have been administratively impossible to allow applicants to pass each of the three portions separately. Maintaining three scores would have strained the capacity of the computerized data base, swelling it by 50%. Cross-checking against prior scores and pulling additional books for regrading would have created delays at each step of the grading process. The cost would have been prohibitive and unfair in that all would have had to pay for a procedure that was benefitting only a few. Finally, the delay in release of results would have been 4-6 weeks, a delay the Committee deemed unacceptable.

QUESTION #12: How are bar exam readers (i.e., graders) chosen; trained and evaluated?

Attached as Appendix E is a copy of the recruitment letter sent to bar associations in California last May. Readers must have passed the California exam on the first two attempts and must have been in practice at least one year. In selecting readers, the Committee considers law school record and prior experience in grading exams; the Committee strives for diversity among its readers. The current pool of about 150 readers is 50% female and about 14% minority, and most have been reading more than five years. For each examination, there are 12 experienced readers and 3 apprentices for each question. All readers are evaluated by their supervising reappraiser at the close of each grading cycle.

Under the apprentice reader program, new readers attend an orientation session, write an analysis of the question to which they are assigned, and attend all calibration meetings. They do not actually grade books unless a vacancy arises. This program builds back-up into the system, expands the pool of available readers, and allows the Committee to test the abilities of new readers before actually using them to grade an examination.

QUESTION #13: Please explain why the so-called "Wisconsin approach" to bar admission would not be appropriate in California.

- Would the "Wisconsin approach" be appropriate for those who graduate from an American Bar Association approved school? A California accredited school?

Wisconsin's "diploma privilege" allows applicants who have successfully completed a legal education at the University of Wisconsin or Marquette to be admitted to practice without taking a bar examination. Graduation from one of those institutions is not automatic admission to the bar, however; one must meet the requirements of Wisconsin's rules, including taking specific courses and earning a minimum grade average. In effect, Wisconsin's admitting authority necessarily supervises legal education and failure to exercise strict supervision would mean that the law schools, not the Supreme Court, would be determining through their admission processes who can practice law in California.

In 1984, Wisconsin admitted 442 by diploma, 141 on motion (attorneys in practice three of last five years), and 183 by examination. West Virginia is the only other state that admits in-state ABA graduates without examination; Mississippi, Montana, and South Dakota have eliminated the practice.

In considering such a proposal for California, differences between Wisconsin and California should be noted: Wisconsin has 442 ABA graduates attending two schools; California tests 5,815 ABA graduates from 16 schools. It is also worth noting that Wisconsin's examination standards are significantly lower than California's: Wisconsin requires an MBE score of 125, while California's pass level is approximately 140.

For further information regarding Wisconsin's rules for admission, the Committee may wish to contact Erica Moeser, Director of the Board of Attorneys Professional Competence, 110 E. Main Street, Room 623, Madison, WI 53703. Ms. Moeser may be contacted at (608) 266-9760 and has indicated she would be pleased to comment further on this issue.

QUESTION #14: What are the merits of requiring that trial attorneys and non-trial attorneys take and pass the same examination?

- Please evaluate the relative merits/demerits of reforming our current system to allow for two different classifications of attorney - e.g. - trial attorneys and non-trial attorneys.

The State Bar Board of Governors has appointed an Interim Commission to the Consortium on Lawyer Competence and Legal Education for the purpose of studying and recommending possible modification in legal education and training. The use of internships for training lawyers is one of the items that has been expressly referred to this Commission for study and report. Although not presently being considered by the Commission, the double track system of practice suggested by the question could also be studied. However, at the present time the Commission has provided no report or recommendations.

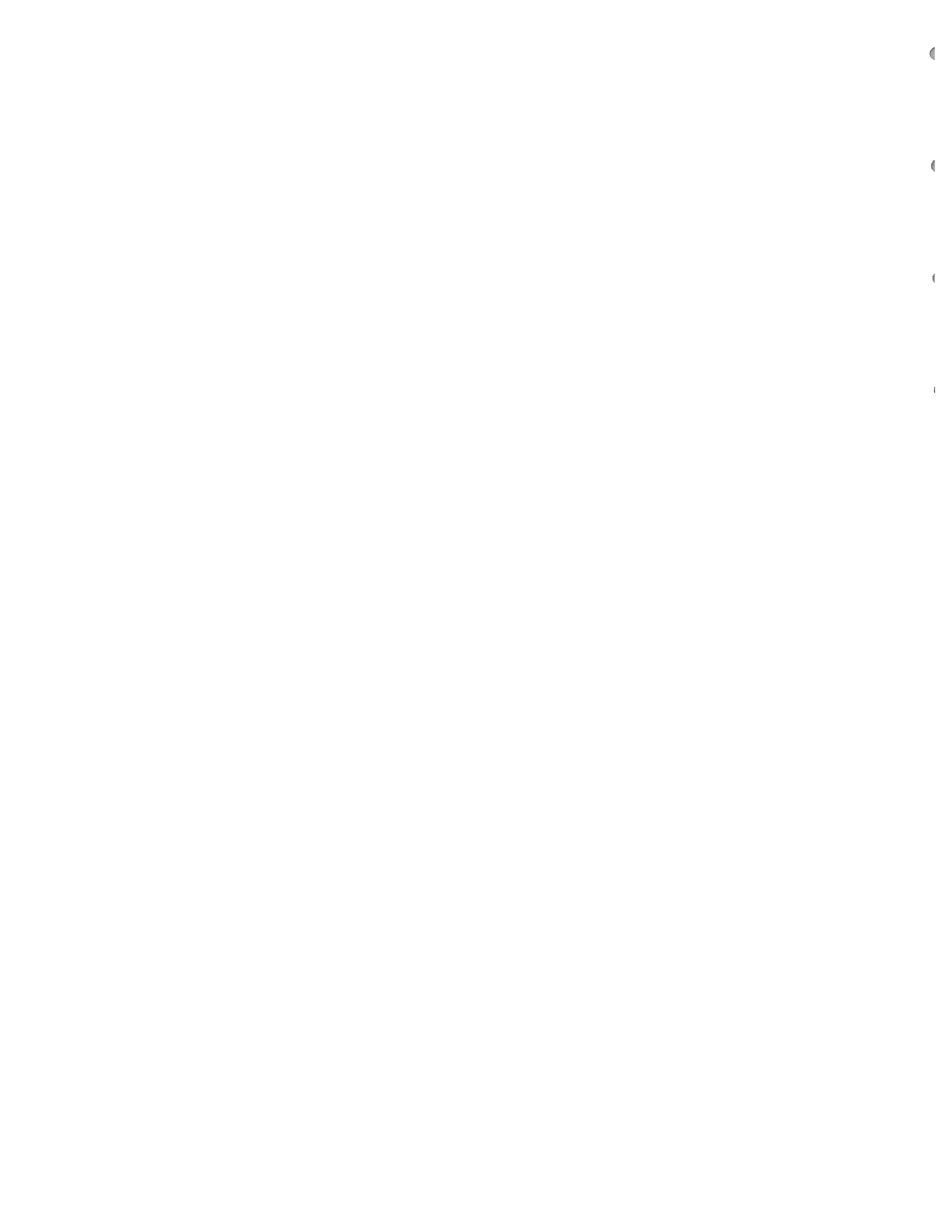
Commenting specifically to the suggestion that the bar be bifurcated into trial attorneys and non-trial attorneys we do note the following.

The practice of law has traditionally enjoyed broad scope. In many small or rural communities a general practitioner can meet all or most of that population's needs. Even in urban areas, one of the attractions of the profession is the potential for opening up one's own office and handling whatever client problems walk in the door. A system requiring applicants or existing attorneys to choose whether they will undertake trial work or not may be both discriminatory and unworkable. Would all present lawyers be grandfathered in? After all, they were certified and admitted without restriction. Yet if the goal of the "barrister/solicitor" system is to improve the quality of legal services, they should be included in the new form of testing also.

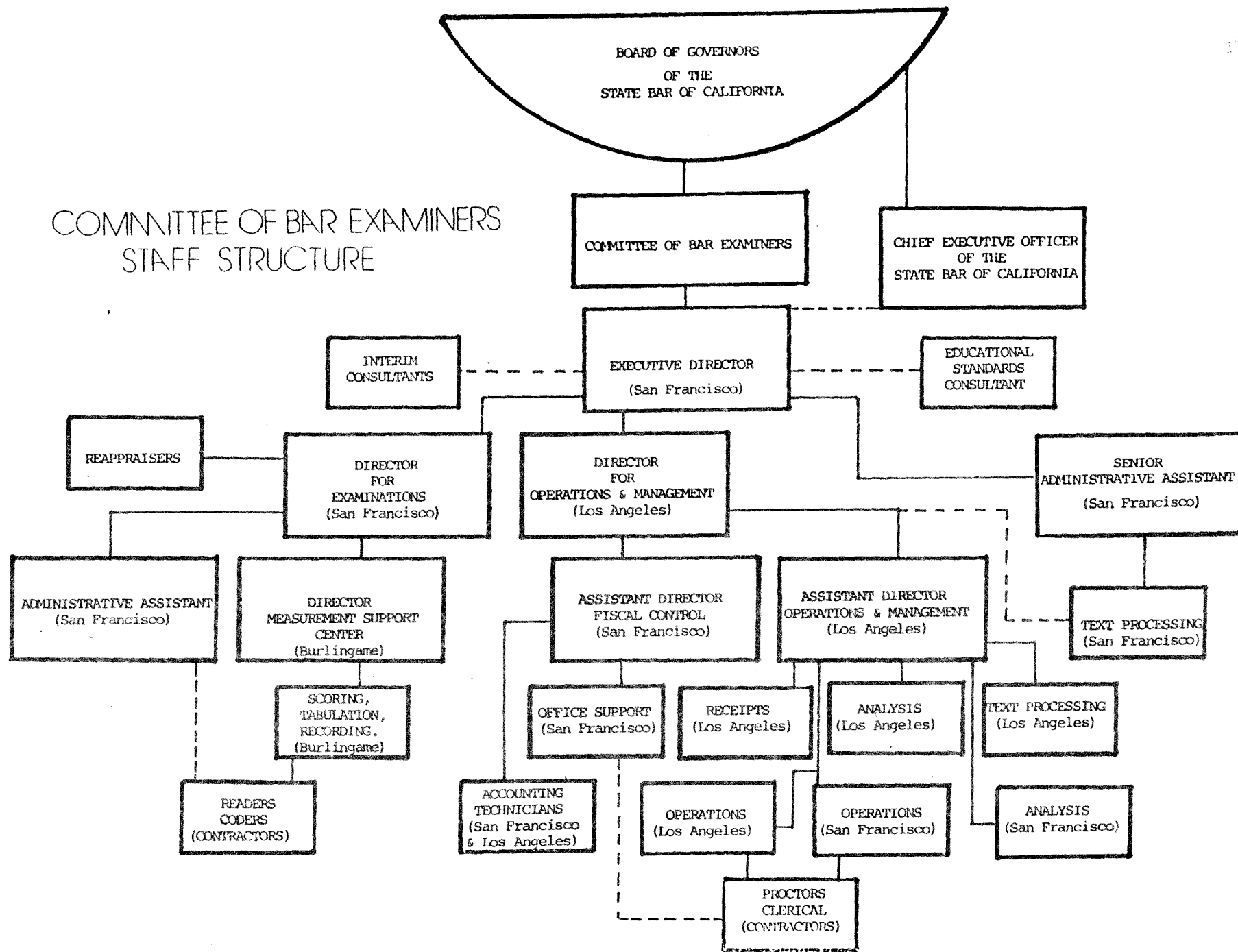
Furthermore, how would the two-tiered exam be devised and administered? The English model presupposes many educational and training experiences alien to American legal education and bar preparation. The sheer volume of California applicants makes it difficult to design and carry out a reliable and valid means of administering an internship/clerking program for would-be "barristers" by the Committee and a separate exam for aspiring "solicitors" at a cost that can be borne by the applicants.

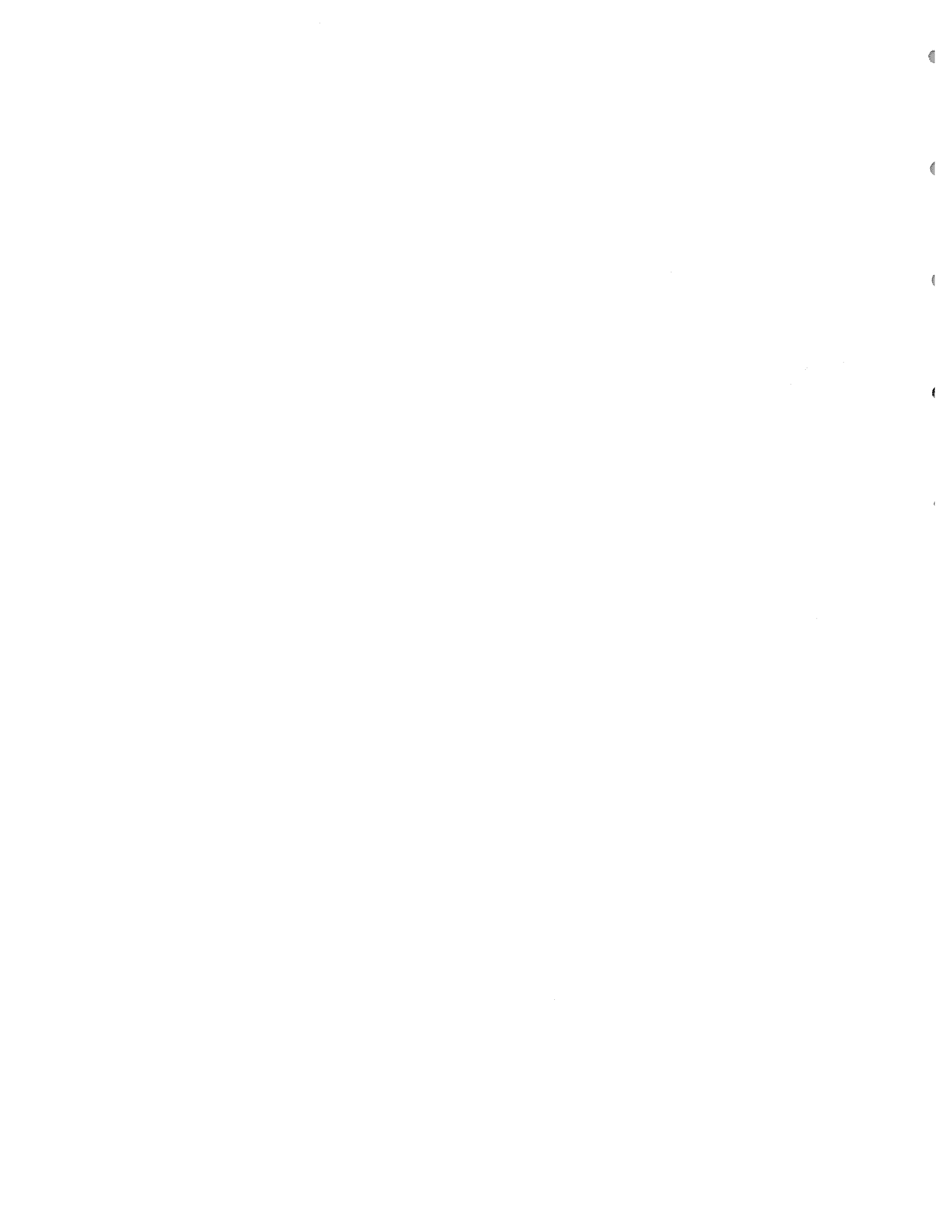


SUB-APPENDIX A
Appendix B

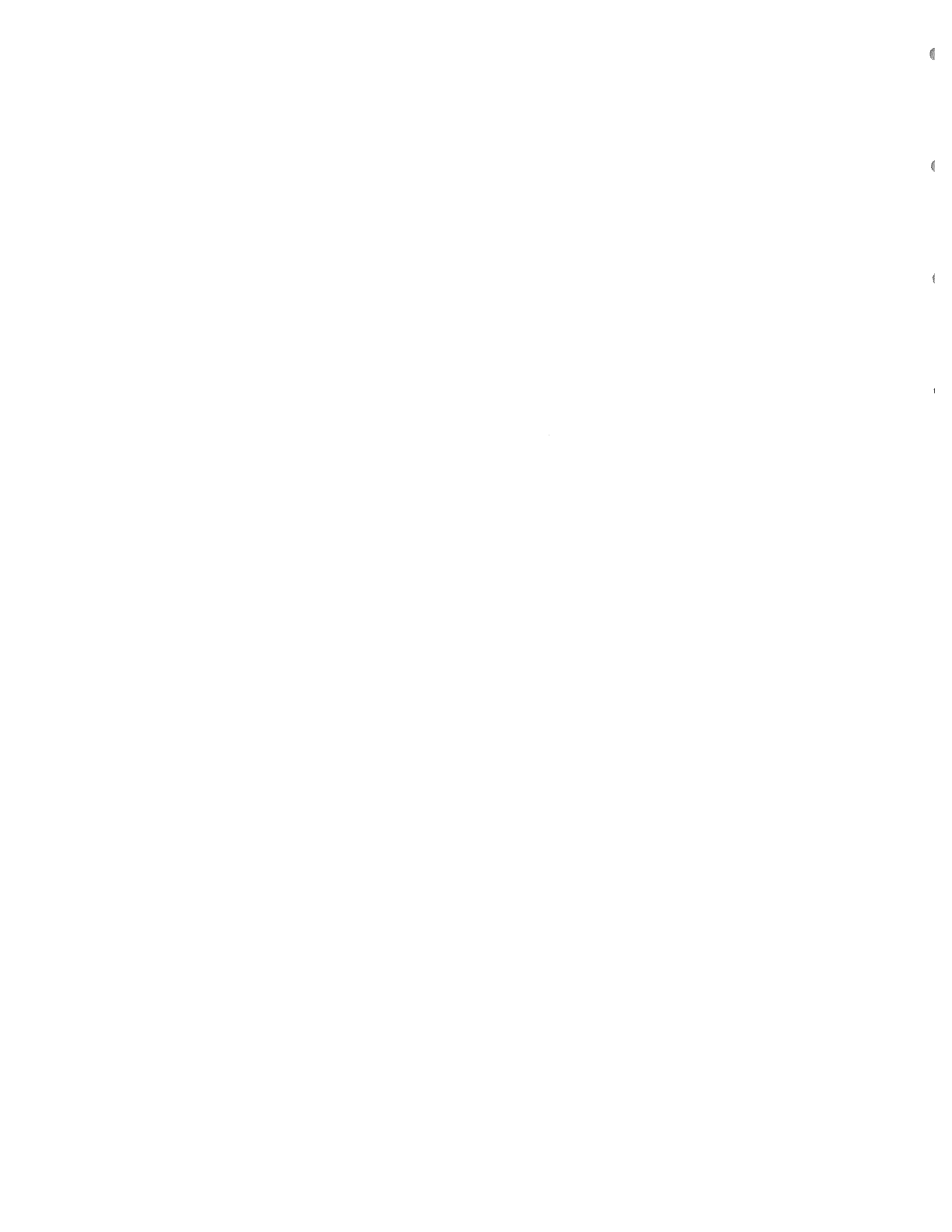


COMMITTEE OF BAR EXAMINERS
STAFF STRUCTURE





SUB-APPENDIX B
Appendix B



THE COMMITTEE OF BAR EXAMINERS
OF THE STATE BAR OF CALIFORNIA

555 FRANKLIN STREET
POST OFFICE BOX 7908
SAN FRANCISCO 94120
Telephone (415) 561-8300



1250 WEST THIRD STREET
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CHANGES IN THE CALIFORNIA BAR EXAMINATION, 1977-82

Content and Scope of the Examination

The California Bar Examination consists of two sections. The Multistate Bar Examination (MBE) is a 200 item multiple-choice test covering six topics: Constitutional Law, Contracts, Criminal Law, Evidence, Real Property, and Torts. The Essay Examination covers twelve subjects: The six included in the MBE; and Civil Procedure, Community Property, Corporations, Remedies, Trusts, and Wills.

Beginning in July 1983, the examination will consist of three parts: a six-question essay test, the MBE, and two performance tests. The performance tests will include multiple choice questions, analytical writing (such as a memorandum to a senior partner), and, in addition, persuasive writing (such as an appellate brief or memorandum of points and authorities).

Applicants will be provided a mini-library of the cases and statutes on which they are to base their answers. Thus, for this portion of the examination, they will not be tested on knowledge of specific legal rules. The facts in each performance test will be presented in the form of memoranda, interview notes, documents, and transcripts.

Analytical and other lawyering skills will be tested in practical, real-life situations, requiring the applicant to deduce applicable principles from decisional and statutory materials and to apply them to facts similarly extracted from actual sources. In subsequent examinations, the performance tests may include other tests of practical skills, such as drafting opening statements and closing arguments and negotiating settlements.

The examination has been administered over a three-day period, twice a year, in February and July, for the last five years. The MBE is given in two three-hour sessions, and the Essay Examination has varied from three to four three-hour sessions. In 1974, the number of essay questions was reduced from fifteen to twelve. In 1979, applicants were required to answer nine of twelve questions, and in

1980, the "optional questions" were deleted, so that applicants are now required to answer all nine questions given.

During 1979 and 1980, applicants had sixty minutes to answer each essay question. In 1982, applicants were given ninety minutes to answer four of the nine essay questions. A comparison of applicant performance on sixty and ninety minute questions determined that scores did not improve with the extra time.

The Spring 1983 examination will consist of the MBE and nine sixty-minute essays. Beginning in July 1983, applicants will have three hours to answer each set of three essay questions, six hours for the MBE, and three hours for each performance test.

When the MBE was incorporated into the 1972 California Bar Examination, it was weighted 30% of the total. In 1979, the respective weight accorded to the essay and MBE sections was changed from 70%-30% to 60%-40%. The total possible score on the three parts of the new examination will be 1800 points: 600 points essay, 600 points MBE, and 600 points performance tests.

Since 1975, applicants have been required to pass a separate test in Professional Responsibility (MPRE).

Methods of Passing the Examination

Prior to 1977, applicants were required to take both parts of the examination in a single administration. Scores were combined, and a total of 70% was required for passing.

In 1977, the Committee determined that applicants should be allowed to pass the sections separately. An applicant could elect to take only the MBE or only the Essay Examination and be deemed to have passed if scores of 70% on each portion were earned within four consecutive administrations of the examination. Scores on the two sections are combined only when taken at the same administration of the exam.

Additionally, an applicant could transfer a passing score on the MBE earned in another jurisdiction and be required to pass only the essay portion of the California exam.

An attorney from another jurisdiction in the United States who has been in practice for four of the last six years may be admitted in California by passing the Attorneys' Examination, which has consisted of the essay portion of the General Bar.

Beginning in July 1983, applicants will be required to take and pass the entire examination at the same administration. The parts of the exam may not be taken separately, and California will no longer accept transfer of MBE scores. The passing score will be 1260 (70%).

The Attorneys' Examination will consist of the six essay questions and two performance tests; it will be administered during two full days. The passing score will be 840 (70%).

Those applicants who achieved a passing score on either the MBE or the essay portion of the bar examination between February 1982 and February 1983 will be entitled to pass the total examination in accordance with the Committee's former Alternative Methods policy, as amended. That is, an applicant who earned a passing score on one portion of the examination will be deemed to have passed the entire exam if a passing score is earned on the balance of the exam within the following three administrations of the examination. An applicant who earned a passing score on the essay examination will be required to take and pass the MBE. An applicant who earned a passing score on the MBE will be required to take and pass all non-MBE portions of the examination.

Grading the Examination

In 1972, the California Bar Examination was administered to a total of 5,646 applicants, and three readers were employed to read each essay question. By 1978, the number of applicants had grown to 11,727, and nine readers were required for each question. Reliability studies conducted in 1977 concluded that it was possible to identify with a high degree of accuracy (over 99.5%) a substantial number of applicants who would pass the examination as a whole by use of the applicant's MBE score and the grades received on the answers written on only three of the essay questions. These studies resulted in the implementation of a phased grading system which focuses resources on those applicants whose scores are closest to the pass/fail mark.

In Phase I, an applicant's scores on three essay questions are combined with the applicant's MBE score. A high total results in a pass, and that applicant's remaining six books are not read. The remaining books of those who do not pass in Phase I are read in Phase II; the total for the nine essays plus the MBE is calculated and those above 71% pass while those below 67% fail. Those applicants remaining have all nine of their essays read a second time in Phase III. Those whose averaged scores are 70% or above pass, while those who fall within 20 points of passing have all nine of their essays reviewed a third time by a member of the Board of Reappraisers.



SUB-APPENDIX C
Appendix B



THE COMMITTEE OF BAR EXAMINERS
OF THE STATE BAR OF CALIFORNIA

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MEASUREMENT SUPPORT CENTER
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MAILING ADDRESS:
POST OFFICE BOX 7908
SAN FRANCISCO 94120

Instructions and Information Relating to the Petitions Process

GENERAL INSTRUCTIONS (APPLICABLE TO ALL PETITIONS)

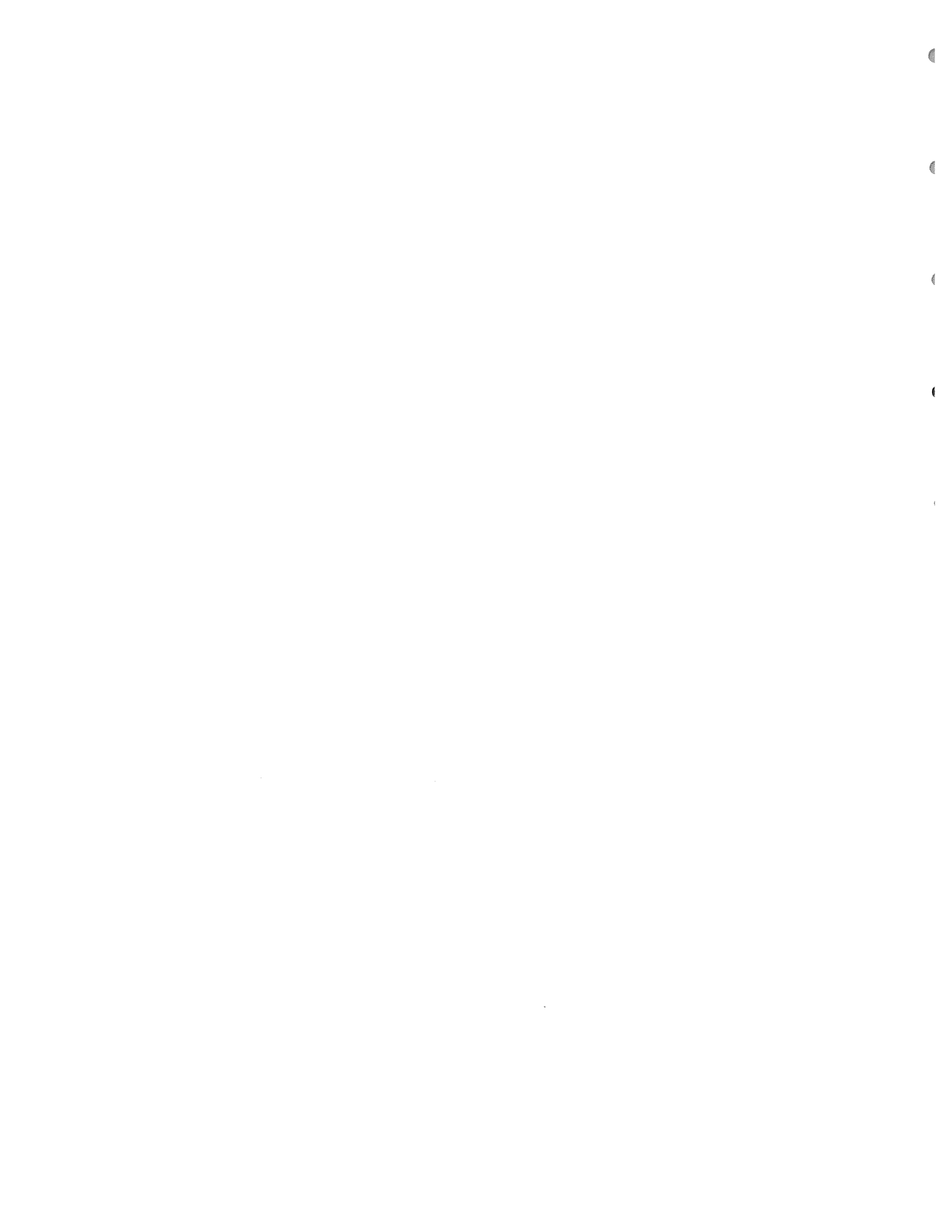
- A. Rulings regarding the applicability of the Rules Regulating Admission to Practice Law in California or The Business and Professions Code to individual situations may be obtained through petitions to the Committee of Bar Examiners (the "Committee"). However, the Committee cannot waive the requirements of the Business and Professions Code.
- B. Petitions for fee refunds of less than \$31.00 or for reconsideration of examination grades will not be accepted or considered. (Copies of the Committee's policy regarding requests for further consideration of grades are available upon request.)
- C. Petitions must be submitted upon forms available at the Committee's offices. Supporting documents should be attached. Petitions exceeding 5 (8½"x 11") pages must be filed in the original with 17 copies. (Transcripts and Certificates of Good Standing need not be considered as a portion of the 5-page limit.) EVERY ITEM ON THE FORM MUST BE COMPLETED. For each item that does not apply, enter in that particular space the letters "N.A." (not applicable). PETITIONS MUST BE TYPED OR LEGIBLY HAND PRINTED.

Each petition must display the petitioner's: (1) NAME, (2) ADDRESS, (3) ZIP CODE, (4) HOME AND BUSINESS TELEPHONE NUMBERS, (5) STUDENT REGISTRATION NUMBER. A SELF-ADDRESSED STAMPED ENVELOPE MUST BE INCLUDED WITH EACH PETITION for use by the Committee in confirming receipt of the petition in complete form.

- D. SUMMARIZE THE NATURE OF THE RELIEF BEING SOUGHT. A space is provided on the petition form for this purpose, and additional sheets of paper may be attached if needed.
- E. As specified under the provisions of Rule I, Section 14, of the Rules Regulating Admission to Practice Law in California (the "Rules"), all petitions must be verified or made under penalty of perjury in accordance with Code of Civil Procedure Section 2015.5.

- F. The Committee processes petitions on a monthly cycle which must be strictly enforced to insure timeliness of response to the very large numbers of petitioners. It is each petitioner's responsibility to learn the monthly deadlines through inquiry at either of the Committee's offices. Petitioners will usually receive written notice of the Committee's ruling within one work week from the adjournment of the Committee meeting at which the petition was considered.
- G. INQUIRIES REGARDING PETITIONS OR ANY OTHER SUBSTANTIVE MATTER SHOULD BE IN WRITING. The staff is not permitted to discuss petitions in the absence of the full file. Since examinees exceed 12,000 per year, the recovery of individual files is a time-consuming process and they cannot be discussed by telephone.
- H. The address for the Credentials Evaluation Service of the International Education Research Foundation, Inc. is Post Office Box 24679, Los Angeles, California 90024, and the telephone number is (213) 475-2133.
- I. PETITIONS NOT FILED IN COMPLIANCE WITH THESE INSTRUCTIONS WILL BE RETURNED WITHOUT ACTION.

SUB-APPENDIX D
Appendix B



ANALYSIS OF THE JULY 1984 EXAM

Stephen P. Klein, Ph.D.
GANSK & ASSOCIATES

February 11, 1985

INTRODUCTION

The July 1984 exam had three sections: the 200 multiple choice item Multistate Bar Examination (MBE), a six question Essay test, and a two problem Performance Test (PT). Each PT problem had two parts, written and multiple choice. This report summarizes analyses that were conducted with the 7,201 applicants who had scores on all parts of all three sections.

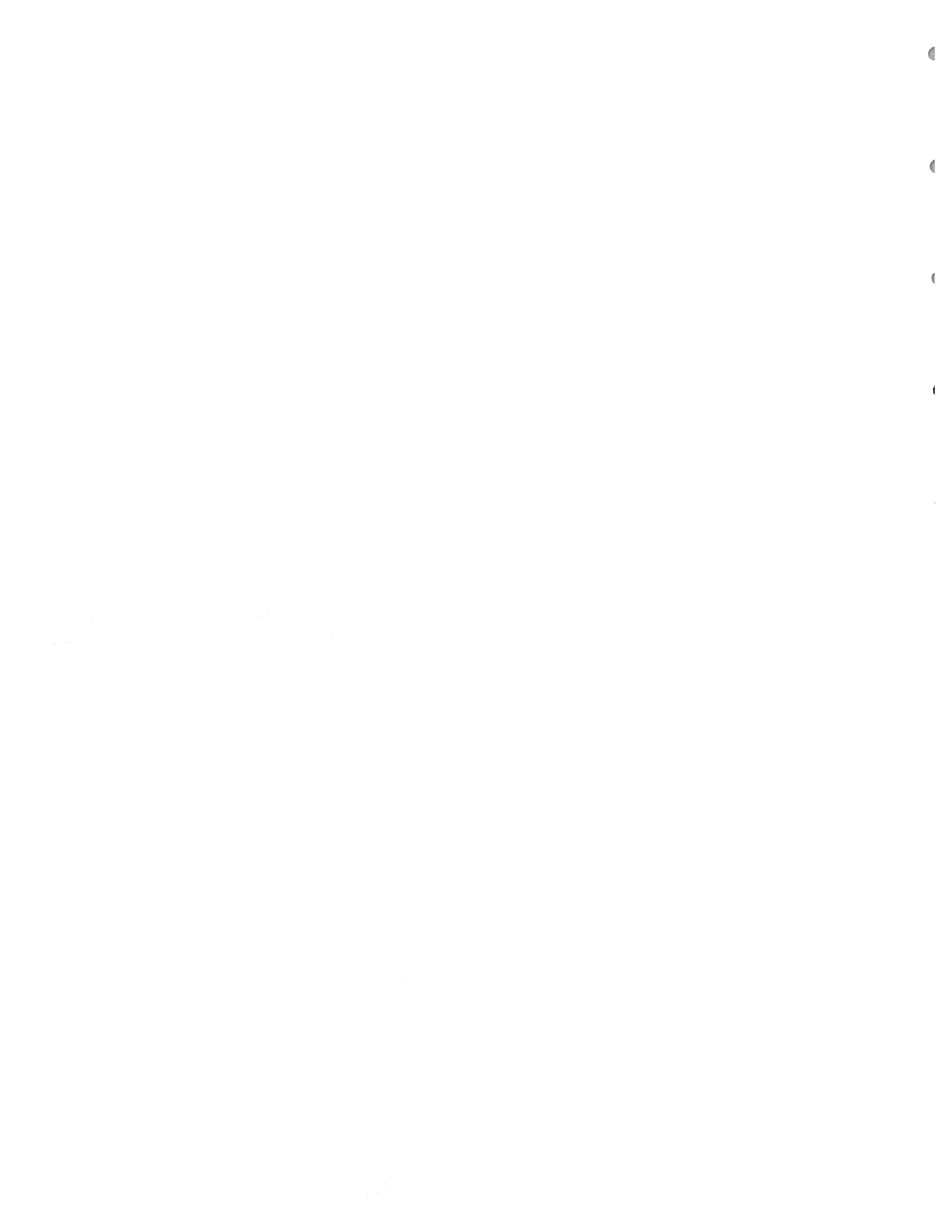
The exam was administered on three consecutive days. Day 1 consisted of essay questions 1 - 3 (3 hours) and PT problem A (3.5 hours). Day 2 was devoted to the MBE (two, 3-hour sessions). Day 3 consisted of essay questions 4 - 6 (3 hours) and PT problem B (3.5 hours).

A three phased grading process was used to determine an applicant's pass/fail status. In Phase 1, applicants were classified into two groups, pass and continue, based on the sum of their MBE score, PT multiple choice scores, and scores on two randomly selected essay questions. In Phase 2, applicants in the continue group had their two PT written answers and the remaining four of their essay answers read. The sum of an applicant's MBE, PT, and Essay scores was then used to place applicants into three groups: pass, fail, and continue. In Phase 3, the "continued" applicants had all their PT written and Essay answers graded again by readers who had not graded these answers previously. If after the second complete reading an applicant came close to passing but failed, then that applicant had all of his/her scores and answers reviewed by a member of California's Board of Reappraisers. Eight repeaters had their phased grading and pass/fail decisions affected by passing a section of the exam under California's old bifurcation rule.

The July 1984 exam differed from the July 1983 and February 1984 exams in that all applicants had their essay and PT written answers read at least once; i.e., regardless of whether or not they passed in Phase 1. This procedure did not adversely affect any applicant's pass/fail status because none of the additional readings was used in making Phase 1 decisions. Except when specifically noted otherwise, the analyses presented in this report use all of the applicants' essay and PT written scores.

OVERVIEW

The remainder of this report provides information about each of the exam's sections and subsections, the relationships among the sections, and the implications of these relationships for reducing the length of the exam. The report also discusses the July 1984 phased grading process, the impact of some alternatives to it, and whether the unusually low July 1984 passing rate was primarily a function of changes in applicant ability or changes in examination difficulty. The last section contains a summary of the findings.



MULTISTATE BAR EXAMINATION (MBE)

Table 1 shows that with the exception of Criminal Law and Torts, the average score of California applicants on an MBE subtest was comparable to the national average on that subtest. California's average total raw score (the average number of questions answered correctly) was 1.62 points higher than the national average, primarily as a result of the higher than average Criminal Law and Torts scores.

The National Conference of Bar Examiners (NCBE) and ACT scale the raw total scores on the MBE in order to adjust for possible differences in average question difficulty across administrations. California converts these scale scores to a 600 point scale by multiplying the constants in the NCBE/ACT formula by 3. The formulas used to convert raw total MBE scores to NCBE/ACT and California scale scores appear below:

$$\text{NCBE/ACT MBE Scale} = (0.8653)(\text{raw}) + 26.6681$$

$$\text{California MBE} = (2.5959)(\text{raw}) + 80.0043$$

The American College Testing Program (ACT) has indicated that the July 1984 version of the MBE had a internal consistency reliability of .880. This is consistent with the .869 estimate obtained by stepping-up the .769 correlation between California's morning and afternoon MBE scores.

ESSAY EXAMINATION

The data in Table 2 are based on the first reading of each applicant's essay answers. These data indicate that the six questions had very similar means and standard deviations. Thus, they carried about equal weight in determining the absolute and relative standings of the applicants on the essay test.

The average score on an essay answer on the first reading, 66.78, was essentially the same as the average score on a July 1983 answer (66.80). This finding along with the marked drop in MBE scale scores between July 1983 and July 1984 suggests that the July 1984 essay questions were, on the average, somewhat easier and/or graded more leniently than they were on the July 1983 exam.

The last column of Table 2 shows the correlation between the scores on a question and the sum of the scores on the other five questions (the higher the correlation up to a maximum of 1.00, the stronger the relationship between the scores on a question and the sum of the scores on the other questions). The consistency and level of these correlations indicate that no question stood out as measuring something quite different than the other questions.

The .260 average correlation between two essay questions led to an overall internal consistency reliability (coefficient alpha) of .678 for the total first-reading essay score. This is slightly below the .727 obtained with six essay questions on the July 1983 exam.

Table 1

NATIONAL AND CALIFORNIA AVERAGE MBE SCORES AND THE
DIFFERENCE BETWEEN THESE AVERAGE SCORES

Test Score	Number of Items	National Mean	CA Mean	Difference
Constitutional Law	30	20.75	20.91	0.16
Contracts	40	24.76	24.78	0.02
Criminal Law	30	20.17	20.81	0.64
Evidence	30	19.38	19.45	0.07
Real Property	30	18.26	18.20	-0.06
Torts	40	26.75	27.54	0.79
Total Raw Score	200	130.06	131.68	1.62
NCBE/ACT Scale	200	139.21	140.62	1.41

Table 2

SUMMARY STATISTICAL DATA ON THE FIRST READING
OF THE ESSAY ANSWERS (N = 7201)

Question Number	Subject Matter Area	Mean Score	Standard Deviation	Corrected Part-Whole Correlation
1	Evidence	65.70	9.46	.404
2	Constitutional Law	68.41	9.00	.475
3	Real Property*	65.84	8.04	.377
4	Remedies*	67.26	7.90	.395
5	Criminal Law	65.33	7.64	.384
6	Torts	68.15	8.66	.413
Average Across Questions		66.78	8.45	.408

* Question 3 contained a minor issue in Evidence and Question 4 a minor issue in Contracts.

PERFORMANCE TEST (PT)

The Performance Test (PT) had two problems, A and B. Problem A dealt with a Corporations case and Problem B with a negotiations task in a Contracts case (and to small degree, with remedies). Each problem had two sections, multiple choice and written. Applicants were given 3.5 hours to complete a PT problem. The printed instructions advised applicants to answer a problem's multiple choice questions first and to devote at least 90 minutes to preparing their written answer to that problem.

There were two forms, 1 and 2, of each multiple choice section. Both forms had the same questions. These forms differed in both the sequence in which the questions were asked and the ordering of choices within questions. The data in Table 3 (which were obtained on the item analysis sample) show that both forms of a PT multiple choice section had essentially the same means, standard deviations, and reliabilities. Thus, the scrambling of items and choices had no apparent effect on an applicant's PT multiple choice scores. This result is the same as that obtained with scrambling the February 1984 PT multiple choice items.

Raw scores, the number of questions answered correctly, on Problem A's forms were slightly higher and more reliable than they were on Problem B's forms. The July 1984 PT multiple choice scores were slightly more reliable than the PT multiple choice scores on the two previous exams.

Raw scores on each PT multiple choice problem were converted to a score distribution whose mean and standard deviation were one-sixth the size of the mean and standard deviation of California's 600-point-maximum MBE score distribution. This was done for two reasons: (1) control for any variation in the average difficulty of the PT multiple choice sections from one administration of the exam to the next and (2) assign one-sixth as much weight to a PT multiple choice section in determining an applicant's total exam score as was assigned to the MBE. The equations used to convert raw PT multiple choice scores to scale scores were:

$$\text{PT Scale Multiple Choice A} = (3.3287)(\text{Raw A score}) + 39.2497$$

$$\text{PT Scale Multiple Choice B} = (3.4122)(\text{Raw B score}) + 41.9895$$

The written answers to a problem were graded in 5-point intervals on a scale of 0 to 100 points. An applicant's written score was multiplied by 2.0 and added to his/her scaled multiple choice score in order to obtain the total score on a problem. The two problem scores were summed to yield a PT total score. Tables 4 and 5 provide summary data on each PT section by problem in the population of 7,201 applicants. These data indicate the two problems had similar means and standard deviations. The estimated overall reliability of the PT after one reading of the written answers, .658, was almost as high as the overall reliability of the essay section. However, it was still below the .70 observed on the July 1983 PT.

The two PT written scores correlated higher with each other than they did with their respective multiple choice scores. And, the two multiple choice scores correlated higher with each other than they did with their respective written scores. These findings are consistent with those obtained on prior PTs and suggest that the response mode (multiple choice versus written) factor is stronger than the content factor.

Table 3
PT MULTIPLE CHOICE ITEM ANALYSIS RESULTS

Problem	Form	Number of Questions	Number of Applicants	Mean	Standard Deviation	Reliability
A	1	14	1185	9.30	2.27	.483
A	2	14	1295	9.31	2.23	.474
B	1	15	1250	8.50	2.20	.353
B	2	15	1230	8.26	2.26	.387

Source: Educational Testing Service, Berkeley.

Table 4
SUMMARY DATA ON PT SECTIONS AND TOTAL SCORES AFTER
THE FIRST READING OF WRITTEN ANSWERS (N = 7201)

Type of Score	Problem	Mean	Standard Deviation	Reliability*
Multiple Choice	A	70.33	7.51	.478
Multiple Choice	B	70.35	7.48	.380
Multiple Choice Total	A + B	140.67	12.19	.488
Written	A	67.97	8.85	----
Written	B	67.59	7.99	----
Written Total	A + B	271.12	27.98	.583
Problem A Total	A	206.27	21.32	----
Problem B Total	B	205.53	18.34	----
PT Total	A + B	411.80	34.32	.658

* Reliabilities for total scores estimated from stepped-up correlation between problem scores. Reliabilities could not be computed for the separate written or problem scores.

Table 5
CORRELATIONS AMONG PT SCORES

	Written		MC	
	A	B	A	B
A Written	---			
B Written	.41	---		
A Multiple Choice	.35	.22	---	
B Multiple Choice	.21	.17	.32	---

READER AGREEMENT

There were 1959 applicants who had all of their answers read twice. This group consisted of 1825 Phase 3 applicants and 124 applicants who passed in Phase 1 but had their answers read twice due to administrative considerations. Table 6 contrasts the average scores on the first and second reading of these applicants' essay and PT written answers. These data indicate that first reading scores tended to be higher than second reading scores, especially on essay question 5. The trend toward higher scores on the first reading also was observed on previous exams.

On the average, the net effect of this downward bias on second reading scores was to lower an applicant's essay score by 2.73 points ($6 \times .91 = 5.46$, and $5.46/2 = 2.73$) and his/her PT score by 2.11 points. Thus, the average overall effect was to lower total bar scores of Phase 3 applicants by about 4.84 points. The total scores of some of these applicants did, of course, go up as a result of the second reading whereas the scores of other applicants went down. The latter pattern just tended to occur slightly more often than the former.

The last column of Table 6 shows the correlation between the scores on the first and second readings. This coefficient indicates the extent to which the relative standings of the applicants on the first reading were consistent with their relative standings on the second reading. The higher the coefficient (up to a maximum of 1.00), the stronger the relationship. These indicate there was only moderate agreement between readings in the relative standings of the applicants. The agreement level on essay question 5 was particularly low. And, the total essay score on the first reading correlated only .61 with the total score on the second reading.

The correlations between readings were generally lower on the July 1984 exam than they were on previous exams. For example, last February, there was a .72 average correlation between readings on an essay question. The July 1984 PT written sections, on the other hand, were graded just as reliably as the February 1984 PT written sections.

Table 7 shows each question's distribution of absolute difference scores and average absolute difference scores. The absolute difference is the difference in score assigned to an answer by the two readers who graded it, regardless of the algebraic sign of that difference (e.g., if one reader gave an answer a score of 65 and another gave it a score of 70, then the absolute difference was 5, regardless of which reader graded it first).

Two readers disagreed on the score that should be assigned to an essay or PT written answer by 10 or fewer points on over 95 percent of the 15,672 pairs of readings (1959 applicants \times 8 answers reread per applicant = 15,672). The largest absolute difference in the set of 15,672 pairs was 35 points. This occurred once on essay question 5 and once on question 6. A difference of 30 points occurred nine times. The largest absolute difference on a PT written answer was 25 points.

Table 6

AVERAGE ESSAY AND PT SCORES ON THE FIRST AND SECOND READINGS, THE DIFFERENCE BETWEEN THESE AVERAGES, AND THE CORRELATION BETWEEN SCORES ON THE FIRST AND SECOND READING (N = 1959)

Question Number	Mean Scores			Correlation Between Readings
	1st Reading	2nd Reading	Difference	
1	66.15	65.64	0.51	.66
2	68.95	68.03	0.92	.64
3	66.33	65.86	0.47	.70
4	67.54	66.53	1.01	.61
5	65.70	63.93	1.77	.39
6	68.78	68.00	0.78	.57
Average	67.24	66.33	0.91	.60
PT-A	68.59	67.69	0.90	.66
PT-B	68.10	66.89	1.21	.62
Average	68.35	67.29	1.06	.64

Table 7

CUMULATIVE PERCENTAGE OF ANSWERS WITH DIFFERENT SIZED ABSOLUTE DIFFERENCE SCORES (N = 1959)

Size of Absolute Difference	Essay Questions						PT		Average Cumulative %	
	1	2	3	4	5	6	A	B	Essay	PT
0	36	35	42	38	31	35	39	39	36.2	39.0
5	79	82	86	81	72	77	84	82	79.5	83.0
10	94	97	98	96	91	94	97	97	95.0	97.0
15	99	100	100	99	97	98	99	100	98.8	99.5
20	100	*	*	100	99	100	100	*	100.0	100.0
25	*			*	100	*	*	*	*	*
>25	*				*	*				
Average Difference	4.6	4.4	3.7	4.4	5.4	4.8	4.0	4.2	4.6	4.1

* More than 0.000 but less than 0.500 percent of the cases.

RELATIONSHIPS AMONG SECTIONS

Table 8 shows the correlations between MBE subtest, Essay, and PT written scores. Underlined correlations indicate the two measures dealt with the same content area. A comparison of the underlined and non-underlined values suggests that content area (independent response mode) does not play a major role in affecting an applicant's score on a given part of the exam; e.g., the MBE's Evidence subtest correlated higher with a Constitutional Law essay question than it did with an Evidence question.

Table 9 shows the correlations among sections after all readings. If an applicant had his/her answers independently read twice, the score on a question was the average of the two readings; otherwise it was the score on the first (and only) reading of the answers. Table 9's data indicate that there continues to be a moderate correlation among Essay, PT, and MBE scores; and, the correlation between MBE and Essay scores is stronger than the correlation between MBE and PT scores. Essay scores correlate about as highly with total PT scores as they do with MBE scores.

The data in Table 10 indicate that mean MBE scores were higher than mean PT scores which in turn were higher than mean Essay scores. The PT's average score fell between the MBE and Essay averages due to: (1) scaling the PT multiple choice scores to the easier of the exam's other sections and (2) the average score on an essay question, 66.78, being one point below the average score on a PT written answer (a difference that becomes sizable when summed over six essay questions and two PT written sections).

SUBGROUP ANALYSES

An analysis was conducted to determine whether the differences in the relative difficulty of the exam's three sections were consistent across racial/ethnic and sex groups. This analysis involved the following steps: (1) the MBE's mean and standard deviation on the 200-point NCBE/ACT scale were computed for the 5,648 Anglo applicants who took the exam, (2) their Essay and PT scores were converted to distributions having the same mean and standard deviation as their MBE scores, and (3) the equations developed for converting Anglo Essay and PT scores were used to convert the Essay and PT scores of applicants in other groups. This procedure controls for overall differences in the average difficulty of the three measures by putting them all on a common scale of measurement.

Table 11 shows the average scale scores by section and group. These data indicate that a racial/ethnic group's mean scale score on one section of the exam was very consistent with that group's mean scale score on the other sections (the Anglo means are identical because of the procedures described above). For example, the largest difference occurred between the MBE and Essay sections among Asian applicants, however, this difference was only 1.3 scale score points (less than one-tenth of a standard deviation).

The small, but consistent sex differences observed on previous exams also were present on the July 1984 exam. Specifically, after controlling for differences in the overall difficulty of the three sections, male applicants tended to score higher on the MBE than on the Essay or PT whereas the reverse was true for female applicants.

Table 8

CORRELATIONS BETWEEN MBE SUBTEST, ESSAY, AND PT WRITTEN SCORES
AFTER ONE READING OF THE ESSAY AND PT ANSWERS (N = 7201)*

Test	Content Area	Essay Question						PT	
		1	2	3	4	5	6	A	B
MBE	Evidence	<u>31</u>	37	30	27	30	25	32	21
MBE	Con Law	30	<u>43</u>	27	27	31	25	35	22
MBE	Real Property	26	33	<u>31</u>	28	27	25	33	21
MBE	Criminal Law	28	39	32	27	<u>30</u>	27	33	21
MBE	Torts	28	33	27	27	<u>27</u>	<u>27</u>	29	19
MBE	Contracts	27	34	30	28	29	25	33	<u>22</u>
PT-A	Corporations	31	43	32	30	33	32	--	41
PT-B	Contracts	23	30	28	22	19	26	41	--

* All decimal points have been removed. Underlined coefficients indicate the relationship between two sections dealing with the same content area.

Table 9

CORRELATIONS AMONG SECTIONS AFTER ALL READINGS (N = 7201)

	LSAT*	MBE	Essay	Performance Test		
				Written	MC	Total
MBE	.55					
Essay	.45	.63				
PT-Written	.41	.43	.58			
PT-MC	.54	.52	.41	.36		
PT-Total	.53	.54	.62	.94	.65	
Exam Total	.62	.88	.85	.74	.62	.83

* LSAT (Law School Admissions Scores) were available for 4917 applicants.

Table 10

SUMMARY STATISTICAL DATA AFTER ALL READINGS (N = 7201)

	MBE	Essay	PT	Total
Average Score	421.88	399.84	411.15	1232.85
Standard Deviation	44.55	31.29	34.32	94.16
Internal Consistency	.880	.696	.658	*

* The internal consistency of the total score was not computed because the test measured different skills.

Table 11

MEAN SCALE SCORES WITHIN RACIAL/ETHNIC AND SEX GROUPS
AND THE NUMBER OF APPLICANTS WITHIN EACH GROUP*

Test	Racial/Ethnic Group				Sex	
	Anglo	Asian	Black	Hispanic	Female	Male
MBE	142.7	135.1	129.1	133.9	138.4	141.9
Essay	142.7	136.4	130.5	134.3	142.0	139.7
PT	142.7	136.0	129.2	133.4	142.7	139.2
Average	142.7	135.8	129.6	133.9	141.0	140.3
Number of Applicants	5648	459	477	482	2713	4397
% Male	62	61	53	69	0	100

*Data are not displayed for applicants who did not provide their racial/ethnic and/or sex group affiliation.

EXAMINATION DIFFICULTY

Table 12 presents the number and percentage of applicants in each of the exam's eight pass/fail categories. These data indicate that 3,002 applicants passed; i.e., a passing rate of 41.69 percent.

An analysis was conducted to determine the difficulty of the July 1984 exam relative to the difficulty of previous exams. This analysis involved scaling both the Essay and PT total scores to a score distribution that had the same mean and standard deviation as the applicants' MBE scale scores on the 200-point scale used by ACT/NCBE, computing the average of each applicant's three scale scores, tabulating the cumulative frequency distribution of these average scores, and then noting what score in this distribution would pass the same percentage of applicants as actually did pass that exam after reappraisal. This score is defined as the exam's difficulty index. MBE scores serve as the base for this index because as a result of scaling, they are not affected by possible variations in average question difficulty from one exam to the next.

The results of this analysis indicate that the July 1984 exam had a difficulty index of 142.9; i.e., 41.69 percent of the 7,201 applicants had average scale scores of 143.0 or higher. A difficulty index of 143 is consistent with the index values on the other California July exams administered during the previous eight years (see Table 13).

A comparison of the July 1983 and July 1984 indexes (143.6 and 142.9, respectively) suggests that the the 1984 exam was actually easier than the 1983 exam. Nevertheless, the July 1983 pass rate (50.0 percent) in a comparably selected sample was higher than the July 1984 pass rate (41.7 percent). Table 13 shows that these seemingly inconsistent results were due to a significant difference between the average MBE scores of the applicants taking the July 1984 exam and those taking any of the previous eight exams. This table contrasts the percent passing, difficulty index, and mean score on each part of the previous eight July exams with the corresponding July 1984 values.

Table 13 shows that the July 1984 mean MBE and Essay scores were not only below average, they were the lowest values obtained in the last nine years! The sum of the July MBE and Essay scores (822) is 20 points lower than the sum of the mean scores during the preceding eight years. The July 1984 difficulty index, on the other hand, is consistent with the index values on previous exams. And, these index values are not affected by variations in average question difficulty and/or reader leniency from one year to the next.

The foregoing results indicate the July 1984 applicants were less well prepared to take the exam, and particularly the MBE portion of it, than were previous groups of July applicants. Several factors could have produced this difference. For example, July 1984 applicants could have altered their academic curricula and/or bar exam studying strategies in a way that resulted in their devoting less preparation time to the MBE.

Table 12

NUMBER AND PERCENTAGE OF APPLICANTS WHO PASSED AND FAILED
IN EACH PHASE OF THE MULTIPHASED GRADING PROCESS

Pass/Fail Category	Number	Percent
Fail - Phase 2	2882	40.02
Fail - Phase 3	825	11.45
Fail - Phase 4	488	6.78
Bifurcated Fail	4	0.06
Total Fail	4199	58.31
Pass - Phase 1	1798	24.97
Pass - Phase 2	688	9.55
Pass - Phase 3	315	4.37
Pass - Phase 4	197	2.74
Bifurcated Pass	4	0.06
Total Pass	3002	41.69

Table 13

RESULTS FROM PREVIOUS JULY EXAMS: MEANS, NUMBERS OF
APPLICANTS, PASSING RATES, AND DIFFICULTY INDEXES

Year	Mean MBE	Mean Essay	Mean PT	Number of Applicants	Percent Passing	Difficulty Index
1976	436	414	---	6709	60	143
1977	429	413	---	7191	55	142
1978	434	417	---	6835	55	142
1979	432	417	---	7152	55	142
1980	425	412	---	7379	49	142
1981	426	411	---	7080	50	142
1982	428	407	---	7038	49	143
1983	431	401	414	7277	50	144
Mean	430	412	414	7083	53	143
1984	422	400	411	7201	42	143

MBE scores were converted to the 600-point-scale used on the July 1984 exam. Essay means were computed using all of the available essay scores and adjusting an applicant's score to a six-question test (e.g., if an applicant had two answers graded, then that applicant's essay score was 3.0 times the sum of the scores on the two graded questions). Results are presented for all the applicants who took all the parts of their exams. Only the July 1983 and 1984 exams used the PT.

PHASED GRADING

Phase 1. California's phased grading process concentrates reader resources on the applicants whose pass/fail status is most in doubt. In Phase 1, applicants are placed into two categories: pass and go to Phase 2. No one fails in this phase. Phase 1 decisions are based on the sum of an applicant's MBE score, the scores on two randomly selected essay answers, and PT multiple choice scale scores. If this sum is 740 or higher, the applicant passes. Otherwise, the applicant goes to Phase 2.

On the July 1984 exam, all applicants had all of their Essay and PT written answers read regardless of whether or not they passed in Phase 1. It was possible, therefore, to assess the accuracy of the Phase 1 cutoff score by seeing how many of the applicants who passed in Phase 1 would have failed if all of their answers were read at least once. Table 14 shows the distribution of total exam scores after the first reading of all answers for the 1798 applicants who passed in Phase 1. These data indicate that 59 of the 1798 applicants had total scores below 1260 (or 0.82 percent of the population of 7201 applicants).

It is likely that several of the 59 seemingly misclassified applicants would have passed if they had gone to Phases 2 through 4. For instance, the passing rate was 38.8 percent in the group of 278 applicants who did not pass in Phase 1, but who had total scores of 1250 to 1259 after one reading. It was 16.3 percent among the 283 non-Phase 1 passes with initial total scores between 1240 and 1249. These statistics suggest that about 12 of the 59 applicants would have passed had they continued on in the process $[(.388 \times 26) + (.163 \times 13) = 12]$. This yields an overall misclassification rate of 0.65 percent $(47/7201 = .0065)$. This rate is slightly higher than the .0050 rate observed in previous studies of the Phase 1 cutoff score.

Analyses of the July 1983 data suggested the Phase 1 cut-off might be based on the MBE alone; e.g., it was discovered that 25 percent of the applicant pool had MBE scores over 464, but only 16 of these applicants failed the exam (yielding an overall misclassification rate of .0022. The 1984 data were not as encouraging. Only 18 percent of the July 1984 applicants had MBE scores over 463 (with a .003 misclassification rate).

Phase 2. There is no direct way of assessing Phase 2's misclassification rate because there was not a sample of applicants who had all of their answers read at least twice regardless of their Phase 1 scores. However, indirect evidence of the adequacy of the Phase 2 cutoff scores comes from an analysis of the passing rates among the applicants who had total scores between 1212 and 1278 after one reading of all answers because these applicants did have their answers read twice.

Table 15 shows that none of the 234 applicants with initial total scores between 1212 and 1219 passed the exam after going to Phases 3 or 4. And, only 5 of the 287 applicants in the 1220 to 1229 range passed. Thus, an initial score of 1220 appears to capture all the applicants who are likely to pass as a result of having their answers reread. An initial score of 1279, however, might not capture all the applicants who would have failed had they gone to Phase 3. Thus, the July 1984 reread band erred in the direction of putting too many low scoring and not enough high scoring applicants into Phase 3, thereby tending to increase the pass rate.

Table 14

NUMBER AND PERCENT OF ALL PHASE 1 PASSES AT VARIOUS INTERVALS OF TOTAL SCORES AFTER ONE READING OF ALL ANSWERS (N = 1798)

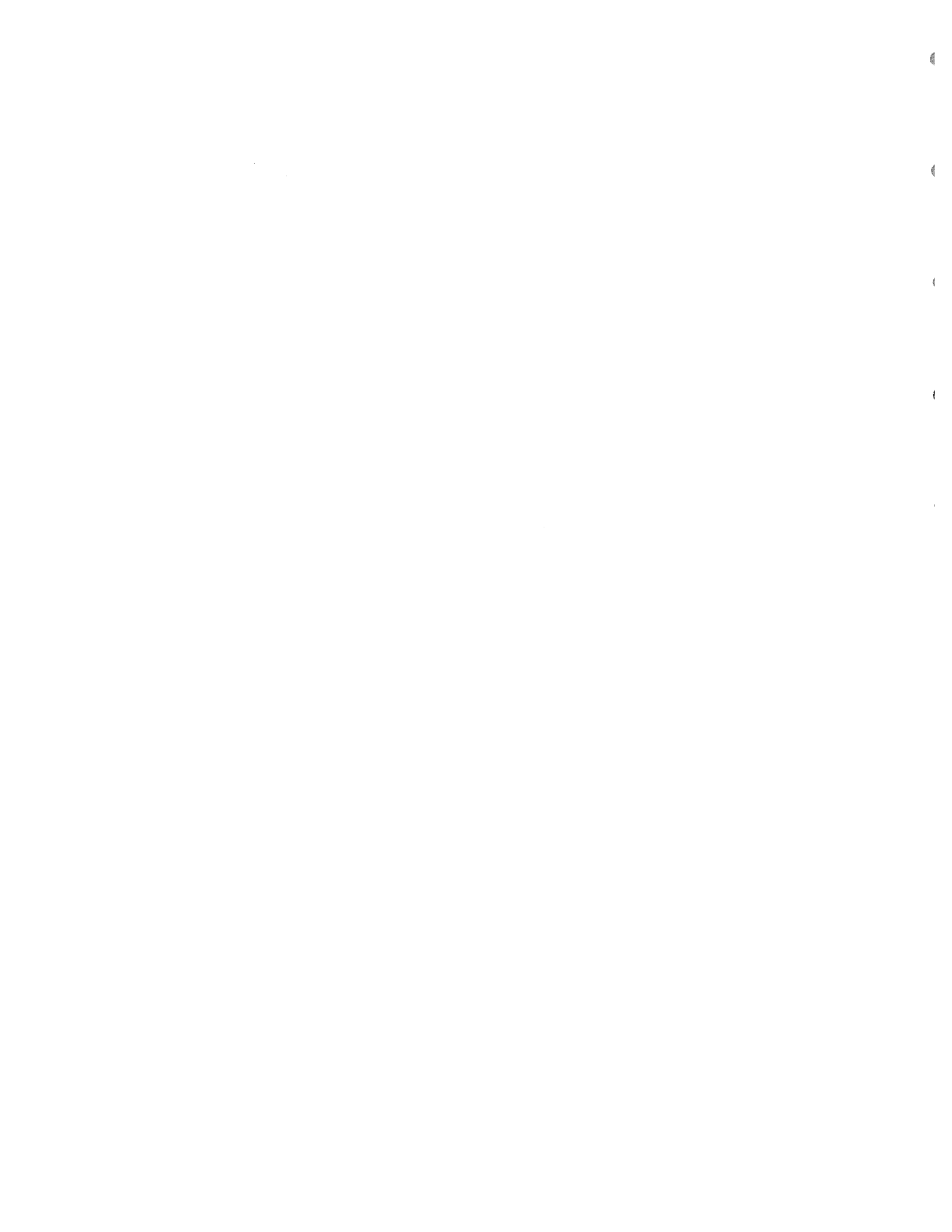
Score Range	Number of Applicants	Percent	Cumulative Percent
>1279	1631	90.71	100.00
1270 - 1279	68	3.78	9.28
1260 - 1269	40	2.22	5.50
1250 - 1259	26	1.44	3.28
1240 - 1249	13	.73	1.84
1230 - 1239	8	.44	1.11
1220 - 1229	7	.39	.67
1210 - 1219	3	.17	.28
<1210	2	.11	.11

Table 15

NUMBER OF PHASE 3 APPLICANTS WHO PASSED AND FAILED AFTER ALL READINGS RELATIVE TO THEIR TOTAL SCORES AFTER ONE READING OF ALL ANSWERS (N = 1825)

Initial Score Range	Number of Applicants			Percent Passing
	Fail	Pass	Total	
1270 - 1279	26	153	179	85.5
1260 - 1269	69	188	257	73.2
1250 - 1259	170	108	278	38.8
1240 - 1249	237	46	283	16.3
1230 - 1239	290	12	302	4.0
1220 - 1229	287	5	292	1.7
1210 - 1219	234	0	234	0.0
Total	1313	512	1825	28.1

SUB-APPENDIX E
Appendix B



THE COMMITTEE OF BAR EXAMINERS
OF THE STATE BAR OF CALIFORNIA

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Examinations
JANE PETERSON SMITH, *Dir*
SAN FRANCISCO

Law School Accreditation
JOHN A. GOREINKEL, *Consult*
SAN FRANCISCO
DAVE FREEMAN, *Consultant*
NEWPORT BEACH

May 25, 1984

Reply to:

- LOS ANGELES
 SAN FRANCISCO
 BURLINGAME

To: Specialty Bar Associations
From: Jane Peterson Smith
Director for Examinations
Re: READERS FOR THE CALIFORNIA BAR EXAMINATION

In an effort to obtain readers from diverse backgrounds, the California Committee of Bar Examiners is seeking female and minority attorneys to grade the California General Bar Examination, which is given each February and July. The attorneys must reside or work in the Bay Area or the Los Angeles area. Enclosed are copies of the Committee's policy on the selection and retention of readers.

We would appreciate your making this information available to members of your association who would be interested in applying to grade bar examinations. Eligible attorneys may write or call the San Francisco office for application materials. The mailing address and telephone number is:

Committee of Bar Examiners
P.O. Box 7908
San Francisco, CA 94120
(415) 561-8303

Applications for the July 1984 examination will be accepted from June 6 through June 22, 1984. Those interested in applying but who are not available at this time may leave their names and addresses with the San Francisco office; applications for the February 1985 examination will be mailed to them in January.

Thank you for your assistance.

Enclosures



POLICY OF COMMITTEE OF BAR EXAMINERS
REGARDING SELECTION AND RETENTION OF READERS AND REAPPRAISERS
RECRUITING OF READERS AND REAPPRAISERS

It is the policy of the Committee of Bar Examiners to select, retain and advance readers and reappraisers for the examinations administered by the Committee on the basis of ability, educational attainments, and experience without regard to race, religion, color, sex, age or national origin, and the Committee shall make a positive effort to obtain applications for positions as readers and reappraisers from persons of both sexes from a representative variety of ethnic, cultural, academic and professional backgrounds with the goal that the groups of readers and reappraisers that grade each examination administered by the Committee will reflect the ethnic and sexual composition of the general population of the State of California.

QUALIFICATIONS AND SELECTION OF READERS AND REAPPRAISERS

A. Minimum Qualifications

To be eligible for initial selection as a reader, an applicant shall:

1. Be a member of the State Bar of California;
2. Have taken the California bar examination or attorneys' examination not less than one year prior to the examination for which the reader is to be selected;
3. Have passed the California bar examination or attorneys' examination on the first attempt; and
4. Have attended a law school which required classroom attendance.

B. Selection of Readers

Other factors to be considered in selection of readers from among the eligible applicants are:

1. The extent to which the prospective reader has demonstrated an ability to adhere consistently to the grading standards and policies of the Committee of Bar Examiners as demonstrated by either (a) the actual grading of answers on one or more examinations previously administered by the Committee or (b) the simulated grading of a representative sample of answers from one or more examinations previously administered by the Committee;
2. The grades achieved on the bar examination or attorneys' examination;

3. Prior experience as a reader or grader;
4. Whether the selection of particular individuals will further the efforts of the Committee to obtain readers and reappraisers from a representative variety of backgrounds; and
5. Whether the applicant, if selected, would probably remain eligible and available to serve as a reader or reappraiser for a period of several years.

C. Disqualification

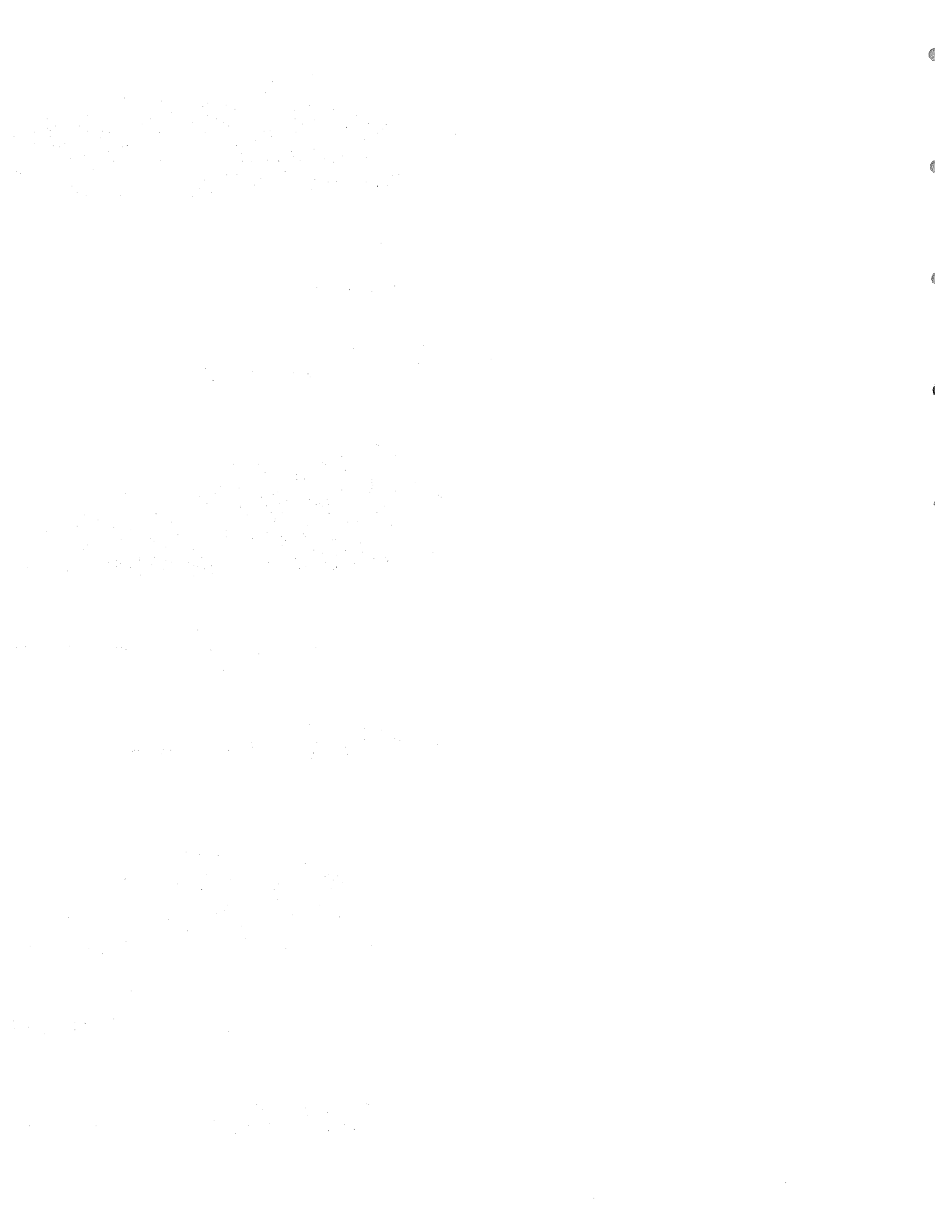
No person shall be selected to serve as a reader or reappraiser for a particular examination if:

1. That person is related by law or close blood relationship to an applicant for the examination;
2. Except as provided in 3. below, that person:
 - a. is then serving as an administrator, instructor or grader for any law school or bar review course; or
 - b. at any time within the two years immediately preceding the date of the examination, has served or been connected with any bar review course offered in California as an administrator, instructor or grader or with any law school in California as an administrator or full-time instructor or as a part-time instructor or grader for any course or subject within the scope of coverage of the bar examinations; or
 - c. has served for more than five classroom hours as a lecturer or instructor for any course(s) or seminar(s) offered by any law school or bar review course to a group of students not less than five of whom would, in normal course, be expected to qualify as first-time applicants to take the examination in question.
3. A person shall not be disqualified from serving as a reader if that person is then serving or has previously served as an instructor in Legal Writing and Research for a law school.

SELECTION OF MEMBERS OF BOARD OF REAPPRAISERS

Members of the Board of Reappraisers shall be selected from among those readers or former readers who have served as for not less than six general bar examinations.

APPENDIX C
Questions and Responses to March 19, 1985
hearing to the State Bar of California



THE STATE BAR OF CALIFORNIA

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March 25, 1985

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HOWARD K. WAY, Sacramento

Honorable Elihu Harris, Chairman
Assembly Judiciary Committee
The California Legislature
State Capitol
Sacramento, CA 95814

Dear Assemblyman Harris:

At the conclusion of the Assembly Judiciary Committee meeting on March 19, you asked several questions regarding the Bar examination. From a review of our own notes and from the written transcript of your remarks, which transcript was kindly provided by your office, we are setting forth below our understanding of the questions you asked and our answers to them.

1. How relevant is the Bar examination to testing the qualifications of an applicant to practice law in the State of California? Does it have any relation to the amount of discipline that has to be exercised after a person is admitted? Can the Committee say with validity that after a person passes a bar examination he or she is qualified to practice law in all of its manifestations in the State, and if not, why not?

The bar examination is a means of measuring whether applicants who seek admission to practice law in California meet minimum standards of competency. The Committee of Bar Examiners (CBE) does not warrant that all successful applicants are of equal competence; however, passing the exam indicates that they have met the minimum requirements. All any licensing program can do is insure minimum competency.

Elihu Harris, Chair
Assembly Judiciary Committee
March 25, 1985

There are not, insofar as we are aware of, any studies showing the relationship between how a person does on a bar examination and whether he or she might be subject to discipline after admission. We may observe that most discipline is imposed for dishonest acts. Where conditions of probation are imposed in the disciplinary process it usually relates to alcohol or emotional problems. The Committee of Bar Examiners (CBE) does certify at the time an applicant is admitted that he or she is of good moral character. The CBE is not in a position to certify as to what might happen to that moral character after admission.

Again, the CBE only certifies that applicants have met minimum standards and appear to have good moral character. Legally, the CBE does not state that applicants so admitted are necessarily qualified to handle any legal matter in any court in the state of California, that is done by the law of the state. (See Smith v. Superior Court (1968) 68 Cal.3d, 547, 559, 560.)

2. What are the standards applied for law school accreditation?

Attached as Appendix A is a copy of the CBE publication entitled "Rule XVIII, Rules Regulating Admission to Practice Law in California; Standards and Procedures for Preliminary Approval and Accreditation of Law Schools and Factors Governing the Interpretation and Application of the Standards." Also enclosed is a blank copy of the report "In Support of Application for Accreditation" that is filed by a law school seeking accreditation from the Committee. Dean John Gorfinkle, who acts as a Committee consultant in the matter of accreditation of law schools, will be present at the hearing on March 26, 1985, and can respond to additional questions on educational standards.

3. What recommendations does the Committee of Bar Examiners and the State Bar have regarding the accreditation process.

The State Bar has, in the past, conducted substantive studies relating to the effectiveness of unaccredited law schools. These studies can be made available if the Assembly Judiciary Committee so wishes. These studies have led the State Bar to recommend legislation in various forms over the last 20 years.

More recently, Assembly Bill 304, introduced in 1981, would have limited eligibility for certification to persons who graduated

Elihu Harris, Chair
Assembly Judiciary Committee
March 25, 1985

from an accredited law school or who registered as a law student prior to July 1, 1982 and who completed four years of study prior to July 1, 1988. The bill was unsuccessful.

In 1982, the State Bar sponsored A.B. 2567. This bill essentially concentrated on consumer disclosure. It would have: 1) required certain financial disclosures by all unaccredited law schools, 2) required additional information to be disclosed regarding an unaccredited school's faculty, 3) required disclosure of the actual amount of fees, tuition and other services rendered by the school during a 12-month period, and 4) provided for enforcement of disclosure requirements by the examining committee rather than by the Superintendent of Public Instruction. The bill would also have phased out, by 1989, (1) the study of law in other unaccredited law schools not in compliance with the bill's provisions, (2) correspondence programs, and (3) study in law offices or judges' chambers. This bill was also unsuccessful.

Because of prior and long standing legislative opposition, the State Bar does not at this time have a statement of its present position on these matters.

4. What is the role of law schools in preparing people for legal education and for practicing law in the state of California?

The State Bar and the Committee of Bar Examiners have never taken the position that law school graduation is equivalent to passing the bar examination. Generally speaking, law schools provide education about the legal system and develop students' analytic and research skills. Different law schools take different approaches to obtain these goals. The bar examination requires a synthesis of knowledge and skills learned in law school and requires the applicant to demonstrate that he or she has attained a minimum competence under a uniform standard.

We believe the test does provide opportunity to evaluate an applicant's minimum competence but do not claim it insures one's potential to be a good and effective lawyer. Passing the examination shows that the applicant has certain defined skills. It does not guarantee how such skills will be used.

As we have stated, competence of a lawyer is insured by many programs. These include the following: 1) high school education, 2) college education, 3) law school training, 4) job experience and clinical training, 5) bar examination, 6) bridging the gap programs, 7) continuing legal education and training, and

Elihu Harris, Chair
Assembly Judiciary Committee
March 25, 1985

8) attorney disciplinary laws. The bar examination is but one of these competence-assurance vehicles.

The role of the law schools in this extensive process is also important and response should be solicited directly from them.

5. You have asked why is the bar examination constantly being changed.

As we stated above, and in our responses to Questions 5 and 6 on your Committee's original questionnaire, the bar examination is relevant to establishing minimum level of competency in an applicant. Since the bar examination was first given, society has changed dramatically. Also, the number and complexity of laws have changed dramatically and are constantly being modified by the courts and by the legislature. The number of bar applicants and the cost of giving bar examinations has grown enormously in recent years.

However, the bar examination has not changed that much over the years. In our response to Question 5C of the original questionnaire, we show that since 1972 there have been few substantive changes (as distinguished from procedural changes) in the bar examination. In 1972 the MBE was added. In 1975 there was added a test of professional responsibility. The performance test was added in 1983. These are the substantive changes in the California bar examination. The other changes that have been noted are essentially procedural and would not change what an applicant would have to study or the skills that would have to be demonstrated in order to pass the examination. For example, requirement of an essay examination has remained constant and the skills necessary to take and pass that examination have remained essentially unchanged. However, in 1974, 1979 and 1983 the number of essay questions was reduced and in 1978 the length of time allowed to answer an essay question was increased from 52 1/2 minutes to 60 minutes.

Bifurcated passage of the bar examination is discussed in response to Question 11 of our original response. However, here it should be noted that this again is a procedural rather than a substantive issue. One does not have to learn new skills, subject matter or techniques depending upon whether or not bifurcation is permitted.

Elihu Harris, Chair
Assembly Judiciary Committee
March 25, 1985

A summary of changes in the bar examination follows:

Changes In the Bar Exam

<u>Year</u>	<u>Change</u>	<u>Type</u>
1972	Multistate Bar Exam added	Substantive
1975	Professional Responsibility Exam added	Substantive
1980	Bifurcation introduced	Procedural
	Assessment Center & Research experiments conducted	Optional
	Number of essays reduced	Procedural
1978	Amount of time on essays increased to 60 minutes each	Procedural
1979	Essay option eliminated	Procedural
1983	Bifurcation eliminated	Procedural
1983	Performance Test introduced; number of essays reduced to six	Substantive

The Committee has always been receptive to constructive advice from all sectors: the legislature, law schools, law student groups, and members of the bench and bar. We evaluate all suggestions and implement those that we believe will improve the reliability or quality of the examination. Since law and society are now more complex than in the past, it is important to apply scientific techniques and modern testing procedures so as to insure reliability and relevance.

Coming from these legislative hearings may be ideas that should be investigated and analyzed. It should be understood that changes in the exam are not an admission that the prior methods and techniques were inadequate, only that improved reliability may be obtained through revised techniques.

We would submit that the changes that have been made in the bar examination have been evolutionary and not revolutionary.

The Chair of the Committee of Bar Examiners pointed out at the last hearing that the addition of the performance test in 1983 was in large part a response to the request of minority applicants. That test did result in a slight increase in the bar applicant pass rate: the July 1983 examination pass rate was up 1.5% over the

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previous year and the February 1984 pass rate was up 1.8% over the previous year.

6. Has the Committee "changed the rules in the middle of the game?"

As stated in our response to the previous question, the changes in substance have been few. However, each change has been preceded by a notice to all the law schools well in advance of the intended change. There were meetings between members of the Committee and law school deans prior to implementation of any of the substantive changes. The Committee will be meeting with the deans of law schools in April in an effort to improve communications between the Committee and to strengthen the exchange of information.

7. Should the curriculum for law school and pre-law school education be prescribed?

The law does not do that now and neither the Committee nor the Board has addressed this issue.

8. What is the relationship between and among the following factors: college training, the LSAT score, ability to matriculate in a law school, and to pass the bar examination?

In 1979, Dr. Stephen P. Klein, the statistical consultant to the Committee of Bar Examiners, presented a paper to the National Conference of Bar Examiners entitled, "An Analysis of the Relationship Between Bar Examination Scores and an Applicant's Law School, Admissions Test Scores, Grades, Sex, and Racial/Ethnic Group." A copy is attached as Appendix C. The Committee has authorized an update of that 1979 report, focusing on the July, 1984 applicant class.

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9. Why is it that persons who spend three or four years studying in law school have a difficult time passing the bar examination? If a person graduates from an accredited law school, why can't that person be guaranteed to pass the bar examination?

There is no way to guarantee under the present law that every person who graduates from law school will pass the bar examination. As stated above, the bar examination and the attendance in law school serve different purposes. The purpose of the bar examination is to insure that applicants have met minimum standards of competence and are able to synthesize the application of the knowledge they have gained in various law school courses.

Current State policy is to have an open door to anyone who aspires to be a lawyer. Applicants may come in through any one of the following access routes: graduation from an ABA-approved school, state-accredited school or unaccredited school, or correspondence law study or study in a lawyer's office or judge's chambers. Unfortunately, not all who attend law school possess the necessary minimum skills. As we stated in our previous testimony, in the overwhelming majority of other states, the screening process takes place at the time an applicant seeks admission to law school. Very few people, comparatively speaking, are admitted to law schools in those states as ABA-approved schools are the only permitted institutions. In California, however, almost anyone has the opportunity to apply and be accepted to a law school. The issue is whether the screening should be done before admission of law school as is done virtually everywhere else, or at the bar examination level, as is done in California.

10. Instead of giving a First Year Law Students Examination (the "baby bar"), should the CBE give the bar examination in stages, i.e., after the first, second, and third year of law school.

Giving the examinations in stages has been considered by Committees, as has the idea of a mandatory internship program after law school and prior to taking of the bar examination. There are many problems with either approach. It must be understood that neither program, either alone or in conjunction, can be implemented without strong support from law schools, members of the practicing bar, and the law students themselves. The problems of implementing a mandatory internship program are discussed in some detail in Appendix F, "Report on Feasibility of Required Legal Internship Programs," prepared by Committee member, Marguerite Archie-Hudson,

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and attached as Appendix F to Chair Yu's amended response to the questionnaire mailed to Elihu Harris on March 11, 1985. Consider also that placing nearly thirteen thousand people each year in a required internship program would pose tremendous logistical problems not only in finding members of the bar who are willing and able to supervise an internship but also for law placement directors who even now have great trouble placing all their qualified graduates who pass the bar, to say nothing of administrative problems and quality control difficulties. Moreover, such a system could well work to create an exploited class of applicants.

11. Is specialization one way of making sure that people who exercise professional responsibilities are in fact adequately trained and prepared to exercise that responsibility?

The State Bar has in the past pursued specialization along those lines. Both the Pilot Program on Legal Specialization now in existence and the proposed program for specialization now pending before the Supreme Court envision that members of the bar who have accomplished specific tasks, passed a specialization test and been subject to peer review have reached proficiencies in their elected field of law. There was much study and debate among all elements of the bar before the proposed program for specialization was submitted to the Supreme Court. The factual record filed by the State Bar with the Supreme Court in support of the proposed program is contained in some eight volumes and is almost a foot thick. If the Chair wishes, a copy can be provided.

The opposition within the profession to specialization remains substantial. The proposed program has been submitted to the Supreme Court for approval. The matter was debated before the Court on January 24, 1985. The Court has not as yet acted.

We hope the foregoing is responsive to your concerns. If there is any further information you feel we can provide, please advise us and we will be happy to do so.

Very truly yours,

Burke M. Critchfield
President
The State Bar of California

RULE XVIII
RULES REGULATING
ADMISSION TO PRACTICE LAW
IN CALIFORNIA

STANDARDS AND PROCEDURES FOR
PRELIMINARY APPROVAL
AND
ACCREDITATION OF LAW SCHOOLS
AND
FACTORS GOVERNING THE INTERPRETATION
AND APPLICATION OF THE STANDARDS

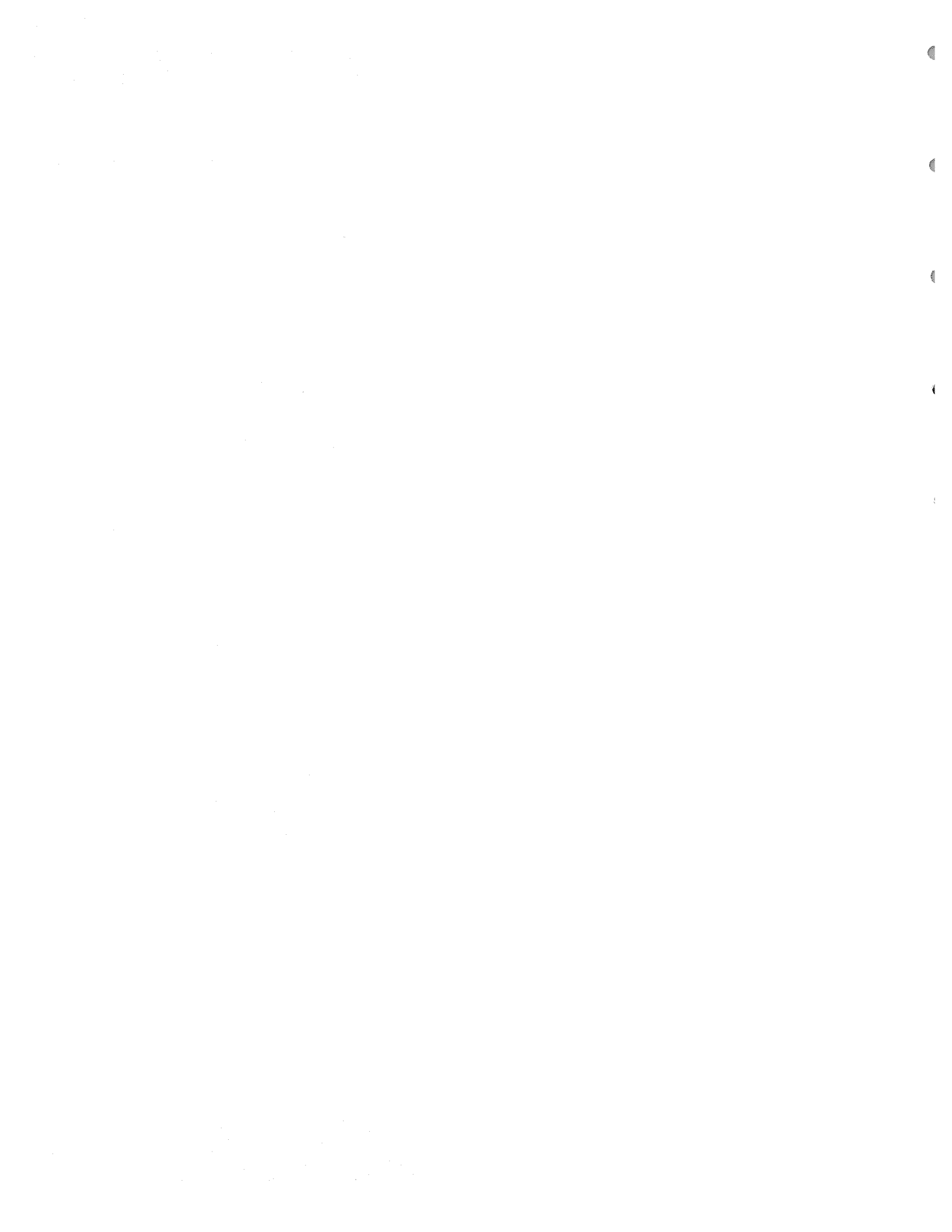
(REVISED OCTOBER 1984, WITH ALL AMENDMENTS AS OF DECEMBER 31, 1984)

THE COMMITTEE OF BAR EXAMINERS
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**RULE XVIII. Standards and Procedures
for Preliminary Approval and
Accreditation of Law Schools**

Section 181. Terminology and Definitions.

(1) Law Schools are either "accredited" or "unaccredited."

(2) An unaccredited school will be granted a "preliminary approval" when the school establishes that it substantially complies with the standards and appears to be capable of qualifying for accreditation within three years from the time preliminary approval is granted. Preliminary approval will automatically expire if the school does not qualify for accreditation within three years, or secure an extension of time from the committee. Preliminary approval may be withdrawn at any time, if the committee finds that the school is no longer substantially complying with the Standards.

(3) "Committee" means the Committee of Bar Examiners of the State Bar of California.

(4) "Standards," unless the context otherwise requires, means the Standards set forth in Section 182 and includes all factors applicable thereto.

Section 182. Standards for Accredited Law Schools.

(1) To be accredited a law school shall establish that its paramount objective is to provide a sound legal education and that it is accomplishing that objective. It shall do so by showing that it substantially complies with the standards set forth herein and the factors applicable thereto.

Standard A: Preferably, the school shall not be operated as a commercial enterprise or for private profit. In no event shall a school permit profit considerations

to dictate the quality of education the school provides, and no school shall exploit its students by admitting or continuing persons who cannot successfully complete the requirements for graduation and acquire the qualifications for admission to practice law in California.

Standard B: The school shall have a physical plant adequate for its program.

Standard C: The school shall have a competent Dean or other administrative head and a competent faculty devoting adequate time to administration, instruction and student counseling.

Standard D: The school shall maintain a sound educational program.

Standard E: The school shall maintain an adequate library.

Standard F: The school shall maintain a sound admission policy, designed to exclude at the outset, the obviously unqualified.

Standard G: The school shall maintain scholastic standards designed to identify and exclude, as soon as possible, those admitted students who are not qualified to continue with their studies.

Standard H: The school or the institution of which it is a part shall be qualified as a degree granting institution under the laws of California, if located in California, or of the state in which it is located.

Standard I: The school shall keep such records and, upon request, make such reports, as may be necessary or proper, to determine compliance with the standards.

Standard J: The school shall have a financial structure and resources sufficient to insure operations at a level consistent with the standards.

Standard K: The school shall be fair and truthful in all matters.

Standard L: Consistent with sound educational policy and the Standards, the school shall demonstrate, or have carried out and maintained, by concrete action, a commitment to providing full opportunities for the study of law and entry

into the profession by qualified members of groups (notably racial and ethnic minorities) which have been victims of discrimination in various forms. This commitment would typically include a special concern for determining the potential of such applicants through the admission process, special recruitment efforts, and a program which assists in meeting the unusual financial needs of many such students, provided that no school is obligated to apply standards for the award of financial assistance different from those applied to other students.

Standard M: The school shall maintain equality of opportunity in legal education in admission and retention of students and hiring, retention and promotion of faculty without discrimination or segregation on the grounds of race, color, religion, national origin, sex, age, marital status or sex orientation, except insofar as such action is protected by the Constitution of the United States or the Constitution of the state of California, provided that nothing in this section is intended to prohibit such admission, retention, hiring and promotion policies maintained for the purpose of remedying present effects of past discrimination.

(2) The committee shall issue as an appendix to this Rule XVIII, a statement of the factors governing the interpretation and application of the Standards and shall have the authority to alter or amend the same.

(3) A school seeking accreditation or preliminary approval may request a waiver of the requirements of one or more factors.

(a) The school must establish that it

(i) fully complies with Standards A, D, F, G, H, I, J, K, L and M and the factors applicable thereto; and

(ii) because of geographic location or unique program, fulfills a need in that its students do not have an opportunity for a similar legal education in a reasonably accessible, accredited law school; and

- (iii) is unable to bear the costs for the physical facilities, full-time administrator and library necessary to comply fully with the standards and factors, because
 - (i) the school relies exclusively or primarily on tuition for its income, and
 - (ii) the enrollment in the school is not sufficient to produce the income necessary.
- (b) A school that meets the conditions stated in subsection (a) may request a waiver of:
 - (i) the requirements stated in the factors under Standard B, §185.2, provided the physical facilities are adequate for the program of the school;
 - (ii) the requirement for a full-time administrator, as set forth in Standard C, factors, §185.3(1), provided the school has a part-time administrator, who otherwise meets the qualifications of Standard C, factors, §185.3(1), is properly administered, and otherwise complies with Standard C and the applicable factors;
 - (iii) specific requirements of library contents, set forth in Standard E, factors, §185.5(4), provided those requirements that are waived are met by a county law library that is readily accessible to, and permits use by, the students in the school, and provided further the school assumes the responsibility of maintaining, either in the school or in cooperation with the county law library, such required materials as are not in the county law library; the facilities of another law school, whether public, or private, will not be considered.
- (c) Any waiver granted under this policy is subject to annual review and reconsideration by the committee and, after any such review and reconsideration, may be modified or withdrawn, provided that in the event of any modification or withdrawal, the school affected shall be

granted a reasonable period of time within which to comply with the requirements as to which the waiver was modified or withdrawn.

Section 183. General Rules Regarding Accreditation of Law Schools.

(1) Schools Deemed Accredited.

- (a) A law school which is either provisionally or fully approved by the American Bar Association shall prima facie be deemed accredited by the committee unless it shall affirmatively appear to the committee, after proceedings under Section 184 hereof, that such school is not conforming to the standards established by the American Bar Association and to the provisions of Standards I, K and M of this Rule XVIII and the factors governing the interpretation and application thereof as set forth in Section 185.11(1)(a) hereof.
 - (b) A law school that is either (i) a member of the Association of American Law Schools or (ii) a recognized law school in Canada, the members of the faculty of which are eligible to membership in the Association of American Law Schools as a "Canadian Associate," shall prima facie be deemed accredited by the committee unless it shall affirmatively appear to the committee, after proceedings under Section 184 hereof, that the program of such school does not comply with this Rule.
 - (c) All law schools otherwise accredited by the committee on the date these Standards become effective shall continue to be deemed accredited, unless such accreditation is thereafter withdrawn after proceedings under Section 184 hereof.
- (2) Provisions for Accreditation of Schools.**
- (a) Any law school that is not accredited and is complying with Section 182(1) may petition for accreditation in accordance with the procedures set forth in Section 184 hereof.
 - (b) A school that is not accredited will be granted accreditation when it establishes compliance with Section 182(1).
- (3) Schools with more than one program, loca-**

tion or division.

- (a) A law school which conducts classes at more than one location must comply with all the provisions of this Rule XVIII at each location at which classes are conducted.
- (b) A law school which conducts classes in more than one division must comply with the Standards in each division. For the purposes of this rule each of the following is deemed to be a separate division: (i) classes conducted only between 8 a.m. and 1 p.m.; (ii) classes conducted only between noon and 6 p.m.; (iii) classes conducted only after 6 p.m.; (iv) a full-time, three-year program.
- (c) A law school which offers, or is part of an institution which offers, a program in legal studies other than a program leading to a professional degree in law, must have such other program in legal studies approved or accredited by an appropriate accrediting agency.

(4) Effect of withdrawal of accreditation.

A person who matriculates at a school that is then accredited and who completes the course of study and graduates in the normal period of time required therefor shall be deemed a graduate of an accredited school even though the school becomes unaccredited in the interim. Active duty as a member of the armed forces of the United States does not constitute an interruption of study under this rule, provided the studies were resumed within six months after the student became physically able to do so.

(5) The committee will publish annually a list of Law Schools in California and designate therein which of such schools are (i) on the list of approved school of the American Bar Association; (ii) accredited by the committee; (iii) preliminarily approved by the committee; and (iv) not accredited by the committee.

Section 184. Procedures for Preliminary Approval, Accreditation and Withdrawal of Accreditation.

(1) Procedures on Application for Approval or Accreditation.

(a) Initial Application.

An unaccredited school may apply for

preliminary approval or accreditation by:

- (i) filing a written application therefor stating that the school is complying with the Standards,
- (ii) submitting in writing such information in support thereof as the committee may request,
- (iii) agreeing to pay the costs of such inspection as may be necessary or appropriate prior to accreditation, not exceeding \$3,000 and actual travel expenses, and thereafter to pay the costs of such subsequent inspections as may be necessary or appropriate, not exceeding, in any twelve month period, \$1,500 and actual travel expenses.

(b) Pending Application.

An application for preliminary approval or accreditation will not be deemed pending until the applicant:

- (i) has complied with all the provisions of subsection 184(1)(a), and
- (ii) thereafter the applicant has been inspected pursuant to subsection 184(1)(d) or six months have elapsed since the filing of the application.

(c) Upon the filing of the application and the submission of all information required by the committee, the Consultant will review the same.

- (i) If, in the opinion of the Consultant, the application and information submitted do not establish a reasonable probability that the applicant can now qualify for preliminary approval or accreditation, the Consultant will so advise the committee and, if the committee concurs, the applicant will be so informed and advised to withdraw its application.
- (ii) If, in the opinion of the Consultant, with concurrence of the committee, the application and information submitted establish a reasonable probability that the applicant can now qualify for preliminary approval or

accreditation, the Consultant will make a consultation visit to the applicant at the earliest reasonable opportunity and advise the applicant and the committee of the results of such consultation visit. If the advice of the Consultant is that there is no reasonable probability that the applicant can now qualify for preliminary approval or accreditation and the committee concurs, the applicant will be so informed and advised to withdraw its application.

- (iii) If after being advised pursuant to (i) and (ii) above, the applicant has not withdrawn its application or if the committee believes that there is a reasonable probability that the applicant can now qualify for preliminary approval or accreditation, the committee will appoint a subcommittee to inspect the applicant with the Consultant or such other persons as the committee may direct.

(d) Inspection.

An inspection of the school will be made to verify the written information submitted, obtain such additional information as may be relevant and evaluate the quality of the academic program.

The inspection will normally be made within 60 days after all written information has been submitted.

(e) Report and Findings.

A written report of the inspection, with findings and recommendations, will be filed with the committee within 60 days after the inspection has been completed and a copy thereof will be delivered to the school. Within 30 days after receipt of a copy of the report, the school shall advise the committee, in writing, whether it accepts the report or excepts to the same or any part thereof and, if it excepts to the report, it may request additional time, not exceeding 60 days to file its exceptions and any supporting material.

(f) Action on the Report.

Upon receipt of the report and advice and exceptions of the school, if any, or the lapse of time within which to file the same, the committee will act on the application on the basis of all the information before it and will grant or deny the same application or, if in the opinion of the committee further information is needed in order to act on the application, continue the matter as pending for the time necessary to obtain such information and act upon it.

(2) Procedures on Major Change in Organization, Structure or Operation.

(a) An accredited school shall not make a major change in its organization, structure or operation without first obtaining the approval of the committee to do so.

(b) An accredited school contemplating a major change in its organization, structure or operation shall advise the committee thereof and furnish the committee with full details on all matters which might affect the school's continued ability to comply with the standards.

(c) The committee may, if it deems it advisable to do so, require written information, inspection, report and findings to the same extent as on an initial application for accreditation.

(d) The following are major changes:

(i) Instituting a new division, either part-time or full-time or changing from a part-time to a full-time program or from a full-time to a part-time program;

(ii) Changing the location of the school or any branch thereof, or opening a new branch;

(iii) Merging or affiliating with another school, college or university;

(iv) Offering a new program in law study, either a non-degree or non-professional degree program, or a degree program beyond the first law degree;

(v) Changing from a non-profit institution, as defined in Section 185.1(1) to

a profit making institution or vice versa.

(3) Provisions for Reinspection.

- (a) Upon an original grant of accreditation or upon continued accreditation following proceedings under subsection (4) hereof, the committee may direct that the school
 - (i) be subject to annual inspection, at the school's expense, for such period of time as may be necessary or appropriate to assure the committee that the school is complying with the standards and the committee may extend such period of time if, prior to the expiration thereof, such extension appears necessary to assure compliance;
 - (ii) comply with such specified conditions as are set forth in the grant of accreditation in order for the school to retain such accreditation.
- (b) An accredited school is subject to reinspection, at the school's expense, but not less often than once in every three-year period. An accredited school is also subject to inspection, at the school's expense, whenever the committee finds that special circumstances exist which create a substantial probability that the school is not complying with the standards.
- (c) A preliminarily approved school is subject to annual inspection at the school's expense.
- (d) If a school has been inspected by either the American Bar Association or the Association of American Law Schools, the committee may direct that a copy of the report of such inspection be filed and accepted in lieu of the inspection or reinspection provided for herein.

(4) Provisions for Withdrawal of Preliminary Approval of Accreditation.

If a preliminarily approved or an accredited school appears not to be complying with the Standards applicable to its status, the committee may take proceedings for withdrawal of preliminary approval or accreditation by notifying the school, in

writing, of the alleged deficiency or deficiencies. The school shall be allowed such time as the committee deems reasonable, but not less than sixty days, within which to cure the same. Unless the school satisfies the committee that the deficiency did not exist or has been cured, or accepts the notice of deficiency and agrees to withdrawal of preliminary approval or accreditation, the committee shall set the matter for hearing to determine if the school is complying with the standards. If the committee finds the school is not complying with the standards, it may either withdraw the preliminary approval or accreditation or grant the school an additional period within which to cure the deficiency.

(5) Provisions for Consultation Visits.

A law school or a school planning to commence instruction in law may request that the Consultant on Legal Education visit the school at the school's expense for the purpose of advising the school on any matter including, but not limited to, its readiness to petition for preliminary approval or accreditation and the changes, if any, which should be accomplished by the school prior to the filing of such petition. When making such request, the school shall agree to reimburse the committee for the cost of providing such services by the Consultant.

(6) Schedule of Charges.

The school shall reimburse the State Bar for the actual expenses of any visit to the school for purposes of inspection or consultation as follows:

- (i) for the services of any consultant or consultants at the rate of \$225.00 per day for each consultant for each day of such visit, including travel time to and from the school, and for each day spent preparing any report or study of such visit for the use of the committee or the school or both;
- (ii) for the expenses of any consultant or consultants and any members of the committee or staff, while away from home at the rate of the per diem expense allowed to members of committees and staff of the State Bar while in travel status;
- (iii) for the travel expenses of any consultant or consultants and any members of the committee or staff, in making any such visit, at the rate of the actual cost of such travel including the cost of car rental when reasonably necessary to such visit.

Section 185. Factors governing the interpretation and application of Standards for Approval and Accreditation of Law Schools adopted as an appendix to Rule XVIII are available upon request.

Section 185. APPENDIX TO RULE XVIII - FACTORS GOVERNING THE INTERPRETATION AND APPLICATION OF THE STANDARDS.

Section 185.1. STANDARD A - PREFERABLY, THE SCHOOL SHALL NOT BE OPERATED AS A COMMERCIAL ENTERPRISE OR FOR PRIVATE PROFIT. IN NO EVENT SHALL A SCHOOL PERMIT PROFIT CONSIDERATIONS TO DICTATE THE QUALITY OF THE EDUCATION THE SCHOOL PROVIDES, AND NO SCHOOL SHALL EXPLOIT ITS STUDENTS BY ADMITTING OR CONTINUING PERSONS WHO CANNOT SUCCESSFULLY COMPLETE THE REQUIREMENTS FOR GRADUATION AND ACQUIRE THE QUALIFICATIONS FOR ADMISSION TO PRACTICE LAW IN CALIFORNIA.

(1) The school may be organized as non-profit or for private profit. The school shall not permit financial considerations to affect the quality of its educational program.

(2) If the school is, or purports to be, non-profit

(a) it and any institution of which it is a part, must be organized as a non-profit, educational institution under the laws of the State of California or, if located in another state, under the laws of a state having substantially similar provisions;

(b) it and any institution of which it is a part, must enjoy tax exempt status under the United States Internal Revenue Code and the laws of the state in which it is located;

(c) it must be administered by a governing board, not less than two-thirds of whom are persons who:

(i) do not receive compensation or remuneration in any form for service on the board or to the school, other than a reasonable per diem and necessary expenses for actual attendance at meetings of the board or a committee thereof, not exceeding, for any one person, \$100 for any one day or \$1,000 in any twelve month period;

(ii) are not related by blood or marriage to any person receiving compensation or remuneration in any form other than as permitted under sub-section (i) of this factor;

(iii) do not have any financial interest in the school or in any property owned or leased by the school, either directly or indirectly, as lessor, contractor, creditor, shareholder or in any other fashion, and are not related to any person, by blood or marriage, having any such interest;

(d) the total compensation, including any fringe benefits, paid any person shall be reasonable, in relation to that paid persons in similar positions in other accredited law schools in the State of California.

(3) If the school does not comply with sub-section (2) hereof, it may not make any statement or representation that in

any way implies or suggests that it is, or is being operated as, a non-profit institution.

(4) However organized and operated the school must, at all times, be so conducted that its paramount objective is providing a sound legal education.

(5) In conducting its program

(a) the school may not exploit its students by admitting or continuing persons who cannot successfully complete the requirements for graduation and acquire the qualifications for admission to practice law in California;

(b) no compensation paid any person for services to the school may be based, in whole or in part, on the number of students enrolled in the school or in any class, or on the number of persons applying for admission to or registering in the school, except compensation paid for the reading of examination papers or similar tests;

(c) no person or organization may be employed on a commission or similar basis to solicit or procure applicants or students for the school;

(d) the school may not advertise, except by means of dignified announcements at appropriate times of the opening of a semester or school year, or the offering of special courses or programs.

Section 185.2. STANDARD B. - THE SCHOOL SHALL HAVE A PHYSICAL PLANT ADEQUATE FOR ITS PROGRAM.

(1) The school shall have the exclusive use and occupancy of office and library facilities at all times and of classroom facilities during, and for a reasonable time before and after, instruction periods.

(2) A school may share classroom space with another institution or with another department or division of the same institution, provided that such arrangements do not interfere with the proper scheduling of the law school's class sessions.

(3) All physical facilities at each location or branch of the school shall be located in reasonable proximity to each other so that students may have the full and convenient use of classroom, library, lounge and consultation facilities and ready access to the administrative offices.

(4) Classrooms.

(a) There shall be a sufficient number of classrooms to provide for the full program of the school, but not less than four. A new school or a new branch of an existing school may operate with less than four classrooms for the first three years of its operation, provided it has at least one classroom for each year of courses being offered.

(b) All classrooms shall be well lighted and adequately ventilated.

(c) Each room shall be of sufficient size and so equipped that each student attending classes therein can be comfortably seated at a desk or table, with adequate space for the use of writing pad or notebook and pertinent coursebooks.

(5) Classroom equipment.

Each room shall be equipped with a chalkboard, instructor's table and chair and table or desks for all students. Chairs, without tablet arms, are completely unsuitable for law students and tablet arm chairs will be approved only as a temporary expedient.

(6) Administrative offices.

The school shall provide adequate office space in individual private offices for the Dean and all other administrative officers with adequate area, in reasonable proximity, for files and secretarial and clerical help.

(7) Faculty offices.

Each full-time member of the faculty should have a private office. Private office space or a faculty lounge area should be provided for all members of the part-time faculty, with adequate facilities for the safe keeping of roll books, teaching materials and notes. In addition, a room or rooms should be provided for counseling of students by part-time members of the faculty, with facilities adequate to insure privacy.

(8) Library.

The factors relevant to the library are set forth under Standard E.

Section 185.3. STANDARD C. - THE SCHOOL SHALL HAVE A COMPETENT DEAN OR OTHER ADMINISTRATIVE HEAD AND A COMPETENT FACULTY DEVOTING ADEQUATE TIME TO ADMINISTRATION, INSTRUCTION AND STUDENT COUNSELING.

(1) Administrator.

There shall be at least one full-time administrator who is a graduate of a law school and who has demonstrated competence in the fields of legal education and administration.

(2) A "full-time" instructor or administrator is a person whose principal activities are teaching and administration of the school and legal scholarship, with no more than limited outside professional activities. Outside activities which interfere with regular presence in the school, availability for meeting classes or consultation and interchange with students and colleagues, or participation in responsibilities as a member of the faculty, are not properly limited.

(3) Faculty - In General.

(a) There are no requirements with respect to the number of full-time or part-time faculty. The quality of the individual instructor is the paramount consideration.

(b) An instructor may not teach courses requiring more than fifteen scheduled class hours per week, counting repetitions during the same semester at full value, or more than nine scheduled class hours per week counting repetitions during the same semester as one-half for this purpose.

(c) An instructor may not have teaching responsibilities, either with respect to the number of courses or the number of scheduled class hours per week, that impair the instructor's ability adequately to prepare for and conduct class sessions and be available for counseling students.

(d) In a multi-division school with full-time instructors, students in each division should receive approximately the same amount of instruction from members of the full-time faculty.

(4) Administrative Responsibilities.

Instructors should share in the responsibilities of formulating and administering the policies and programs of the school.

(5) Counseling.

Each instructor has a responsibility for counseling students, particularly those in the instructor's course or

courses, and should be available for that purpose at times and places reasonably convenient to the students.

(6) Faculty - Competency.

(a) In evaluating the competency of an instructor, the factors generally to be considered are:

(i) education and knowledge in the subject matter taught,

(ii) competence in the classroom,

(iii) organization of the course as demonstrated by outlines or syllabi,

(iv) nature and type of examinations given and quality of grading,

(v) the relation between the field of instruction and the area of specialization, if any, in private practice,

(vi) years of experience, both in teaching and practice.

(b) As minimum qualifications, graduation from an accredited law school with better than average academic record and membership in the bar, are normally expected. A part-time instructor should be either a member of the judiciary or engaged in active practice, usually in a field related to the subject or subjects taught, and should enjoy a reputation for professional competence and responsibility in the community.

Evaluation of an instructor's knowledge of subject matter and ability in the classroom will generally be determined by classroom observation and by review of the materials used in the course, additional materials prepared for the course, examinations given, both as to form and content of questions, and the extent to which examinations and grading standards employed provide a reasonably accurate appraisal of each student's ability. On the inspection of a school, the inspectors will visit classes. A comparison of course grades will be made with grades in like subjects in examinations conducted by the Committee and the relation, or lack of relation between the two, will be regarded as some indication of the quality of instruction, examinations and grading standards. The inspectors will also review the grading standards as applied by individual instructors and ascertain the extent to which they appear to be consistent with the announced policies of the school.

(7) Faculty Evaluation.

A school should not rely solely on the Committee or other accrediting agency for faculty evaluation, but should

establish procedures for the regular evaluation of faculty performance. The school may utilize its faculty, the faculty of other law schools, alumni of the school and members of the judiciary and legal profession for such purposes and may also involve the student bar association in the process.

Section 185.4. STANDARD D - THE SCHOOL SHALL MAINTAIN A SOUND EDUCATIONAL PROGRAM.

(1) General Statement of Qualitative Factors.

In evaluating the quality of the educational program, the matters considered are:

- (i) the content of the curriculum,
- (ii) the competence of the instructors with respect to knowledge of subject matter and ability as teachers (see Standard C),
- (iii) the materials used in each course, including required and recommended texts and course books, course outlines and syllabi,
- (iv) the method of instruction used, as lecture, case method, directed study or other techniques, and the effectiveness of the method or methods used,
- (v) the size of the class as permitting proper and effective utilization of the method or technique employed,
- (vi) the quality of the examinations given as an indication of course coverage and as a measure of the students' knowledge and analytical ability,
- (vii) the soundness of the grading system used as a measure of the student's competence (see Standard G),
- (viii) the availability of an adequate library (see Standard E),
- (ix) the adequacy of the school's finances (see Standard J).

(2) Quantitative Requirements.

(a) The minimum requirements for the first professional degree in law (J.D. or LL.B.) are satisfactory completion of a course of study requiring 1200 hours of study in residence, or the equivalent as set forth in subsection (e), extending over a period of not less than 90 weeks of full-time study or 120 weeks of part-time study, or a combination thereof.

(i) Final examination time, not exceeding ten percent of the total number of class session hours, may be included as a "class session."

(ii) Not more than 20 percent of the time required herein may be in courses in legal writing and research, legal analysis or similar subjects.

(iii) Regular and punctual attendance is necessary to satisfy the "residence" requirement.

(b) A full-time student must complete not less than 1200 hours of study in residence, extending over a period of not less than 90 weeks, and, to receive full residence credit for any academic period, must have been enrolled in a course of study requiring not less than 10 hours of attendance a week and must have received credit for courses totalling not less than nine hours of attendance a week during that academic period.

(c) A part-time student must complete not less than 1200 hours of study in residence extending over a period of not less than 120 weeks and, to receive full residence credit for any academic period, must have been enrolled in a course of study requiring not less than eight hours of attendance a week and must have received credit for courses totalling not less than eight hours of credit a week during that academic period.

(d) Proportionate credit.

(i) If, in any academic period a student was not enrolled in, or failed to receive credit for the minimum number of hours specified in sub-section (b) or (c), the student may receive only proportionate credit for study in residence for that academic period in the ratio that the hours enrolled or in which credit was received, as the case may be, bear to the minimum specified.

(ii) If a person was a part-time student for any portion of the period of law study and a full-time student for the remaining portion of law study, the number of weeks of full-time study and three-fourths of the number of weeks of part-time study must total not less than 90.

(e) If the law school has a program that permits or requires student participation in studies or activities away from the law school or in a format that does not involve attendance at regularly scheduled class sessions, the time spent in such studies or activities may be included as satisfying the residence and class hours requirements of this sub-section 185.4(2) and of Rule IX, §92, provided the conditions of this sub-section (e) are satisfied.

(i) The residence and class hours credit allowed must be commensurate with the time and effort expended by and the educational benefits to the participating student.

(ii) The studies or activities must be approved in advance, in accordance with the school's established procedures for curriculum approval and determination.

(iii) Each such study or activity, and the participation of each student therein, must be conducted or

periodically reviewed by a member of the faculty to insure that in its actual operation it is achieving its educational objectives and that the credit allowed therefor is, in fact, commensurate with the time and effort expended by, and the educational benefits to, the participating student.

(iv) The amount of residence credit under this sub-section (e) may not exceed ten per cent of the total residence credit required under sub-section (a) or forty per cent of the residence credit required in any academic period under sub-section (b) or (c).

(f) In any academic period a student should normally be enrolled in courses requiring classroom attendance of

(i) not more than 15 hours nor less than 10 hours, if a full-time student,

(ii) not more than 10 hours, nor less than 6 hours, if a part-time student.

An accredited school may, for good cause, allow a person to enroll for courses requiring more or less hours than those specified, but, in each case, shall enter in the student's file a memorandum stating the considerations constituting good cause.

(g) A full-time student is one who devotes substantially all working hours to the study of law. Normally, no student in a full-time program should be otherwise employed in excess of sixteen hours a week.

(i) To insure that students registered in a full-time program are in fact full-time students, the school must structure its class schedule to provide for required or essential courses at various times during the morning and afternoon.

(ii) No program will be approved as a full-time program, unless students are required to take 90% of the units in the first year and 80% of the units in each year thereafter, for which degree credit is allowed, between the hours of eight a.m. and five p.m., Monday through Friday, and unless at least 30% of the class sessions for which unit credit is allowed in each of the first two years are given between eight a.m. and one p.m. and at least 30% of such class sessions are given between noon and five p.m.

(iii) A school may, for good cause, in exceptional cases, permit a full-time student to attend classes on a schedule different from that specified herein, provided a record is maintained of all such persons and the reasons therefore.

(iv) The Committee will, during such period of time as an energy shortage exists and there are transportation

difficulties, entertain an application from a school with a full-time program for relief from the scheduling requirements of this sub-section. An application for such relief must be separately made for each academic period, other than the summer quarter or summer session, and shall set forth the proposed class schedule for the academic period for which relief is requested, and the procedures that the school has adopted to ascertain that students in the full-time program meet the conditions set forth in the first two sentences of sub-section (g). The Committee will grant the application if it is satisfied that the school's schedule and procedures are sound, and that students in the full-time program will meet the conditions set forth in the first two sentences of sub-section (g).

(3) Curriculum.

(a) These factors are intended as guides, indicating the range within which a sound curriculum should be built. They do not prescribe a specific curriculum or fix the number of units to be allocated individual courses.

(b) The school should offer a balanced and comprehensive course of study. A curriculum limited to those subjects that are included in the California Bar Examination is too narrow. Not more than 80% of the units required for the degree should be in subjects in the bar examination. The following schedule suggests the unit range, in semester units, for courses covering those subjects.

	<u>Minimum</u>	<u>Maximum</u>
Civil Procedure	4	6
Community Property	2	2
Constitutional Law	4	6
Contracts	6	7
Corporations	4	4
Criminal Law and Procedure	4	6
Evidence	4	6
Professional Responsibility	1	2
Property	6	8
Remedies	4	6
Torts	5	6
Trusts	3	4
Wills and Succession	<u>2</u>	<u>2</u>
Total:	<u>49</u>	<u>65</u>

(c) Instruction should be provided in legal bibliography, including research and some writing of briefs or memoranda, in professional skills such as law office management, counseling and negotiation and the drafting of legal documents, in trial and appellate advocacy, and in the general areas of governmental regulation and administrative law and federal taxation.

(d) All courses customarily given in the first year of an accredited three-year program shall be offered each year. Advanced courses of such a nature that one is not a pre-requisite to another may, when enrollment is low, be offered on a biennial basis. At least one-half, in unit value, of all required courses shall be given each year and no required course may be offered less frequently than every other year.

(4) A school may not make attendance at any review course a condition of continued enrollment, advancement or graduation.

A school may not offer and no member of the faculty may participate in a review course for which any fee or charge is made and which is designed for or customarily attended by students who are currently enrolled in subjects which are included in such review course.

(5) Materials used in each course.

(a) Required Course Books.

One or more books should be specified for each course, other than special seminars, and all students enrolled in the course should be required to obtain the same.

A school should use current, recognized books or other materials in each of its courses. If an instructor is using materials that are not current or not in general use, the burden will be on the instructor and school to justify such use as consistent with a sound educational program.

(b) Course Outlines and Syllabi.

If any course outlines or syllabi are prepared or used, they will be considered in evaluating the instructor's knowledge and organization of the material.

Students should be furnished well in advance, with assignment sheets or other guides as to the organization of the course and the order in which the material is to be read and prepared.

(6) Class Size.

In determining the reasonableness of the size of any class, the matters considered are:

(i) the physical facilities and whether the room is over-crowded,

(ii) the subject matter of the course and the method of instruction as appropriate to the particular class,

(iii) the number and quality of the individual instructors when a course is sectioned.

Small classes are generally desirable as permitting greater participation by each student and closer relationship between student and instructor. However, when small classes are caused by inadequate physical facilities which require several sections in each course, the quality of instruction and grading may vary substantially among sections and some instructors may be less competent than others. A school should adjust its admissions to its physical capacity to accommodate students without undue sectioning of courses. When courses are sectioned, a school should establish procedures to secure uniformity in instruction, examinations and grading.

(7) Examinations.

(a) There shall be a written examination in each course except those requiring substantial written work, such as moot court, drafting, legal research, or special seminars.

(b) An examination should be a test of the student's knowledge and eligibility for advancement and it should also be an educational tool, enabling the student to acquire further perspective through the process of analysis and exposition.

(c) Course examinations will be evaluated to determine the extent to which they test the students' ability and knowledge of fundamental principles and encompass the subject matter of the course.

(d) There is no requirement regarding the use or advisability of any particular type of examination, e.g. long essay questions, short essay questions, short form answers and objective testing. Whatever forms are used will be evaluated in the light of the criteria stated in sub-section (c).

(e) The school may proctor examinations or may conduct them on the honor principle.

(8) Grading.

(a) Sound grading standards and practice are essential. A school shall establish clear grading standards and implement them by faculty guidance and discussion in order to obtain consistency among instructors.

(b) The grading system should assure anonymity to each examination book until it has been graded and the grade recorded in order to insure fairness in grading, unaffected by any personal belief in a student's ability or lack of it.

(c) There should be a reasonable correlation among the grades of all instructors teaching the same group of students. A wide disparity in the grades, or grade distribution, among several instructors teaching the same group of students is prima facie evidence of poor grading standards or practices.

(d) A school shall establish and adhere to a clear policy on the extent to which a student's grade in a course is determined by the final examination, other examinations, class attendance and performance, or any other considerations.

(9) Bar Examination Results.

Consideration will be given to the bar examination success of the school's graduates as one factor in the evaluation of the effectiveness of the educational program of the school. The cumulative results of the bar examination over a period of years will be considered as some indication of the quality of students attending and the quality of the teaching at the school.

Section 185.5. STANDARD E - THE SCHOOL SHALL MAINTAIN AN ADEQUATE LIBRARY.

(1) In General.

A law student cannot be prepared for the bar without training in the use of a law library and ready access to an adequate library for supplemental reading and study. The faculty of a law school cannot adequately prepare or teach without library materials at hand to supplement their classroom work.

The adequacy of a library is not measured in number of volumes or in amount of dollars spent each year. In part, its size is a factor of the enrollment in the school. A large school, if it is to make its library a useful tool for its students must have additional copies of sets of the more frequently used books if all students are to have effective access to the materials. Other matters that generally enter into the quality of the library are: the condition of the books, the physical facilities, the hours it is open, the availability of competent library assistants, and a complete and current card catalogue.

(2) Physical Facilities.

The library shall be housed in the same physical structure as the classrooms and faculty and administrative offices, or in a structure in close proximity thereto. It should be well lighted and ventilated and equipped with:

(a) easily accessible stacks for all books in the collection plus space for expansion to accommodate supplements, advance sheets and new materials as received, and

(b) seating space at tables or desks for at least the number of students who may be expected to, or who desire to use the library for study or research at the same time. In a school with a full-time division, the library should accommodate not less than one-fourth the total enrollment of the full-time division.

The library should not be used for class or instructional purposes except courses in legal bibliography or research, or an occasional lecture or make-up session.

(3) Library Hours.

The library should be open for student use in

(a) schools with day classes, on Monday through Friday from 9 a.m. to 10 p.m. and on Saturday and Sunday, from 10 a.m. to 5 p.m.,

(b) schools with only evening classes, on Monday through Friday from noon to 10 p.m. and on Saturday and Sunday, from 10 a.m. to 5 p.m.

(4) Library Content.

(a) The attached schedules set forth those sets of books that are required for preliminary approval and for accreditation and those that are recommended.

(b) Whenever a set of books is specified, the requirement includes:

(i) all supporting materials published as part of the set,

(ii) such other citators and similar materials as are generally available, and

(iii) latest available pocket parts, supplementary and replacement volumes and any other materials necessary to keep the set in current condition.

(c) All periodicals, except for the current year, must be permanently bound.

(d) Casebooks are not part of the library generally available for student use.

LIBRARY CONTENT

A = Required for Preliminary Approval
 B = Required for Accreditation
 R = Recommended but Not Required

	<u>A</u>	<u>B</u>	<u>C</u>
General National Materials			
Corpus Juris Secundum	x		
Corpus Juris	x		
American Jurisprudence 2d	x		
American Jurisprudence	x		
Words and Phrases	x		
Dictionaries			
Standard Legal	x		
Standard General	x		
Digests: American Digest System			
Current - General	x		
Eight Dec.	x		
Seventh Dec.	x		
Sixth Dec.			x
Fifth Dec.			x
Fourth Dec.			x
Third Dec.			x
Second Dec.			x
First Dec.			x
Century			x
Annotated Reports			
ALR - Fed	x		
ALR - 3d	x		
ALR - 2d	x		
ALR	x		
LRA			x
Ann. Cas.			x
Am/Eng. Ann. Cas.			x
Am. St. Rep.			x
Am. Rep.			x
Am. Dec.			x
American Law Institute Publications			
Restatements and Model Codes	x		
Reports and drafts	x		
Forms of Pleading and Practice and Legal Forms			
Current set of California forms	x		
Current set of National forms	x		
Uniform Laws Annotated	x		

	<u>A</u>	<u>B</u>	<u>C</u>
California Materials			
California Supreme Court Reports	x		
California Appellate Court Reports	x		
Cal. Unrep.			x
West's or McKinney's Digest	one		both
Cal. Juris. 2d and 3d	x		
West's or Deering's Anno. Codes	one		both
California Statutes - Current		x	
Attorney General Ops.			x
Administrative Regulations		x	
Cal. Reporter			x
Law Revision Commission Reports		x	

	<u>A</u>	<u>B</u>	<u>C</u>
Federal Materials			
United States Supreme Court (any set)	x		
Federal Reporter	x		
Federal Reporter 2d	x		
Federal Supplement	x		
Federal Rules Decisions	x		
Federal Cases			x
Tax Court		x	
Board Tax Appeals			x
Federal Digest, Complete	x		
Supreme Court Digest		x	
An annotated edition of the United States Code	x		
U.S. Stats. at Large-Current		x	
Tax Cases, either AFTR or CCH			x
U.S. Atty. Gen. Ops.			x
Ad. Agency Reports			x
CCH or PH Tax Service	x		

	<u>A</u>	<u>B</u>	<u>C</u>
National Reporter System (Requirement includes Shepard's for each set)			
Atl.		x	
Atl. 2d		x	
N.Y. Supp.		x	
N.Y. Supp. 2d		x	
N.E.		x	
N.E. 2d		x	
N.W.		x	
N.W. 2d		x	
Pac.	x		
Pac. 2d	x		
S.E.			x
S.E. 2d			x
So.			x
So. 2d			x
S.W.			x
S.W. 2d			x
Pac. States Reports (or equivalent)			x

	<u>A</u>	<u>B</u>	<u>C</u>
Texts and Treatises			
Encyclopedia Treatises			
and one or two volume			
current texts for all			
courses in curriculum in			
which the same are available	x		

Law Reviews and Journals.

For Preliminary Approval, the school shall have current subscriptions to all the reviews and journals listed below.

For Accreditation, the school shall have complete sets from 1950 to date for all of the reviews and journals listed below.

- (i) The reviews and journals of at least eight law schools in the state of California whose publications are indexed in the Index to Legal Periodicals;
- (ii) Columbia, Harvard, Michigan, Yale;
- (iii) The American Bar Association Journal;
- (iv) The California Lawyer and State Bar Journal.

English Materials	<u>A</u>	<u>B</u>	<u>C</u>
Halsbury's Laws			x
All England Reports			x
All England Selected Reprint			x
Law Reports			x
Statutes			x
English Reports - Full Reprint			x
Mew's Digest			x
Holdsworth History			x
English Ruling Cases			x
British Ruling Cases			x

(5) Records.

The following records shall be kept:

- (a) all expenditures, classified as to:
 - (i) continuations and replacements,
 - (ii) new acquisitions,
 - (iii) binding and repair,
 - (iv) other
- (b) an accession register
- (c) a card catalogue.

(6) If the school is located in reasonable proximity to a public law library and the governing authorities of the public law library, in writing, permit the use of the library by the school, its faculty and students, then the content of such public library and the nature and extent of the use so permitted the school, will be considered in determining compliance with this Standard.

Section 185.6. STANDARD F - THE SCHOOL SHALL MAINTAIN A SOUND ADMISSION POLICY, DESIGNED TO EXCLUDE, AT THE OUTSET, THE OBVIOUSLY UNQUALIFIED.

(1) In General.

Opportunity to receive a legal education should be afforded all who wish it and who appear reasonably qualified, both as to inherent ability and prior educational background. However, a school which admits and accepts tuition from persons who lack either the ability or the educational background to study law, exploits such students and, in addition, injuriously affects the educational program and instruction of qualified students. The school must, therefore, exercise care not to admit those who are not qualified and to exclude those admitted students who are not capable of progressing satisfactorily as soon after admission as such lack of ability is evident. Appropriate screening procedures in the admission of applicants and appropriate testing, grading and counseling procedures for evaluating students' performance are essential to accreditation.

(a) The school will be held to strict compliance, with the rule limiting the number of special students who may be admitted and with the terms of any certification concerning its admission policies that it may have made to any agency, state or federal, as a condition of approval by that agency.

(b) The quality of the pre-law study, the courses taken and the grades received, should be carefully considered to the extent that they indicate ability, or lack of ability, to study law and the presence or absence of the background knowledge requisite to an understanding of law. Such a review of the applicant's studies is particularly important when the applicant has not completed studies sufficient to qualify for a bachelor's degree at a qualified institution or the degree is in a major, the content of which has little or no relation to law study.

(c) Admission as a special student should be granted only in "exceptional cases." The rule permitting admission of special students up to one-third of total admissions is a liberal rule to permit the greatest flexibility but it will be extremely rare that a school will have enough qualified applicants to reach the maximum number allowed.

(d) The Law School Admission Test is a valuable guide to the applicant's potential as a law student. It is required of all applicants for admission as special students and its use is recommended for all other applicants.

(e) Prior to becoming accredited a school shall not permit a person to attend classes for more than forty-five days after first registration, unless the school has either official transcripts showing eligibility for admission under Section 6060(e) (1) of the Business and Professions Code or an official

certification that the applicant passed the equivalency examination required by Section 6060(e)(2) of the Business and Professions Code.

(f) The school should have official transcripts, justifying admission, on file at the time of registration or within forty-five days thereafter, for every person who has been admitted and registered. If transcripts showing eligibility for admission as a regular student are not on file within that period, the admittee must be classified as a special student.

(g) The school must, on its application form, require that the applicant state whether the applicant has ever attended another law school and, if so, is eligible to return to that school in good standing. Whenever the application discloses prior attendance at another law school, before granting admission, the admitting school must have an official transcript or certification from the prior school of the admittee's status at that school.

(2) Pre-legal education requirements for admission as a regular student.

(a) An applicant holding a bachelor's degree from a qualified institution may be admitted as a regular student under this standard.

(b) An applicant not holding a bachelor's degree from a qualified institution may be admitted as a regular student if

(i) the studies completed prior to admission constituted not less than one-half the total acceptable for a bachelor's degree at a qualified institution,

(ii) at least 90% of the total credits necessary to satisfy the requirements of this sub-section (b) were in courses with substantive content satisfactorily completed at a qualified institution, and

(iii) the applicant's average on all subjects undertaken and, in addition, on all courses with substantive content was at least equal to that required for graduation from the institution attended.

(c) An applicant whose prior education satisfies the requirements of sub-sections (2)(b)(i) and (2)(b)(ii), and who has completed at least one-half of the total number of units required for the bachelor's degree in courses with substantive content with an average at least equal to that required for graduation from the institution attended, but whose average on all courses undertaken does not satisfy the requirements of sub-section (2)(b)(iii) may be admitted as a regular student, but the requirements of sub-section 185.6(3) shall apply to such admissions. The total number of persons admitted at any one

semester under this sub-section 185.6(2)(c) and under sub-section 185.6(3) shall not exceed one-third the total number admitted as beginning students, at that semester.

(d) An institution is qualified if

(i) it is approved or accredited by one of the six regional associations accrediting institutions of higher education, or

(ii) its credits are acceptable by the state university of the state wherein such college or university is situated, provided, however, that if the state university grants only partial credit, the school shall grant credit only in a like amount or,

(iii) it is approved by the department of education of the state wherein such college or university is situated.

In determining whether a college or university is approved, Bulletin 1960, No. 24, entitled "Accredited Higher Institutions 1960" and supplements thereto published by the Office of Education and Welfare, shall be the primary guide.

(e) Foreign pre-law studies may be accepted in full satisfaction of the requirements of this sub-section (2) if, on the basis of those studies, an accredited or approved college or university in the United States admitted the applicant as a graduate student other than as a graduate student in law school, and thereafter either,

(i) conferred a masters degree or

(ii) accepted the applicant as a doctoral candidate.

Foreign pre-law studies may also be accepted to the extent allowed by:

(i) an accredited college or university in the United States on admission of the applicant with advanced standing to a degree program other than a degree program in law, or

(ii) an evaluation by either:

Educational Credential Evaluators, Inc.
P.O. Box 17499
Milwaukee, WI 53217

or

International Education Research Foundation, Inc.
P.O. Box 24679
Los Angeles, CA 90024

(3) Admission of Special Students.

Applicants whose pre-legal studies do not satisfy the requirements of sub-section 185.6(2) are classified as special students and may be admitted only in exceptional cases. The total number admitted as special students and as regular students under sub-section 185.6(2)(c) at any academic period may not exceed one-third the total number admitted, as beginning students, at that period. In order to determine whether admission as a special student is justified as an "exceptional case," the following circumstances shall be considered:

(a) Maturity. The applicant must give evidence, through public or private career experience or other accomplishment or activity, of maturity at least equivalent to that of the average college graduate.

(b) Apparent ability to study law. Normally the applicant should give positive evidence of aptitude for law study by achieving a score on the Law School Admission Test at or above the fiftieth percentile and by submitting recommendations from employers or others who have observed the applicant in law-related activities and attest to an apparent potential for law study.

(c) The applicant shall possess an education equivalent to at least two years of college study.

(i) Prior to the school becoming accredited, equivalency will be determined as provided in Rule VIII.

(ii) After the school is accredited, equivalency will be determined by the admitting authority of the school and the school shall establish adequate procedures for such determination.

(d) The school shall require the Law School Admission Test of all applicants who do not qualify for admission as regular students and may not admit such an applicant until a score report on the test has been received. A copy of such report shall be retained in the student's file.

(e) In all cases of admission of an applicant who does not possess the educational qualifications specified in sub-section 2(a) or 2(b) for admission as a regular student, the Dean or admission officer of the admitting school, shall sign and place in the admittee's file a statement of the considerations that caused the admitting authority to determine that there were special circumstances justifying the admission of the applicant.

(4) Admission of applicants previously disqualified for low scholarship.

Admission may be granted when there is an affirmative showing by the applicant of matters that justify the conclusion

that the applicant possesses the requisite ability and that the prior disqualification was occasioned by causes other than lack of capacity. Such a showing shall normally be made by letters from the Dean or faculty of the school previously attended. A previously disqualified student may also be admitted when two or more years have elapsed since disqualification and the nature of work, activity or studies during the interim indicate a stronger potential for law study. In each case, the Dean or admission officer of the admitting school, shall sign and place in the admittee's file a statement of the considerations that led to the decision to admit the applicant.

(5) Credit for prior law study in another school.

Credit for prior law study may be allowed only to the extent provided herein.

(a) Credit may be allowed for work successfully completed at another accredited law school.

(b) Credit may be allowed for resident study in a law school outside the United States in subjects related and substantially equivalent to those given in accredited schools and in an institution whose standards are comparable to those of accredited schools. Credit for foreign legal study may not exceed one-third of the total required for the degree unless the foreign study was in a system of law basically similar to that prevailing in the jurisdiction of the admitting school and in no event may it exceed two-thirds of the total required for the degree.

(c) Credit may be allowed for work successfully completed at an unaccredited law school if the credit does not exceed six semester units or the applicant has passed the First-Year Law Students' Examination, the admitting school is satisfied that the subject matter of, and the quality of the applicant's performance in, the courses for which credit is allowed, were substantially the same as that for like courses and grades in the admitting school and the Dean or admission officer of the admitting school signs and places in the admittee's file a statement setting forth the facts relied upon to satisfy these conditions.

(6) Exceptional cases.

(a) A person may be permitted to enroll as auditor or non-degree candidate in a particular course or limited number of courses in the law school without complying with the admissions requirements. Policies and procedures governing such admissions shall be established by the school and should be designed to insure that the persons taking such courses have the ability and knowledge to benefit therefrom and will not interfere with the progress of the course to the detriment of the students regularly enrolled therein.

(b) Members of the bar and graduates of accredited law schools may be permitted to enroll in courses as non-degree candidates without complying with the admission requirements.

(c) Persons permitted to enroll in courses under this sub-section (6) shall not be classified or counted as law students.

(7) In keeping records of admission, and in reporting to the Committee, the school shall separately list and report the names and number of persons admitted in each of the four categories, viz: sub-section (2) (a), sub-section 2(b), sub-section 2(c) and sub-section (3).

Section 185.7. STANDARD G - THE SCHOOL SHALL MAINTAIN SCHOLASTIC STANDARDS DESIGNED TO IDENTIFY AND EXCLUDE, AS SOON AS POSSIBLE, THOSE ADMITTED STUDENTS WHO ARE NOT QUALIFIED TO CONTINUE WITH THEIR STUDIES.

(1) In General. Each student shall be graded honestly and realistically from the inception of law study and shall be excluded if inability to do satisfactory work becomes manifest.

The number excluded will normally be directly related to the quality of the screening at admission. A school which admits all applicants possessing minimum qualifications may be expected to have a high exclusion rate before the second year; a school which carefully screens its applicants may be expected to have a lower exclusion rate.

A school that has a low exclusion rate at the end of the first year or first and second years and a high exclusion rate at the end of the third year, or a high rate of denials of degree at the end of the last year, is presumptively not maintaining a sound policy.

(2) The school shall adopt a clearly defined policy for exclusion and for advancement in good standing and may also provide for advancement on probation.

Once adopted and until changed the policy shall be adhered to, with exceptions thereto being rare and then only on a clear showing of good reason therefor. The power to grant exceptions should be vested in the faculty or a committee thereof and not left to the discretion of one person. All actions should be recorded in the permanent minutes of the faculty or committee.

When an exception is granted, the student's file should contain a record of the action taken and the reasons therefor.

(3) Students who, at the end of an academic year, have not maintained the average required for graduation should be promptly excluded, provided however, that the school may permit:

(i) students who are currently enrolled in a summer program to complete that session or quarter;

(ii) students to continue on probation, in accordance with an established probationary policy;

(iii) a limited number of students not meeting the foregoing conditions to continue, when approved by the faculty or a committee thereof, upon a showing of special circumstances.

(4) First-Year Law Students' Examination. A student who is required to take the First-Year Law Students' Examination should not be allowed to continue after the first year of law study

until that examination is passed unless there are unusual circumstances.

(5) A significant factor in evaluating the school's performance under this Standard will be the quality of the examinations and the reliability of the grades given.

(a) The school shall maintain for inspection by the Committee:

(i) a permanent file of all examinations given, by course;

(ii) a permanent file of all examinations given at the end of each semester, quarter or session;

(iii) for one year, all final examination papers, with a record of the grade on each paper;

(iv) a permanent record of grades on all examinations, by course, each year and of course grades in all courses;

(v) a grade distribution chart, by course and instructor, for all courses in each year.

(b) In determining the accuracy and reliability of grading standards, the Committee will consider

(i) the degree of correlation between the grades actually received in the first year courses of torts, contracts and criminal law and the grades achieved on questions in those subjects in the First-Year Law Students' Examination;

(ii) the inspection team's independent judgment on the quality of the examinations and the accuracy of the grading;

(iii) the degree of consistency in the application of the grading standards among members of the faculty.

Section 185.8. STANDARD H - THE SCHOOL, OR THE INSTITUTION OF WHICH IT IS A PART, SHALL BE QUALIFIED AS A DEGREE GRANTING INSTITUTION UNDER THE LAWS OF CALIFORNIA, IF LOCATED IN CALIFORNIA, OR OF THE STATE IN WHICH IT IS LOCATED.

This Standard is complete and clear and needs no amplification or explanation by way of factors or otherwise.

For reference purposes, the current law in California is contained in Section 94310 of the Education Code.

Section 185.9. STANDARD I - THE SCHOOL SHALL KEEP SUCH RECORDS AND, UPON REQUEST, MAKE SUCH REPORTS, AS MAY BE NECESSARY OR PROPER, TO DETERMINE COMPLIANCE WITH THE STANDARDS.

(1) Records, in General. Complete records shall be kept by the school, or the institution of which it is a part, and shall be readily available to the administration of the school and to the Committee.

(2) Applications.

Records shall be maintained of all applicants for admission at each academic period, which records shall show for each applicant, the following information:

- (i) name of each applicant,
- (ii) date application was received,
- (iii) classification of applicant as regular or special, and as beginning or advanced,
- (iv) Law School Admission Test scores,
- (v) number of undergraduate units completed or degree received, and school or schools attended,
- (vi) undergraduate grade point average,
- (vii) action on application,
- (viii) if admitted, whether the applicant registered.

Such records shall be kept for at least two years from the beginning of the academic period for which application for admission was made.

(3) Record of Admissions.

For each person admitted, but who did not register, the school shall maintain a file containing:

- (i) application,
- (ii) official transcripts of all pre-law studies or, if the admittee holds a bachelor's degree from a qualified institution, a transcript from the institution conferring the degree and transcripts of any graduate studies,
- (iii) official transcripts of any law studies at another school,

- (iv) certification of passing equivalency examination, when required,
- (v) Law School Admission Test score reports,
- (vi) any letters of recommendation,
- (vii) any special certifications required by the Standards,
- (viii) action taken on the application.

Such files must be kept for at least two years from the beginning of the academic period for which application for admission was made.

(4) Student Files.

For each person admitted and who did register, the school shall maintain a permanent file containing:

- (i) all matters required as part of the applicant's file under sub-section (3) above,
- (ii) any other matters required under the Standards,
- (iii) a record of any faculty or administrative action regarding the student's academic performance, any disciplinary action, any leave of absence or other interruption of studies, any termination prior to graduation, and any other matters relating to the program or course of study, where there was variance between the same and the rules of the school.

(5) Transcripts.

A permanent official record or transcript shall be kept for each student who was or is enrolled in any course in the school, which shall contain:

- (i) information sufficient clearly to identify the student, consisting of name, address, date and place of birth,
- (ii) information sufficient clearly to establish the basis for admission, as regular or special, including memorandum of pre-legal studies qualifying for admission, Law School Admission Test scores and equivalency examination if required, date of admission and status, as degree or non-degree candidate,
- (iii) any credit for law study at another institution allowed, either at time of admission or thereafter, listing school, course or courses taken, when taken, unit credit allowed and grades received,

(iv) all credit granted for courses taken at the school and all courses in which the student has registered at the school, clearly indicating, by semester or quarter and year, the courses, unit value thereof, credit, if any, allowed and grade received, and, in the event of any change of correction on the face of the transcript, the reason therefor,

(v) a summary memorandum of any academic, administrative or disciplinary action taken, indicating the nature and date thereof,

(vi) a summary memorandum of any leaves of absence granted or other interruptions in study, whether authorized or not,

(vii) final termination of studies, date thereof and nature thereof as withdrawal, dismissal, transfer, graduation or otherwise, and if graduated, the degree conferred.

(6) Class Record.

An official class record shall be maintained for each course, or section of a course, for each semester or quarter, which shall show:

(i) name of course, designation of section, instructor, semester and year,

(ii) regularly scheduled meeting times of the class,

(iii) names of all students enrolled at commencement of the semester,

(iv) attendance record for each student,

(v) date of withdrawal of each student who did not complete the course,

(vi) grade received on each examination or graded paper in the course and semester and course grade.

(7) Examinations and grade tabulations.

The school shall retain the files and records required under Standard G, sub-section 185.7(5).

(8) Faculty Personnel.

A permanent file shall be maintained for each person who is or has been an instructor in the school, which file shall contain:

(i) a personal history summary giving date of birth, education at college, university, and law school, with years attended, degrees conferred and honors awarded, summary of professional career, including any public service, areas of specialization, and academic work,

(ii) list of any published writings,

(iii) any teaching experience prior to becoming an instructor at the school,

(iv) record of all courses, by academic periods, taught at the school,

(v) copies of any evaluations made by the Dean, Faculty Committee or accrediting agency,

(vi) transcripts of pre-law and legal education. -

(9) Faculty Minutes.

A permanent file shall be maintained of the minutes of all meetings of the faculty and of all faculty committees.

(10) Board Minutes

A permanent file shall be maintained of the minutes of all meetings of the governing board and of all meetings of all committees of the governing board.

(11) Statistical Summary.

Records sufficient to enable the school to prepare the annual statistical report required under this Standard, sub-section (13)(a) for the entire school and for each division and branch thereof. Attached to these factors is the proposed reporting form to enable each school to determine what information will be required and the detail necessary therefor.

(12) Fiscal.

Records sufficient to enable the school to prepare the annual fiscal reports required under this Standard, sub-section (13)(b) for the entire school and, when necessary, for each division and branch thereof. Attached to these factors are the proposed reporting forms to enable each school to determine what information will be required and the detail necessary therefor.

(13) Reports to be regularly made.

The reports listed herein shall be regularly made at the time, and in the manner specified; other reports may be required from time to time when, in the opinion of the Committee, it is appropriate to determine compliance with the Standards or

obtain information which would be helpful to the Committee. The time within which any report or certification must be made may be extended by the Committee or its delegate for good cause.

(a) Statistical summary. An annual statistical summary shall be furnished the Committee, on a form to be supplied by it; the report will be due thirty days after request by the Committee.

(b) Fiscal summary. An annual fiscal summary shall be furnished the Committee, on a form to be supplied by it; the report will be due thirty days after request by the Committee.

(c) Admission Certification.

Within sixty days after the start of any academic period at which any students have been newly admitted to the school, the school shall file with the Committee certifications respecting all students who have been admitted and have actually registered for classes, as provided in this sub-section.

Admittees shall be separately listed by the following categories:

- admittees qualifying under §185.6(2)(a)
- admittees qualifying under §185.6(2)(b)
- admittees qualifying under §185.6(2)(c)
- admittees qualifying under §185.6(3)
- admittees with prior law studies

(i) Regular beginning students.

The certification shall set forth the names of all beginning students who have official transcripts on file establishing eligibility for admission as a regular student and, with respect to each student, the pre-legal education as set forth on such transcripts, the school or schools attended and the Law School Admission Test score, if on file. A statement of the degree conferred and the name of the institution conferring it will suffice as a statement of the extent of the pre-legal education for any student whose transcript on file shows a bachelor's degree from a qualified institution.

(ii) Special beginning students.

The certification shall set forth the names of all persons admitted as beginning students who are not included in the certification of regular beginning students, and with respect to each such student, the extent, in units, of the pre-legal education as set forth on transcripts on file, the school or schools attended, grade point average, age, Law School Admission Test score, and whether a certificate of passing the equivalency examination is on file.

(iii) Students with prior law school attendance.

The certification for persons admitted whose applications disclose any prior law school attendance at another school, whether or not admitted with any advanced standing and whether or not included in the certifications filed under paragraphs (1) and (2) hereof, shall set forth all matters required under paragraph (1) or (2), as the case may be, and, in addition, the name or names of any law schools previously attended, whether eligible to continue at the school last attended, and if so, whether in good standing or on probation, and the amount of credit, if any, allowed.

(14) If the school has any students taking the First-Year Law Students' Examination, the school shall file the certification in the form and within the time provided in Rule VI, §65(b).

(15) Attached as Annex 1 are copies of the forms currently in use for enrollment report, admissions report, academic exclusions report, First-Year Law Students' Examination report, grade distribution report, budget and operating statement, statement of assets and liabilities and certification under Rule VI, §65(b).

Section 185.10. STANDARD J - THE SCHOOL SHALL HAVE A FINANCIAL STRUCTURE AND RESOURCES SUFFICIENT TO INSURE OPERATIONS AT A LEVEL CONSISTENT WITH THE STANDARDS.

This standard is believed to be self-explanatory and no factors have been issued.

Section 185.11. STANDARD K - THE SCHOOL SHALL BE FAIR AND TRUTHFUL IN ALL MATTERS.

(1) Statements and Representations.

(a) The school shall be fair and truthful in all publications, statements and announcements and shall not issue, authorize, or permit the issuance of, any matter that might mislead any person, and more particularly shall not issue or permit the issuance of any matter that

(i) might mislead students or prospective students as to their reasonable prospects of graduation or of qualifying for or achieving admission to the bar in any state, the costs of meeting the requirements of graduation or of admission to the bar, or the financial benefits available by scholarship, loan or publicly or privately funded educational assistance; or

(ii) is derogatory of other schools; or

(iii) contains any puffing or untrue statements.

(b) If a school is accredited, it may make reference to such a fact in its publications, statements, and announcements.

(c) If a school is granted "preliminary approval," it may make reference to such fact in its publications, statements and announcements, provided that in any publication in which reference is made to preliminary approval, the following statement shall appear on the same page, and in the same size type:

"The Rules of the Committee of Bar Examiners of the State Bar of California provide with regard to preliminary approval as follows:

'An unaccredited school will be granted a "preliminary approval" when the school establishes that it substantially complies with the Standards and appears to be capable of qualifying for accreditation within three years from the time preliminary approval is granted. Preliminary approval will automatically expire if the school does not qualify for accreditation within three years, or secure an extension of time from the committee. Preliminary approval may be withdrawn at any time, if the committee finds that the school is no longer substantially complying with the Standards.'

(d) Whenever the words "accredited," "preliminary approval" or "preliminarily approved" appear, they shall be accompanied by words clearly indicating that such accreditation or approval is by the Committee of Bar Examiners of the State Bar of California.

(e) If the school is not on the list of schools approved by the American Bar Association, the following statement shall be included:

(i) in its bulletin, and

(ii) with each application form, letter or other communication sent in response to an inquiry from a person whose mail address is outside the State of California:

"Most states require graduation from a law school approved by the American Bar Association or approved or accredited by the state supreme court or examining committee as a prerequisite to taking the bar examination in that state. Study at, or graduation from, this law school is not accepted as qualifying the student for admission in some states. Therefore, if you intend to seek admission in a state other than California, you should consult the admitting authority in that state to find out if study at this school will be accepted."

(f) Failure to comply with the provisions of this Standard will constitute cause for the withholding or withdrawal of accreditation and, in addition, the school may be required to issue such corrective statement or statements as, in the opinion of the Committee, may be necessary or appropriate to correct the materials previously issued.

(2) Academic Procedures - Examinations.

(a) The school shall establish a committee consisting of members of the faculty and, if the school so desires, one or more members of the administrative staff and one or more students, to administer the provision of this sub-section 185.11(2). Whenever in this sub-section 185.11(2) the word "committee" is used, it refers to the committee established under this section.

(b) Examinations and course grades - policies and procedures.

(i) The school shall provide a system that preserves the anonymity of each student throughout the grading process in each examination in each course until after the instructor has recorded all the grades for that examination.

(ii) An examination grade, once recorded, shall not thereafter be changed except on a clear showing of a mistake in the grading of the examination and then only with the approval of the committee.

(iii) The school shall establish, and provide each student with a written statement of, a clear policy concerning the extent to which each of the following matters will be considered in the determination of the final grade in any course:

- a. the final examination,
- b. intermediate, mid-year and other examinations,
- c. class performance, including attendance, preparation and recitation,
- d. any other consideration that might affect the grade in any course.

The policy established under this sub-section (2) (b) (iii) need not be a uniform policy for all courses, but if the school does not adopt a uniform policy for all courses, the conditions under which the several different policies will be applied must be clearly stated.

Once established, the policy shall not be changed without adequate prior notice to all students affected thereby.

(c) All written examinations shall have the grade for each question and total grade clearly marked thereon.

(i) The examination questions and answers for examinations other than multiple-choice, true-false, and similar tests, shall either be returned to the students or, if not returned, made available to the students for inspection and the making of a photocopy thereof, during school hours for a reasonable period of time following the completion of the grading process.

(ii) The examination questions and answer sheets for multiple-choice, true-false and similar tests, may be retained by the school and the school may prohibit the making of any copy thereof, but the school shall, for a reasonable period of time following the completion of the grading process, make the text of any such examination and the student's answer thereto available to the student during school hours.

(d) Each student shall be advised of the grade received on each examination within a reasonable time after the completion of that examination and of the final grade in each course within a reasonable time after the completion of the course.

(e) A student who claims that an instructor has not fairly graded an examination paper of the student, or has departed from established policy, may have such claim reviewed by the committee. The committee may establish rules of procedure for handling claims under this sub-section without oral hearing of the matter.

(3) Academic Procedures - Grading.

(a) Grades may be recorded in such form, alphabetical, numerical, or otherwise, as the school may select, but the grades given and recorded in courses constituting not less than two-thirds of the unit credit in courses requiring classroom attendance in each of the first two years of the three-year curriculum, or in each of the first three years of the four-year curriculum shall be sufficiently descriptive to indicate whether the student's level of achievement was excellent, good, adequate, fair, inadequate but passing, or failure.

(b) The school shall provide each student with a written statement of the grading system and academic standards of the school, including

(i) the grading system used,

(ii) whether, and if so, under what circumstances, courses may be graded on a "pass/fail" or "credit/no credit" basis,

(iii) the grades and average required for good standing, advancement and graduation,

(iv) the circumstances under which a student is subject to dismissal for academic deficiency, and

(v) the circumstances, if any, under which a student with a grade deficiency may be allowed to continue on probation and the conditions of such probation.

(4) Non-academic action - suspension or dismissal.

The school shall provide an orderly procedure by which any student charged with conduct other than academic disqualification or failure to pay tuition, fees or charges properly billed to the student, that might lead to the imposition of any sanction, including but not limited to cancellation of an examination or course grade, denial of course credit, suspension or dismissal shall be given

(a) notice of the specific charge or charges,

(b) opportunity for a hearing before a panel composed of disinterested members of the faculty and administrators or of disinterested members of the faculty, administrators and students,

(c) assistance of counsel, from the faculty or student body, of the student's own choosing,

(d) the opportunity to call witnesses on the student's own behalf and to examine adverse witnesses,

(e) a final determination, in writing, which shall contain a statement of the facts found and conclusions and decision reached.

Section 185.12. STANDARD L - CONSISTENT WITH SOUND EDUCATIONAL POLICY AND THE STANDARDS, THE SCHOOL SHALL DEMONSTRATE, OR HAVE CARRIED OUT AND MAINTAINED, BY CONCRETE ACTION, A COMMITMENT TO PROVIDING FULL OPPORTUNITIES FOR THE STUDY OF LAW AND ENTRY INTO THE PROFESSION BY QUALIFIED MEMBERS OF GROUPS (NOTABLY RACIAL AND ETHNIC MINORITIES) WHICH HAVE BEEN VICTIMS OF DISCRIMINATION IN VARIOUS FORMS. THIS COMMITMENT WOULD TYPICALLY INCLUDE A SPECIAL CONCERN FOR DETERMINING THE POTENTIAL OF SUCH APPLICANTS THROUGH THE ADMISSION PROCESS, SPECIAL RECRUITMENT EFFORTS, AND A PROGRAM WHICH ASSISTS IN MEETING THE UNUSUAL FINANCIAL NEEDS OF MANY SUCH STUDENTS, PROVIDED THAT NO SCHOOL IS OBLIGATED TO APPLY STANDARDS FOR THE AWARD OF FINANCIAL ASSISTANCE DIFFERENT FROM THOSE APPLIED TO OTHER STUDENTS.

(1) This Standard adopts the language of American Bar Association Standard 212.

(2) A school should provide appropriate academic support systems or programs for students with discernible academic weakness.

Section 185.13. STANDARD M - THE SCHOOL SHALL MAINTAIN EQUALITY OF OPPORTUNITY IN LEGAL EDUCATION IN ADMISSION AND RETENTION OF STUDENTS AND HIRING, RETENTION AND PROMOTION OF FACULTY WITHOUT DISCRIMINATION OR SEGREGATION ON THE GROUNDS OF RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS OR SEX ORIENTATION, EXCEPT INsofar AS SUCH ACTION IS PROTECTED BY THE CONSTITUTION OF THE UNITED STATES OR THE CONSTITUTION OF THE STATE OF CALIFORNIA, THAT NOTHING IN THIS SECTION IS INTENDED TO PROHIBIT SUCH ADMISSION, RETENTION, HIRING AND PROMOTION POLICIES MAINTAINED FOR THE PURPOSE OF REMEDYING PRESENT EFFECTS OF PAST DISCRIMINATION.

[The Committee has not yet approved factors for this Standard.]

ENROLLMENT REPORT
AT END SECOND WEEK, FALL SEMESTER

	YEAR		
	Current	Prior	Second Prior
Total Enrollment:			
1. Law Degree Candidates
2. Non-degree Students			
3. Total of 1 and 2			
Law Degree Candidates, by Class:			
4. First Year
5. Second Year
6. Third Year
7. Fourth Year			
8. Total: 4 - 7			
Special Students, by Class:			
9. First Year
10. Second Year
11. Third Year
12. Fourth Year			
13. Total: 9 - 12			
Students On Probation:			
14. First Year
15. Second Year
16. Third Year
17. Fourth Year			
18. Total: 14 - 17			
Persons in School Who			
19. Have failed First Year Exam <u>and</u> are taking <u>only</u> first year courses		
20. Have not passed First Year Exam <u>and</u> are taking any course <u>beyond</u> the first year			

ADMISSIONS REPORT

Applications:

- Received
- Granted
- Rejected
- No Action - Incomplete

Admissions:

- 1. Law Degree Candidates
- 2. Non-Degree (Auditors)
- 3. Total of (1) and (2)
- 4. Beginning
- 5. Advanced
- 6. Total of (4) and (5)
- 7. Regular Students
with College Degree
- 8. Other Regular
- 9. Special
- 10. Total of (7), (8), and (9)
- 11. Students from other
schools:
- Eligible to continue
- 12. Ineligible to continue

Year		Year		Year	
S.S. Fall	Spr.	S.S. Fall	Spr.	S.S. Fall	Spr.
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ACADEMIC EXCLUSIONS

	Y E A R		
	Prior	Second Prior	Third Prior
During first year of study
At end of first year of study
During second year of study
At end of second year of study
During third year of study
At end of third year of study
Number who did not graduate after entering fourth year in good standing on probation
TOTAL			

FIRST-YEAR LAW STUDENTS' EXAMINATION

	Prior Year		Second Prior Year		Third Prior Year	
	Took	Pass	Took	Pass	Took	Pass
<u>First-time Examinees who were eligible to advance</u>						
1. In good standing
2. On probation						
3. Total 1 and 2						
4. Ineligible to advance
5. Total 3 and 4						
 <u>Repeat examinees who had passed first year</u>						
6. In good standing
7. On probation
8. Were repeating first year
9. Total 6, 7 and 8						
10. Had been disqualified
11. Total 9 and 10						
12. Total 5 and 11						

GRADE DISTRIBUTION CHART

Semester: _____ Year: _____

Instructor	Course	Sec	Total	A	A-	B+	B	B-	C+	C	C-	D+	D	D-	F	WD

BUDGET AND OPERATING STATEMENTS

	Current Budget Yr. _____	Prior Year Yr. _____	Next Prior Yr. _____
RECEIPTS			
Tuition			
Fees			
Other (if more than \$1,000, detail)			
TOTAL			
DISBURSEMENTS			
Administrative salaries			
Faculty salaries			
Clerical salaries			
Rent for premises			
Payments on purchase of premises			
Principal			
Interest			
Library acquisitions			
Building maintenance			
Utilities			
Insurance			
Travel			
Reimbursed expenses			
Other (detail any item over \$1,000)			
TOTAL			
OPERATING PROFIT (OR LOSS)			

STATEMENT OF ASSETS AND LIABILITIES AS AT END OF FISCAL YEAR

	Immediately Preceding Yr. _____	Next Immediately Preceding Yr. _____	Second Immediately Preceding Yr. _____
ASSETS			
Land			
Building			
Equipment			
Classroom furniture			
Office furniture			
Library furniture			
Office and library equipment			
Accounts Receivable			
Cash in Bank			
Securities			
Library Books			
Other (attach detail if over \$10,000)			
TOTAL			
LIABILITIES			
Accounts Payable			
Prepaid Tuition			
Capital			
Earned Surplus			
Other (attach detail if over \$10,000)			
TOTAL			

R E P O R T O F

In Support of Application for

Preliminary Approval

Provisional Accreditation

By the Committee of Bar Examiners

State Bar of California.

Dated: _____

INSTRUCTIONS.

1. Please submit five copies of this report and, unless otherwise indicated, furnish five copies of all attachments requested.

2. Please furnish, with this report, five copies of the current law school bulletin and of each new bulletin hereafter.

3. Use the corporate fiscal year for all reports and schedules dealing with financial matters and use the academic year, commencing with the fall semester or quarter and continuing through the following summer quarter or session, for all reports and schedules dealing with academic matters.

4. If any documents, schedules or certifications asked for herein have already been filed with the Committee, do not include same with this report but refer to the fact of a prior filing.

5. If the space for any item is not sufficient, attach extra sheets.

6. For your convenience in submitting data requested, the following forms are supplied herewith:

Operating Statement - to be supplied as Schedule 2;
Statement of Assets and Liabilities - to be supplied as Schedule 3;
Faculty Roster;
Faculty Statement;
Course Schedule;
Library Schedule;
Admission Report;
Enrollment Report;
First Year Law Students' Examination Report;
Academic Exclusions Report;
Grade Distribution Chart.

GENERAL INFORMATION.

1. Name of the School: _____

2. Principal Location of School: _____

3. Telephone: Area Code _____ - _____

4. Name, title, address and telephone number of person
to whom inquiries regarding this report should be addressed:

5. Does the School maintain any branches? _____
If answer is "yes", furnish on separate sheet, information
under 2, 3 and 4 for each branch.

6. Is the School authorized to confer degrees? _____
If answer is "yes", state applicable statutory source and
attach copy of letter from the appropriate government agency.

7. Attach a brief chronological history of the school.

8. Usual days and hours of instruction:

Day Program: _____

Evening Program: _____

Week-end Program: _____

9. Does the school, or the institution of which it is a
part offer any program or major in law other than the program
for the first professional degree? _____. If answer is
"yes" please describe fully such program and submit copies of
bulletin or brochure in which it is listed or described.

STANDARD A - ORGANIZATION AND STRUCTURE.

1. Corporate Organization. Name of Corporation: _____

a. Has a certified copy of the Articles of Incorporation been filed with the Committee? _____. If not, submit one copy.

b. Has a copy of the current By-laws, with all amendments thereto, been filed with the Committee? _____. If not, submit one copy.

c. Date of Incorporation: _____

d. State of Incorporation: _____

e. Does the Corporation conduct any business or activity under any name or style other than its corporate name? _____. If answer is "yes", attach statement giving full details of such business or activity and name or names under which conducted.

f. Is the Corporation

(i) organized as a non-profit corporation; _____; if "yes", cite relevant provisions of the Articles: _____

(ii) in possession of a tax exempt status letter from IRS; _____; if "yes", attach copy.

2. Fiscal.

a. What is the corporate fiscal year? _____.

b. What are the current charges for:

(i) Tuition: _____

(ii) Fees, as itemized below:

Item	Amount
_____	_____
_____	_____
_____	_____
_____	_____

c. Attach, as SCHEDULE 1, a list showing each person, firm or corporation who received in excess of \$1,000.00 compensation or consideration in money or money's worth, for personal services or by way of allowance for expenses, during each of the past two fiscal years and any such person who is expected to receive the same during the current fiscal year. When any compensation or consideration was paid or furnished other than in cash, indicate both the nature and the estimated fair market value thereof.

d. On attached SCHEDULE 2, submit operating statement of receipts and disbursements for the two preceding fiscal years and budget for the current fiscal year.

e. On attached SCHEDULE 3, submit statement of assets and liabilities as at the end of the fiscal year for each of the last three fiscal years.

f. If, in any year, the operating statement shows:

(i) a profit, what disposition was made of that profit: _____

_____;

(ii) a loss, how was the loss made up: _____

_____.

3. Premises.

a. Who is the record holder of legal title to the premises occupied by the School? _____

b. Are the premises leased by the School? _____.
If answer is "yes" furnish one copy of the lease.

c. Does any person employed by the School or the Corporation or serving as a member of any Board or Committee of the School or Corporation, have, or is any such person related to any person having any interest in the premises as owner, lessor, or by way of security, or as officer, shareholder or member in, or of any association or corporation having any such interest? _____. If answer is "yes", complete this part c.

(i) Attach statement setting forth, in detail, names of all such persons, nature of such interest and relation to School or Corporation.

(ii) State for the current year and for each of the past two years, the appraised value of the property, as per the county assessor's valuation, and the total rental paid:

Year	Appraised Value	Rental
_____	_____	_____
_____	_____	_____
_____	_____	_____

(iii) When was the structure erected? _____.

(iv) When was the structure acquired by its present owners: _____.

(v) How was the structure acquired (gift, purchase or new construction) and the cost, if any, thereof: _____.

4. Governing Board.

a. Current Personnel. List, on separate sheet, in alphabetical order, all members of the governing board, stating with respect to each: (i) full name, (ii) business, profession or major field of activity, (iii) amount, if any, received by him, during each of the past two years and estimated to be received during the current year, as salary, dividends, rental or otherwise from the School or Corporation, or from sources arising out of the operation of the School, including any payments in cash, contributions to annuities, insurance, retirement or the like, and the fair market value of any services or benefits furnished him by the School, (iv) relationship, if any exists, by blood or marriage to any person receiving any benefits as set forth in (iii) hereof, (v) approximate amount of time, in hours per week, devoted to the affairs of the School or Corporation.

b. Selection.

(i) How is the governing board selected; quote applicable provisions of the Articles and By-laws. _____
 _____.

(ii) How many new members of the board were selected in each of the past three years? _____;
 _____;

c. Meetings.

(i) Does the Board hold regular meetings, _____.
 If answer is "yes", when: _____.

(ii) How many regular meetings of the Board have been held in each of the past three years? _____; _____;

(iii) Are minutes kept of all meetings? _____. Are they available for inspection? _____.

d. Is there any Board, other than the governing board, or any Committee, other than a committee of the faculty or of the governing board, which serves or assists in the administration or management of the School or the Corporation? _____.

If answer is "yes":

(i) State title and functions of each such Board or Committee:

(ii) Furnish, with respect to each member of any such Board or Committee who has not been included in the list requested under 4-a, above, the same information as is requested under 4-a, indicating also, with respect to each such person, the Board or Committee on which he serves.

5. Is any person paid any fee or compensation computed on the basis of:

(i) Number of students in a class or course: _____;

(ii) Number of persons applying for admission: _____;

(iii) Number of persons registering: _____.

If answer to any part is "yes" attached detailed statement of arrangements and fees or compensation paid.

6. Has the School inserted paid advertisements in any papers during the past two years? _____. If answer is "yes", submit copies.

7. Is the school associated with or sharing facilities with any other school or institution? _____. If answer is "yes", supply name or names of such other schools or institutions and explain arrangements. _____

STANDARD B - PHYSICAL FACILITIES.

1. Has a plat or diagram of the physical facilities been filed with the Committee? _____. If one has not heretofore been filed, furnish same with this report. The plat should show floor plan and dimensions of each room for each floor of the building occupied by the reporting school and should identify each area as to the use made thereof.

2. List below all classrooms.

Room Number	Area	Actual Seating Capacity at		
		Tables	Arm Chairs	Chairs

3. List below all Administrative and Faculty Offices.

Room Number	Area	Use

4. Is there a student lounge _____, law review office _____?
 If answer to either is "yes", describe facilities briefly:

STANDARD C - DEAN AND FACULTY.

1. Administrative Personnel.

Opposite each position, insert name of person holding same; if none, write "none".

President: _____
Dean: _____
Associate Dean: _____
Assistant Dean: _____
Librarian: _____
Registrar: _____

2. On attached Faculty Roster, list in alphabetical order, all persons who are currently teaching, or have taught during the preceding year or are expected to teach during the current year.

Under the columns headed "Admission" indicate by check mark in the appropriate column or columns if admitted in California - "C" -, elsewhere in the United States - "A" -, or not admitted anywhere in the United States - "N" -.

Under the columns headed "Status" indicate by check mark in the appropriate column whether "full time" -"F"-, or "part time" -"P"-.

Under the columns headed "Units" insert in column headed "C" total number of units which will be taught in the current academic year and in column headed "P" total number of units actually taught in the immediately preceding year.

3. Submit for each person listed in item 1 above and for each member of the faculty listed in the faculty roster, complete "Faculty Statement Form" (as per form attached); for persons for whom such statements are already on file, merely indicate any changes since last filing. If the reporting School maintains a faculty personnel statement on its own form for each faculty member and that form contains substantially all the information called for in the attached, the School may submit photo copies of its own form in lieu of the attached.

STANDARD D - EDUCATIONAL PROGRAM.

NOTE: If the School operates more than one branch or division (see Rule XVIII, sec. 183(3)(b)), submit a separate statement hereunder for each branch or division.

1. General Information.

- a. Is the School on a semester or quarter schedule: _____.
- b. How many units are required for the degree: _____.

2. Complete the attached Course Schedule Form, as per the following instructions:

Column I - list all courses being given in the current year or given in any of the two prior years.

Column II - insert number of units allocated the course in the current year.

Column III - check appropriate column for required "R" or elective "E" during the current year.

Column IV - check each column for each year in which the course is being, or has been given, as follows: "1" for current year, "2" for immediately preceding year, "3" for next preceding year.

Column V - indicate by check mark in appropriate column, the year in the student's study during which the course is normally taken.

3. Attach to this report:

(i) Class schedules, with names of instructors for each course, for all semesters (quarters or sessions) for the current year and the two preceding years;

(ii) List of required and recommended course books for all such courses;

(iii) Enrollment in each course, or section of a course, for current semester and for the each semester of the two preceding years.

4. Does the School offer, or does any member of the staff or faculty participate in any review course designed for or customarily attended by students currently enrolled in the School? _____. If answer is "yes", furnish full details concerning nature and scope of such course.

5. Submit with this report one copy of each mid-year and final examination in each course or section of a course, during the current and immediately preceding academic years.

6. With respect to examinations conducted by the school, what are the current rules, policies and practices on:

a. Whether they are proctored or are on the honor system:

_____;

b. Number and frequency in each

One Semester Course: _____;

Year Course: _____;

c. Anonymity in the grading process: _____;

d. Weight given the examination, and any other factors, in determining final course grade: _____;

_____.

STANDARD E - LIBRARY.

1. Physical Facilities.

a. Are all library facilities, including reading area, stack area and administrative offices, accurately depicted on a plat on file with the Committee? _____. If not, submit such a plat with this report.

b. Capacity of Reading Area - Total in square feet: _____;
seating capacity at tables: _____; other seating space: _____.

c. Stack space - linear feet for open stacks: _____,
reserve stacks: _____; storage: _____.

2. Contents.

a. On the attached Library Schedule, circle each set of listed materials in the Library that fully meets the requirements of Rule XVIII, section 185.5(4); attach supplemental sheets, listing major texts and treatises.

b. Acquisitions:
Number of volumes on July 1 immediately preceding this report: _____
Number of volumes on July 1 of the next preceding year: _____

3. Expenditures. Furnish actual expenditures for the two preceding fiscal years and current budget allocation for each of the following items:

	Budget Current Year	Actual	
		Prior Year	Next Prior Year
Continuations			
New Acquisitions			
Binding & Repair			
Miscellaneous			
Total			

4. What is the total number of volumes received as gifts during the preceding fiscal year : _____
The next preceding fiscal year: _____.

5. During what hours is the library normally open
Monday through Friday: _____
Saturday: _____
Sunday: _____

STANDARD F - ADMISSIONS.

1. Submit copies of current application form.
2. State current policy on admission of:
 - a. Applicants who qualify as "regular" students.

- b. Applicants who must be classified as "special" students.

- c. Applicants who have not completed at least two years of college studies.

- d. Applicants who have been disqualified at another law school.

3. Are persons who meet minimum educational qualifications for admission as regular students ever rejected?
If answer is "yes", state reasons or policy for such rejection.

4. Is the Law School Admission Test (LSAT)

- (i) required of all applicants: _____
- (ii) required of any applicants: _____
- (iii) used in any other way: _____

State applicable rules or policy concerning its use:

_____.

5. Who determines:

a. The policy regarding admissions: _____

_____.

b. The qualifications of individual applicants under the established policy: _____

_____.

6. Are persons ever permitted to register and attend classes in any of the following situations:

a. Applicants under the age of 23 who do not have official transcripts on file showing completion of at least two years of college studies with a C average or better? _____.

b. Applicants over the age of 23 who do not have either official transcripts on file showing completion of at least two years of college studies with a C average or better, or a certification of having passed the "equivalency examination"? _____.

If the answer to either question is "yes", attach explanatory statement and list all such persons so admitted during the current year and for the two preceding years.

7. Transcripts of pre-law studies.

a. Are applicants instructed to obtain and file transcripts of all pre-law studies? _____. When and how are they so told? _____

_____.

b. Must transcripts be on file before an applicant is:

- (i) Admitted _____;
- (ii) Permitted to register for courses _____;
- (iii) Permitted to attend classes _____.

If answer to any part is "no", state policy and practice with respect to filing of transcripts: _____

_____.

c. Are transcripts personally submitted by the applicant accepted for the purpose of admission? _____. If answer is "yes", state policy and practice: _____

_____.

8. Complete and submit with this report, copy of Admission Report on form attached, supplying requested information for the current year and the two prior academic years. In preparing the report,

(i) Include under "applications" only those persons who actually filed a formal application for admission and who had not previously enrolled in courses at the reporting law school;

(ii) Include under "admissions" only those persons who actually registered for courses and who had not previously enrolled in courses at the reporting law school - persons who were admitted but did not register and persons returning after leave of absence are not to be included in this category.

9. Complete and submit with this report, copy of Enrollment Report on form attached, supplying requested information for the current year and the two prior academic years.

10. Submit with this report a certification for every person admitted as a beginning student at each of the three semesters (or quarters or sessions) immediately preceding this report, setting forth for each of the following categories, the information requested:

a. Regular Students - College Graduates: Certification should show the name of the admittee, name of college conferring degree, degree conferred and LSAT score, if on file.

b. Regular Students without College Degree: Certification should show the name of the admittee, the name of each college attended and number of units completed at each college, the final grade point average computed on the four-point scale, and the LSAT score, if on file.

c. All other students: Certification should show the same information as is required for group b, above, and, in addition, age of admittee at date of registration and whether certificate of passing the equivalency examination was on file, using symbol "EC" to denote such certificate and symbol "NC" to denote no such certificate.

In all cases the certification must state that college transcripts are on file showing completion of studies as set forth in the certificate.

11. Submit a similar certification for all persons admitted as advanced students at each of the three semesters (or quarters or sessions) immediately preceding this report, setting forth for each such student the information that would be required under paragraph 10 if he were a beginning student, and in addition, the name of the law school previously attended; whether in good standing (use symbol "GS"), on probation ("P") or disqualified ("F"); whether credit allowed ("C") or not ("NC") and, if allowed, the amount thereof; whether applicant had passed ("PB") or not passed ("FB") the First Year Law Student's Examination.

12. Submit a separate list of all persons included in the certification under paragraph 10, admitted as beginning students, who had previously attended another law school, stating with respect to each such person, name of law school previously attended and his status upon leaving such school.

STANDARD G - SCHOLASTIC STANDARDS.

1. Grading.

a. Are grades recorded in alphabetical or numerical form?

If in numerical form, state numerical equivalents for:

A	_____ to _____	B-	_____ to _____	D+	_____ to _____
A-	_____ to _____	C+	_____ to _____	D	_____ to _____
B+	_____ to _____	C	_____ to _____	D-	_____ to _____
B	_____ to _____	C-	_____ to _____	F	_____ to _____

b. What grade, or grade point average is required for:

Graduation _____
Advancement in good standing _____

c. How is the grade point average computed if grades are on an alphabetical scale? _____.

d. Is there any probationary policy? _____. If answer is "yes", describe it briefly. _____

_____.

e. Is there any re-examination policy? _____. If answer is "yes", describe it briefly. _____

_____.

2. First Year Law Student's Examination.

a. Are there any students now in the School who:

(i) Have taken, but not yet passed the examination? _____.

(ii) Have not taken the examination, but are enrolled in any course beyond the first year of the curriculum? _____.

If answer to either part is "yes" list all such students, stating course or courses in which each is enrolled and brief explanation of why each such student was permitted so to enroll.

b. Complete and submit with this report, attached Report on First Year Law Student's Examination.

3. Academic Exclusions. Complete and submit with this report, attached Report on Academic Exclusions.

4. Grade Distribution Chart.

Complete and submit with this report, Grade Distribution Chart for each semester, quarter or session, for the last two academic years and for any completed semester or quarter of the current academic year. In preparing the same, follow these instructions:

(i) List separately, each instructor in each section of any course;

(ii) All grades shown are to be final course grades;

(iii) If the school records grades on a numerical system, convert to letter equivalents on the chart; if the school records grades on an alphabetical system without using the "plus" and "minus", ignore those columns on the chart;

(iv) Indicate on each chart the method used as:
Numerical converted to alphabetical, or
Alphabetical with plus and minus, or
Alphabetical without plus and minus.

SCHEDULE 2

BUDGET AND OPERATING STATEMENTS

	Current Budget Yr. _____	Prior Year Yr. _____	Next Prior Yr. _____
RECEIPTS.			
Tuition			
Fees			
Other (if more than \$1,000.00 detail)			
TOTAL			
DISBURSEMENTS.			
Administrative salaries			
Faculty salaries			
Clerical salaries			
Rent for premises			
Payments on purchase of premises			
Principal			
Interest			
Library acquisitions			
Building maintenance			
Utilities			
Insurance			
Travel			
Reimbursed expenses			
Other (detail any item over \$1,000.00)			
TOTAL			
OPERATING PROFIT (OR LOSS)			

STATEMENT OF ASSETS AND LIABILITIES AS AT END OF FISCAL YEAR

	Immediately Preceding Yr. _____	Next Immediately Preceding Yr. _____	Second Immediately Preceding Yr. _____
ASSETS.			
Land.			
Building.			
Equipment			
Classroom furniture			
Office furniture			
Library furniture			
Office and library equipment			
Accounts Receivable.			
Cash in Bank.			
Securities.			
Library Books.			
Other (attach detail if over \$10,000.00)			
TOTAL:			
LIABILITIES.			
Accounts Payable.			
Prepaid Tuition.			
Capital.			
Earned Surplus.			
Other (attach detail if over \$10,000.00)			
TOTAL:			

FACULTY STATEMENT

1. Full Name: _____
Dated of Birth: _____.

2. Pre-law education - Colleges and Universities Attended:
Name of Institution Period Attended Degree

3. Legal Education - Law School or Schools Attended:
Name of Institution Period Attended Degree

4. Professional Career.

a. Admissions to practice - state jurisdiction or court and year of admission: _____.

b. Summarize professional career, in chronological order, noting particularly public service, academic work and areas of specialization: _____

5. List any academic honors in College or Law School: _____

6. List any publications: _____

7. Teaching experience.

a. Summarize, in chronological order, teaching experience, at other than the reporting school, listing schools and subjects taught: _____

b. Summarize, below, in chronological order, teaching experience at the reporting school:

Year	Semester	Course	Units
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

LIBRARY CONTENT

A = Required for Preliminary Approval
 B = Required for Provisional Accreditation
 C = Required for Full Accreditation
 R = Recommended but Not Required

	<u>A</u>	<u>B</u>	<u>C</u>	<u>R</u>
General National Materials				
Corpus Juris Secundum	x			
Corpus Juris	x			
American Jurisprudence 2d	x			
American Jurisprudence	x			
Words and Phrases				
	x			
Dictionaries				
Standard Legal	x			
Standard General	x			
Digests: American Digest System				
Current - General	x			
Seventh Dec.	x			
Sixth Dec.		x		
Fifth Dec.		x		
Fourth Dec.		x		
Third Dec.		x		
Second Dec.			x	
First Dec.			x	
Century			x	
Annotated Reports				
ALR - 3d	x			
ALR - 2d	x			
ALR	x			
LRA				x
Ann. Cas.				x
Am/Eng. Ann. Cas.				x
Am. St. Rep.				x
Am. Rep.				x
Am. Dec.				x

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LIBRARY

	<u>A</u>	<u>B</u>	<u>C</u>	<u>R</u>
Restatements	x			
Unif. Laws Anno.	x			
A.L.I. Reports and Drafts		x		
American Jurisprudence				
Forms of Pleading/Practice		x		
Legal Forms		x		
Proof of Facts			x	
Trials			x	
California Materials				
California	x			
California-2d Series	x			
Cal. App. Reports	x			
Cal. App. Reports-2d Series	x			
Cal. Unrep.				x
West's or McKinney's Digest	one		both	
Cal. Juris. 2d	x			
West's or Deering's Anno.				
Codes - Complete	one		both	
California Statutes			x	
Attorney General Ops.				x
Adm. Regulations			x	
Cal. Reporter		x		
Shepards	x			
Law Revision Reports			x	
Federal Materials				
United States Supreme Court				
(any set)	x			
Federal Reporter	x			
Federal Reporter 2d	x			
Federal Supplement	x			
Federal Rules Decisions	x			
Federal Cases			x	
Tax Court		x		
Board Tax Appeals			x	

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LIBRARY

	<u>A</u>	<u>B</u>	<u>C</u>	<u>R</u>
Modern Federal Digest	x			
Federal Digest	x			
Supreme Court Digest		x		
United States Code Anno.	x			
U.S. Stats. at Large-Current		x		
Tax Cases, either AFTR or CCH				x
U.S. Atty. Gen. Ops.				x
Ad. Agency Reports				x
CCH or PH Tax Service	x			
Natl. Reporter System				
(Requirement				
includes Shepard's				
for each set)				
Atl.		x		
Atl. 2d		x		
N.Y. Supp.		x		
N.Y. Supp. 2d		x		
N.E.		x		
N.E. 2d		x		
N.W.		x		
N.W. 2d		x		
Pac.	x			
Pac. 2d	x			
S.E.				x
S.E. 2d				x
So.				x
So. 2d				x
S.W.				x
S.W. 2d				x
Pac. States Reports				
(or equivalent)			x	
Texts and Treatises				
Encyclopedic Treatises				
and one or two volume				
current texts for all				
courses in curriculum in				
which the same are available				
	x			

LIBRARY

	<u>A</u>	<u>B</u>	<u>C</u>	<u>R</u>
Law Reviews & Journals				
California	current	subs. complete	complete	
Stanford	"	one-	remainder	
U.S.C.	"	half	"	
U.C.L.A.	"	"	"	
Harvard	"	"	"	
Yale	"	"	"	
Columbia	"	"	"	
Michigan	"	"	"	
A.B.A.	"	"	"	
State Bar	"	"	"	
Current Subscriptions to another 5 well- selected major reviews				
		x		
To another ditto			x	
English Materials				
Halsbury's Laws			x	
All England Reports			x	
All England Selected Reprint			x	
Law Reports				x
Statutes				x
English Reports - Full Reprint				x
Mews Digest				x
Holdsworth History				x
English Ruling Cases				x
British Ruling Cases				x

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ENROLLMENT REPORT
AT END SECOND WEEK, FALL SEMESTER

	Y e a r		
	Current	Prior	Second Prior
Total Enrollment:			
1. Degree Candidates
2. Non-degree Students			
3. Total of 1 and 2			
<hr/>			
Degree Candidates, by Class:			
4. First Year
5. Second Year
6. Third Year
7. Fourth Year			
8. Total: 4 - 7			
<hr/>			
Special Students, by Class:			
9. First Year
10. Second Year
11. Third Year
12. Fourth Year			
13. Total: 9 - 12			
<hr/>			
Students On Probation:			
14. First Year
15. Second Year
16. Third Year
17. Fourth Year			
18. Total: 14 - 17			
<hr/>			
Persons in School Who			
19. Have failed First Year Exam. <u>and</u> are taking <u>only</u> first year courses
20. Have not passed First Year Exam. <u>and</u> are taking any course beyond the first year			

ADMISSIONS REPORT

Applications:

- Received
- Granted
- Rejected
- No Action - Incomplete

Admissions:

1. Degree Candidates
2. Non-Degree (Auditors)
3. Total of (1) and (2)
4. Beginning
5. Advanced
6. Total of (4) and (5)
7. Regular Students with College Degree
8. Other Regular
9. Special
10. Total of (7), (8) and (9)
11. Students from other schools:
 - Eligible to continue
12. Ineligible to continue

	Year		Year		Year	
	S.S. Fall	Spr.	S.S. Fall	Spr.	S.S. Fall	Spr.
.....						
.....						
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ACADEMIC EXCLUSIONS

	Y e a r		
	Prior	Second Prior	Third Prior
During first year of study
At end of first year of study
During second year of study
At end of second year of study
During third year of study
At end of third year of study
Number who did not graduate after entering fourth year in good standing on probation
TOTAL			

FIRST YEAR LAW STUDENT'S EXAMINATION

	Prior Year		Second Prior Year		Third Prior Year	
	Took	Pass	Took	Pass	Took	Pass
<u>First-time Examinees</u> who were eligible to advance						
1. In good standing
2. On probation						
3. Total 1 and 2						
4. Ineligible to advance
5. Total 3 and 4						
Repeat examinees who had passed first year						
6. In good standing
7. On probation
8. Were repeating first year
9. Total 6, 7 and 8						
10. Had been disqualified
11. Total 9 and 10						
12. Total 5 and 11						

AN ANALYSIS OF THE RELATIONSHIPS BETWEEN
BAR EXAMINATION SCORES AND AN APPLICANT'S
LAW SCHOOL, ADMISSIONS TEST SCORES, GRADES,
SEX, AND RACIAL/ETHNIC GROUP

119-14

Stephen P. Klein
The Rand Corporation

Paper presented to
The National Conference of Bar Examiners,
American Bar Association
Dallas, Texas
August 1979

INTRODUCTION

The percent of racial/ethnic minority group members who pass California's State Bar Examination has consistently been below the percent of Anglo applicants who pass. Previous research efforts have indicated that this differential was not a function of certain questions being particularly more difficult for one group than for another group relative to these groups' respective performance levels on other questions (Klein, 1976). This research also found that the differences in passing rates between groups were not related to the racial/ethnic background of the persons who graded the essay portion of the examination. Moreover, controlling for various characteristics of the applicants (such as their use of bar review courses) did not diminish the disparities between the performance levels of each group.

The foregoing situation led to the hypothesis that the differential in passing rates may have been due to differences between the groups in their respective levels of legal skills and knowledge and/or some general characteristic of the examination that may have differentially affected their performance on it. A pilot study was mounted to explore this issue with the July, 1976 examination. The results of this investigation indicated that controlling for an applicant's grades in law school removed some but not all of the observed differences between groups. The pilot study results also suggested that the multiple-choice portion of the examination was giving women applicants somewhat lower scores than would have been expected on the basis of their law school grades.

One major shortcoming of the pilot study stemmed from its obtaining information about an applicant's racial/ethnic and sex group from a questionnaire that was mailed shortly after the examination was administered. Since only about two-thirds of the applicants completed the questionnaire, it was not known whether the pilot study's findings were due to general trends or to the unique characteristics of those who chose to respond. A second consequence of the return-rate problem was that the number of minority applicants identified by the questionnaire was so low as to raise concern about the reliability of the results obtained. Finally, the outcomes of the statistical procedures used in the pilot study may have been biased, directly or indirectly, by marked differences in enrollment patterns between groups; e.g., minority applicants

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2

were more likely to attend American Bar Association (ABA) approved law schools than were Anglo applicants.*

PURPOSE

The present study was designed to replicate the research done on the 1976 examination, but with a larger and more representative sample of applicants. Thus, like the pilot study, its goal was to assess whether the discrepancies in passing rates between various sex and racial/ethnic groups were solely a function of differences in the relative academic achievement levels of the applicants in these groups.

The present research also expanded upon the pilot study by examining whether any differences between applicants that still remained after controlling for their academic achievement levels were related to the law schools the applicants attended. The reason for investigating this issue was that if some law schools did a better job than others in preparing their students to take the bar examination, and if certain groups had an unusually high or low enrollment at these schools, then any differences between groups in their passing rates may have been due to the schools they attended rather than to some characteristic of the group itself.

OUTCOME MEASURES

The California State Bar Examination consists of two subtests, Multistate Bar Examination and Essay. An applicant can pass the examination by passing each of these subtests separately (with a score of 70 percent or greater of the maximum score on each subtest) or by receiving a combined total score of 70 percent or more of the maximum total score.

Multistate Bar Examination (MBE)

The MBE is developed by the National Conference of Bar Examiners and is administered and scored by the Educational Testing Service (ETS). The test is composed of 200 multiple choice questions from the following six content areas: Constitutional Law, Contracts, Criminal Law, Evidence, Real Property, and Torts. Scores on the MBE are scaled by ETS across administrations of the test so that the maximum possible score in California equals 514 points. A score of 360 points is considered passing on the MBE.

Essay

The Essay portion of the 1977 examination was administered in three test sessions. In each session, applicants were instructed to answer any four of the five questions presented; i.e., each applicant was supposed to answer 12 questions. An applicant could earn up to 100 points per question, so that the maximum Essay score was 1200 points. A score of 840 was considered passing on this subtest.

*A copy of the pilot study and a more detailed discussion of its limitations are on file at the offices of The Committee of Bar Examiners in San Francisco, California.

Total Score and Final Pass/Fail Status

An applicant could pass the 1977 examination by receiving a Total Score, i.e., Essay plus MBE, of 1200 or more points. Applicants with Total Scores in the 1170 to 1199 range had their Essay answers reappraised. On the basis of this reevaluation, a final pass/fail decision was made. Previous research (Klein, 1977) indicated that the net effect of this reread process was to essentially move the pass/fail cutoff score from 1200 to 1190 points.

PREDICTORS OF SUCCESS ON THE BAR EXAMINATION

Law School Grade Point Average (LGPA)

Of the 38 schools represented in this research, 15 used a four-point grading system and 22 used a 100-point system. The remaining school used a letter category system which was converted to a 4.0 system in a way that reflected the number of credits earned within each letter grade. The grades assigned by this conversion and Total bar scores correlated with one another at this school to about the same degree ($r = .61$) as they correlated with each other at the other schools in this study.

If a school did not provide an LGPA for a student, then it was estimated on the basis of that student's LSAT score and the relationship between LSAT scores and LGPA's at that student's school. A total of 68 applicants had LGPA's assigned by this method. All of these applicants graduated from ABA schools (see Appendix A).

Since a common scoring system across law schools was needed for the planned analyses, the grades within each school were rescaled to a mean (average) of 50 points and a standard deviation of 10 points. This scaling preserved the relative standings of the students within each school, as well as the shape of the distribution of these grades (i.e., whether the students tended to bunch or spread out in some fashion across the possible score range).

Law School Admissions Test (LSAT)

The Law School Admissions Test (LSAT) is a multiple choice test that is developed, administered, and scored by the Educational Testing Service of Princeton, New Jersey. The Law School Admissions Test Council, which is an independent organization, oversees these activities.

LSAT scores are used in the admissions process at most accredited law schools across the country because of the generally moderate correlation ($r = .33$) between these scores and first year LGPA (Pitcher, Schrader, and Winterbottom, 1973). In a seven-state study, Carlson and Werts (1976) also found that performance on the LSAT correlated with bar examination scores (median r 's were .36, .51, and .51 with Essay, MBE, and Total, respectively).

If a law school did not provide an LSAT score for an applicant, one of two procedures was used to estimate that score. The first procedure involved predicting the LSAT score from the applicant's LGPA and the relationship between LSAT scores and LGPA's at the applicant's law school. This method was used with applicants who graduated from the 32 law schools which reported LSAT scores for most of their students. A total of 230 applicants had their LSAT scores estimated in this fashion.

The second procedure that was used to estimate missing LSAT scores was limited to one California (but not ABA) accredited and five unaccredited law schools that did not report these scores for their graduates. The steps involved in this estimation process were as follows:

- o The equation for predicting a school's average LSAT score from the percent passing at that school was computed for the 32 schools which did report LSAT scores for the majority of their students.*
- o This equation and the percent passing at each of the six remaining schools was used to estimate their respective average LSAT scores.
- o All the students at these six schools were assigned their school's average LSAT score.

A total of 136 applicants had their LSAT scores estimated by this second method.

APPLICANTS AND SCHOOLS

Sampling

In order to control for a variety of extraneous factors, the present study was limited to applicants with the following characteristics:

- o In the fall of 1977, they took the examination for the first time.
- o They took the complete examination; i.e., they answered 12 essay questions and had a score on the multiple choice portion of the test.
- o They graduated from a California law school which had 10 or more of its recent graduates taking the examination.
- o Their law school provided the author with their grade point average and/or their score on the Law School Admission Test.

The foregoing procedures resulted in a total sample of 4,414 applicants. The 38 schools represented by these applicants were distributed across school type categories as follows: ABA approved (16), other California accredited (8), and unaccredited (14). This sample also represented 95 percent of the 4,637 applicants who were taking the test for the first time and who were graduates of a California law school.

Sex and Racial/Ethnic Group Affiliations

Self-reported sex and racial/ethnic group affiliation data were obtained from a form the students completed at the time they applied to take the examination. An analysis of these data indicated that there were four racial/ethnic groups with enough applicants

*A correlation of .74 was obtained between percent passing and average LSAT score at these 32 schools.

Table 1

SUMMARY DESCRIPTIVE STATISTICS FOR EACH
SCHOOL TYPE AND FOR ALL SCHOOLS COMBINED

Descriptive Statistic	Variable	ABA Approved	Other Calif. Accredited	Unaccredited	All Schools Combined
Average Score	Total	1237.3	1187.6	1176.2	1222.3
	Essay	853.0	825.9	811.7	844.1
	MBE	384.3	361.7	364.5	378.2
	LGPA	50.0	50.0	50.0	50.0
	LSAT	607.3	513.9	516.8	581.1
Standard Deviation	Total	78.0	75.4	77.2	81.1
	Essay	53.3	50.7	52.9	54.7
	MBE	32.7	32.3	31.9	34.0
	LGPA	10.0	10.0	9.9	10.0
	LSAT	77.5	70.9	62.0	85.8
Percent Passing	Total*	76.1	51.2	46.7	68.7
	Essay	63.5	40.0	33.2	56.2
	MBE	78.8	54.0	58.2	72.2
Number of Applicants		3163	868	383	4414

*Percent passing after reappraisal.

Table 2

SUMMARY DESCRIPTIVE STATISTICS FOR
EACH RACIAL/ETHNIC AND SEX GROUP

Descriptive Statistic	Variable	Racial/Ethnic Group				Sex Group	
		Anglo	Asian	Black	Hispanic	Male	Female
Average Score	Total	1228.5	1188.7	1140.1	1170.0	1221.5	1224.2
	Essay	847.8	828.2	792.1	812.7	841.6	850.9
	MBE	380.7	360.5	348.0	357.3	379.9	373.2
	LGPA	50.9	44.4	37.6	42.0	49.5	51.3
	LSAT	588.2	559.5	481.2	513.6	579.6	585.1
Standard Deviation	Total	78.6	85.7	73.1	81.2	80.8	81.9
	Essay	53.3	58.9	51.0	53.9	54.3	55.3
	MBE	33.0	34.5	33.2	35.5	34.0	33.8
	LGPA	9.6	8.8	7.4	9.6	9.7	10.6
	LSAT	83.1	83.2	73.9	75.0	87.3	81.6
Percent Passing	Total*	71.9	53.2	26.6	40.5	67.8	71.0
	Essay	58.9	42.9	18.6	34.6	54.4	61.2
	MBE	75.1	54.8	38.1	47.0	73.5	68.5
Number of Applicants**		3957	126	113	185	3253	1157

* Percent passing after reappraisal.

** Some of the applicants did not indicate their sex and/or racial/ethnic group on the form provided for this purpose. Moreover, some of the applicants who took the examination did not belong to any of the four racial/ethnic groups included in this table. Thus, the total number of applicants across the four racial/ethnic groups or across the two sex groups does not equal the total number of applicants in Table 1.

Table 3

CORRELATIONS BETWEEN VARIABLES*

Variables	School Type			Sex		Racial/Ethnic Group				Total
	ABA Approved	Other Cal. Accredited	Unaccredited	Males	Females	Anglo	Asian	Black	Hispanic	
LGPA & Essay	.62	.59	.47	.57	.61	.56	.53	.51	.54	.58
LSAT & Essay	.34	.24	.37	.39	.44	.37	.42	.27	.32	.40
LGPA & MBE	.59	.53	.38	.54	.57	.50	.40	.52	.52	.54
LSAT & MBE	.52	.41	.37	.55	.58	.53	.53	.51	.47	.55
LGPA & Total	.67	.62	.48	.61	.64	.59	.53	.59	.59	.62
LSAT & Total	.45	.33	.41	.49	.53	.47	.50	.42	.42	.50
LSAT & LGPA	.34	.28	.27	.27	.30	.21	.15	.28	.31	.28
Essay & MBE	.62	.63	.63	.66	.67	.64	.66	.48	.63	.65

* Internal consistency reliability estimates for the variables and the sources for these estimates were as follows: MBE = .91 (Faggen, 1977); Essay = .78 and Total = .88 (Klein, 1978); LSAT = .90 and LGPA = .85+ (Carlson and Werts, 1976).

to permit them being included in comparisons between groups. The four groups were identified as follows: Anglo, Asian, Black, and Hispanic.

Sample Characteristics

Table 1 provides summary descriptive statistics for each of the three categories of schools and the total sample. Table 2 contains the corresponding data for each of the sex and racial/ethnic groups. The correlations between the measures within each school type, sex, and racial/ethnic group are presented in Table 3.

DATA ANALYSIS PLAN

The data analysis procedures focused on assessing the extent to which differences in bar scores between applicants could be explained by factors that were independent of how well these applicants performed in law school. In other words, the procedures were designed to answer the question: "Why do two applicants with comparable grades in law school get different scores on the bar examination?" The first step in answering this question involved determining how much of the variation in bar scores between applicants was related to their law school grades. This was done by constructing an equation to predict bar scores from knowledge of an applicant's LGPA. How well this equation worked was indicated by the degree to which differences in the applicants' LGPA's corresponded with differences in their bar scores; i.e., the higher the degree of correspondence, the better the prediction.

The next analytic step involved adding to this equation one or more of the variables under investigation, such as the applicant's sex, and then measuring whether this expanded equation increased the level of predictive accuracy achieved. If the addition of a variable improved prediction over LGPA alone, then it is evident that this variable helped to explain why one applicant received a different bar score than another applicant even though they had comparable LGPA's. Thus, a variable's unique contribution to prediction provides an index of the degree to which bar scores are related to this variable after the bar scores have been adjusted for differences between applicants in how well they performed in law school. This index can be expressed in terms of the percent of variation in bar scores that the variable explains that has not already been explained by LGPA.

When a variable is able to explain bar score variation, it does not mean that this variable in and of itself caused the scores to differ. Other factors which are closely associated with both the variable and bar scores may be producing the observed relationship. For example, if differences in the applicants' socioeconomic status (SES) were related to differences in their bar scores, and if the racial/ethnic groups differed substantially in their average SES levels, then the variable "racial/ethnic group" would appear to explain some of the variation in bar scores. The role of a variable such as "sex" or "racial/ethnic group" is therefore primarily that of a proxy for one or more other variables with which it is closely associated. If the proxy variable makes a contribution to prediction, we do not know which of a host of variables (like SES) are the underlying causes of this contribution. On the other hand, if a variable like "sex" fails to explain any of the variation in bar scores, then it is apparent that it and the factors closely related to it are not influencing an applicant's bar scores.

The total percent of variance explained by a team of predictors, such as LGPA and LSAT, may be less than the sum of their individual contributions to prediction. The reason for this is that there may be some overlap between the predictors in the amount of variation they explain; i.e., the predictors are explaining a certain percentage of the same variation in bar scores. The importance of this consideration is that the statistical procedures used in this study credit all of this shared (or common) variance to the first predictor that enters the equation; i.e., LGPA. The unique contribution of the second predictor is therefore just that part of the variance in bar scores that has not already been explained by the first predictor. Similarly, the potential unique contribution of a third predictor is limited to just that part of the bar score variation that has not already been explained by the first two predictors that were allowed to enter the equation. In general, the greater the correlation between the predictors, the greater the likelihood that they will share explanatory power.

The total percent of variance in bar scores that can be explained by one or more predictors is also influenced by the reliability of all the measures involved; i.e., both bar scores and predictors. The reason for this is that any chance variation in a variable, such as might stem from inconsistencies in the Essay grading process, reduces the degree to which Essay scores will correlate with some other variable. Thus, the higher the reliability of each measure, the greater the likelihood that the predictors will be able to explain differences in bar scores.

In summary, the factors that determine the extent to which variation in bar scores between applicants can be explained are: (1) the underlying relationships between bar scores and the variables for which the predictors used in this research served as proxies; (2) the degree to which the predictors are correlated with each other (i.e., the amount of shared versus unique variance they explain); and (3) the reliabilities of both bar scores and the measures used to predict them. Although there are no clear guidelines as to what should be considered a "high" versus a "low" percentage of explained variation, one potentially relevant benchmark is that the combination of LSAT and undergraduate grade point average is able to predict about 20 percent of the variance in LGPA (Carlson and Werts, 1976; pg. 34).

RESULTS

School Effects

The data in Table 4 indicate that an applicant's law school explained 17 percent more of the variance in Total bar scores than was explained by LGPA alone (equation #5 versus #8). When LSAT is added to the prediction system, the overall level of prediction did not change (equation #8 versus #12), but the unique contribution due to School was reduced to 8 percent (equation #9 versus #12).

These findings suggest that the School effect is made up of at least two components. One component may be differences in grading standards between schools that are related to differences in the average academic ability of the students they enroll. In other words, a certain level of academic performance might receive a relatively high grade at one school but only a medium or even a low grade at another school.

Table 4

PERCENT OF VARIATION IN BAR SCORES
 THAT WAS EXPLAINED BY EACH PREDICTOR
 WHEN USED SINGLY AND IN
 COMBINATION WITH OTHER VARIABLES*

Equation Number	Variables Included in the Equation	Percent of Explained Variation		
		Essay	MBE	Total
1	Racial/Ethnic Group	4	5	6
2	Sex Group	0	2	0
3	School	15	16	17
4	Law School Admissions Test (LSAT)	16	30	25
5	Law School Grade Point Average (LGPA)	34	29	38
6	LGPA + Racial/Ethnic	34	29	38
7	LGPA + Sex	34	30	38
8	LGPA + School	49	51	55
9	LGPA + LSAT	40	46	50
10	LGPA + LSAT + Racial/Ethnic	40	46	50
11	LGPA + LSAT + Sex	40	48	50
12	LGPA + LSAT + School	49	51	58
13	LGPA + LSAT + School + Sex + Racial/Ethnic	49	53	58

* Group membership was included in the equations by constructing a separate predictor for each group. This was done by assigning a score of 1 versus 0 to an applicant corresponding to whether or not that applicant was a member of the group. Thus, there were two variables for sex, four for racial/ethnic group, and 38 for school.

Adding LSAT to the prediction system apparently served to adjust the LGPA's between schools for these differences in performance standards.

The second School effect component appears to be a function of how well the law schools prepared their graduates to take the bar examination and/or systematic differences between schools with respect to certain characteristics of the students they enroll. For example, if going to night school versus day classes was related to bar scores even after the effects of LGPA and LSAT were controlled, then part of the School effect could be due to differences between schools in the proportions of their graduates who attended night versus day classes.

Additional analyses indicated that the schools which tended to have a positive effect on the Essay portion of the examination also tended to have a positive effect on the MBE section.* This finding suggests that whatever effect a particular school had on an applicant's chances of passing, it did not result in improving performance on one section of the examination at the expense of scores on the other section. It was noted, however, that the size of the school effect was slightly larger on the Essay than on the MBE portions of the examination and that this differential was apparently related to LSAT's relative ability to predict these two types of scores (see equations #5 versus #8 and #9 versus #12).

Table 5 presents a cross-tabulation of type of school by whether the school tended to have a positive versus negative effect on Total Score. The data in this table indicate that the ABA approved schools tended to have positive effects, while the unaccredited schools tended to have negative effects. This same trend was observed with both the MBE and Essay portions of the examination. The individual effect of each school with respect to Total Score is presented in the "School with Total" column of Appendix A. An inspection of these data indicates that school #8 had the largest positive effect, and School #9 had the largest negative effect.

Racial/Ethnic Group Effects

The data in Table 4 indicate that knowledge of an applicant's racial/ethnic group did not contribute to the prediction of bar scores. This result was obtained when racial/ethnic group was teamed with just LGPA (equation #5 versus #6) and when it was combined with both LGPA and LSAT (equation #9 versus #10). Even by itself, racial/ethnic group explained only one-sixth as much variance in Total bar scores as was explained by LGPA (equation #1 versus #5) and only one-eighth as much as the team of LGPA and LSAT (equation #1 versus #9). These findings indicate that what little systematic relationship exists between bar scores and racial/ethnic group could be explained fully by differences between groups in their average LGPA's.

*The point biserial correlation coefficient between attendance versus non-attendance at a school and MBE scores was computed for each school with the effect of LSAT partialled out of both measures. Corresponding coefficients were computed for the Essay scores. A correlation of .81 was obtained between these two sets of coefficients across the 38 schools.

Table 5

NUMBER OF SCHOOLS WITHIN EACH SCHOOL TYPE
 THAT HAD A POSITIVE VERSUS NEGATIVE RELATIONSHIP
 WITH TOTAL BAR SCORES AFTER CONTROLLING FOR
 DIFFERENCES BETWEEN SCHOOLS IN THEIR AVERAGE LSAT SCORES

Direction of School Effect	Type of School			Total
	ABA Approved	Other California Accredited	Unaccredited	
Positive or Neutral	11	3	4	18
Negative	5	5	10	20

Table 6
 PERCENT OF APPLICANTS WITHIN
 EACH SEX AND RACIAL/ETHNIC GROUP
 WHO GRADUATED FROM EACH TYPE OF LAW SCHOOL

Type of Law School	Sex Group		Racial/Ethnic Group				Number of Schools
	Male	Female	Anglo	Asian	Black	Hispanic	
Unaccredited	9	7	9	6	8	4	14
California but not ABA Accredited	22	14	21	7	8	14	8
ABA Accredited:							
Low Average LSAT	19	17	19	22	13	11	5
Medium Average LSAT	27	30	28	21	23	32	6
High Average LSAT	22	33	23	44	48	38	5

A comparison of Anglo and minority group enrollment patterns revealed that a disproportionately large number of minority applicants graduated from ABA approved schools (see Table 6). Nevertheless, within these schools, Anglo and minority applicants had about the same proportion of graduates (31 and 28 percent, respectively) from schools which had a positive effect on bar scores (when this effect was measured by the point biserial correlation coefficients in Appendix A). Thus, relative to Anglos, minority passing rates were not hurt or helped by the particular ABA approved schools from which minority applicants tended to graduate. It was noticed, however, that within the ABA approved category, minority applicants were far more likely than Anglo applicants to graduate from the five schools with the highest average LSAT scores. This finding suggests that the results presented in Table 4 regarding racial/ethnic group effects may have been unduly influenced by the trends at a few schools.

In order to investigate this issue, the average LSAT, LGPA, and Total bar score were computed for each racial/ethnic group within each of the three categories of ABA approved schools (see Appendix B).^{*} The mean and standard deviation of these measures (in conjunction with standard statistical tables) were then used to convert the averages to percentile scores (see Table 7). These percentile scores indicate the relative standing of each group on each measure. For example, it may be seen from Table 7 that the average Anglo applicant who graduated from a low-average-LSAT school had a Total bar score that was as good or better than 46 percent of all the applicants who took the examination.

The differences between the percentile scores of Anglos and each of the minority groups are presented in Table 8. These data indicate that the percentile score differences between Anglo and minority group applicants on LGPA were quite similar to their respective score differences on the total examination. For example, in the high average LSAT schools (i.e., the schools in which most of the minority group members were located), the Anglo-Black gap between percentile scores was 46 points on LGPA and 52 points on Total score, or a disparity of only six percentile points. For Hispanic applicants at these five schools, the gap between their average LGPA and that of the Anglos' LGPA was identical to that of the gap between their respective percentile scores on the Total examination; i.e., it was 47 points on both measures. The differences between Asian and Anglo applicants on LGPA was 11 points larger than it was on Total score. This trend suggests that the bar examination tended to reduce rather than exacerbate the differences between Asian and Anglo applicants in their relative performance levels in law school. It is apparent, therefore, that even when differences in enrollment patterns between groups were controlled, the parallelism between performance in law school and scores on the bar examination remained. In short, whatever caused minority group applicants to get lower grades in law school probably also caused them to get lower scores on the bar examination; i.e., regardless of whether they attended a school with a high, medium, or low average LSAT score.

^{*}There were too few minority group applicants in other California accredited and non-accredited law schools to conduct the corresponding analyses with their graduates.

Table 8

DIFFERENCE BETWEEN ANGLO AND MINORITY GROUP PERCENTILE SCORES
WITHIN EACH OF THREE CATEGORIES OF ABA APPROVED LAW SCHOOLS

Score	Low Average LSAT			Medium Average LSAT			High Average LSAT			Average Difference		
	Asian	Black	Hispanic	Asian	Black	Hispanic	Asian	Black	Hispanic	Asian	Black	Hispanic
LSAT	18	42	26	21	54	47	31	66	53	23	54	42
LGPA	30	36	12	21	45	35	37	46	47	29	42	31
Total	32	28	19	25	50	35	26	52	47	28	43	34

Table 7

LSAT, LGPA, AND TOTAL EXAMINATION PERCENTILE SCORES
FOR EACH RACIAL/ETHNIC GROUP WITHIN EACH OF
THREE CATEGORIES OF ABA APPROVED LAW SCHOOLS

Score	Low Average LSAT				Medium Average LSAT				High Average LSAT			
	Anglo	Asian	Black	Hispanic	Anglo	Asian	Black	Hispanic	Anglo	Asian	Black	Hispanic
LSAT	47	29	5	21	64	43	10	17	84	53	18	31
LGPA	52	22	16	40	54	33	9	19	59	22	13	12
Total	46	14	18	27	64	39	14	29	71	45	19	24
Number of Applicants	760	28	15	21	1113	27	26	60	911	55	54	71

The corresponding set of comparisons between LSAT and Total score indicated that, on the average, there was a greater gap between Anglo and minority percentile scores on the LSAT than there was on Total bar score. For example, the difference between Anglo and Black applicants' average percentile scores on LSAT and the total examination was 54 and 43 points, respectively. Moreover, with both Black and Hispanic applicants, this disparity was in the direction of greater Anglo-minority differences on LSAT than on Total score; i.e., there was a smaller difference between the groups on Total score than would have been expected on the basis of the disparity between their respective average LSAT scores. Thus, the bar examination reduced rather than increased the differences between racial/ethnic groups that were observed in their LSAT scores at the time these groups entered law school.

A comparable set of findings were obtained with the MBE and Essay portions of the examination. In the high average LSAT schools, for example, there was a 44 point percentile difference between Anglo and Hispanic applicants on the MBE portion of the examination and a 43 point percentile difference on the Essay portion. The gap in percentile points between these two groups on LGPA was 47 points; i.e., there was a very close correspondence between the size of the gap on LGPA and both portions of the examination. Black applicants at the high average LSAT schools differed from their Anglo classmates by 50 and 48 percentile points on the MBE and Essay portions of the examination, respectively. These gaps corresponded closely with the 46 percentile spread between them on LGPA. Similar trends were observed at the medium and low average LSAT schools and with Asian applicants.

In summary, the differences in performance level between racial/ethnic groups in law school and on the LSAT paralleled quite closely the differences between these groups on the bar examination. This was true for the MBE and Essay sections as well as for the examination as a whole. The slight deviations from this trend tended to be in the direction of smaller differences between groups on the bar examination than were observed in law school. It was apparent, therefore, that the bar examination did not systematically widen the gap between groups.

Sex Group

The results obtained with equation #5 versus #7 in Table 4 indicated that an applicant's sex was generally unrelated to that applicant's bar scores whether or not LGPA was already in the prediction system. The only exception to this general trend was the very slight improvement in the prediction of MBE scores by the inclusion of the Sex variable. Adding LSAT to the prediction system did not change these relationships (equation #9 versus #11).

An inspection of the Sex group data in Table 2 indicated that the small Sex effect on the MBE was due to female applicants performing less well on this portion of the examination than would have been expected on the basis of their LGPA and/or LSAT scores. In other words, the female applicants had higher average scores on these predictors but lower MBE scores than did male applicants. Nevertheless, the absolute size of the Sex effect was so small (2 percent) that it had an almost negligible impact on an applicant's chances of passing the MBE portion of the test and essentially no unique influence on Total score.

All Factors Combined

Figures 1, 2, and 3 indicate the relative contribution to prediction of Essay, MBE, and Total scores by each of the variables under investigation. These calculations were made by entering the variables into the prediction equation in the following order: LGPA, LSAT, School, Sex, and Racial/Ethnic group (see equation #13). Entering Sex and/or Racial/Ethnic group into the equation sooner would not have changed the estimate of their explanatory power because these variables did not increase the level of prediction achieved by the use of LGPA alone (see Table 4). One major constraint on explaining the observed variance in bar scores was the reliability of both the predictor variables and the bar scores to be predicted. When an estimate of the effect of such unreliability was made (via a standard statistical procedure called "correction for attenuation"), it was found that the unreliability would have explained 21 percent of the variance in Essay scores, 12 percent of the variance in MBE scores, and 15 percent of the Total score variance.

It was noted, however, that even when the variables were corrected for unreliability, there was still a substantial amount of unexplained variance (e.g., 27 percent on Total score). Some of the factors that may have contributed to the unexplained variance are described briefly below:

- o Lack of sensitivity in LGPA to reflect true performance level differences within each school. For example, the grades may have been artificially constrained at the top and/or bottom end of the scale, such as if a large number of students were given the same low (but passing) grade even though there were marked differences in their performance levels.
- o Applicants may have varied in the type of post-law school preparation they had for the examination and/or in how much they were able to profit from this preparation, such as if applicants differed in ability to "cram" for the test.
- o Individual differences in potentially relevant personality characteristics that were not directly related to an applicant's LGPA, LSAT score, school, sex, or racial/ethnic group. Such characteristics might include variables related to how much the extreme pressure of a bar examination affected their ability to perform well on it.
- o Complex interactions among the predictors used in this research and/or other factors. For example, it is possible that certain students may have done better on the examination if they had attended a law school whose curriculum and teaching philosophy were more compatible with their particular study habits, interests, skills, etc.
- o Chance events. In this category there are a variety of factors, such as: the applicant's physiological and psychological state at the time of the examination and the period immediately preceding it; whether the applicant happened to be lucky enough to be asked a question involving an issue with which he or she was especially familiar; whether the applicant happened to draw Essay graders who tended to be slightly more or less lenient than other graders, etc.

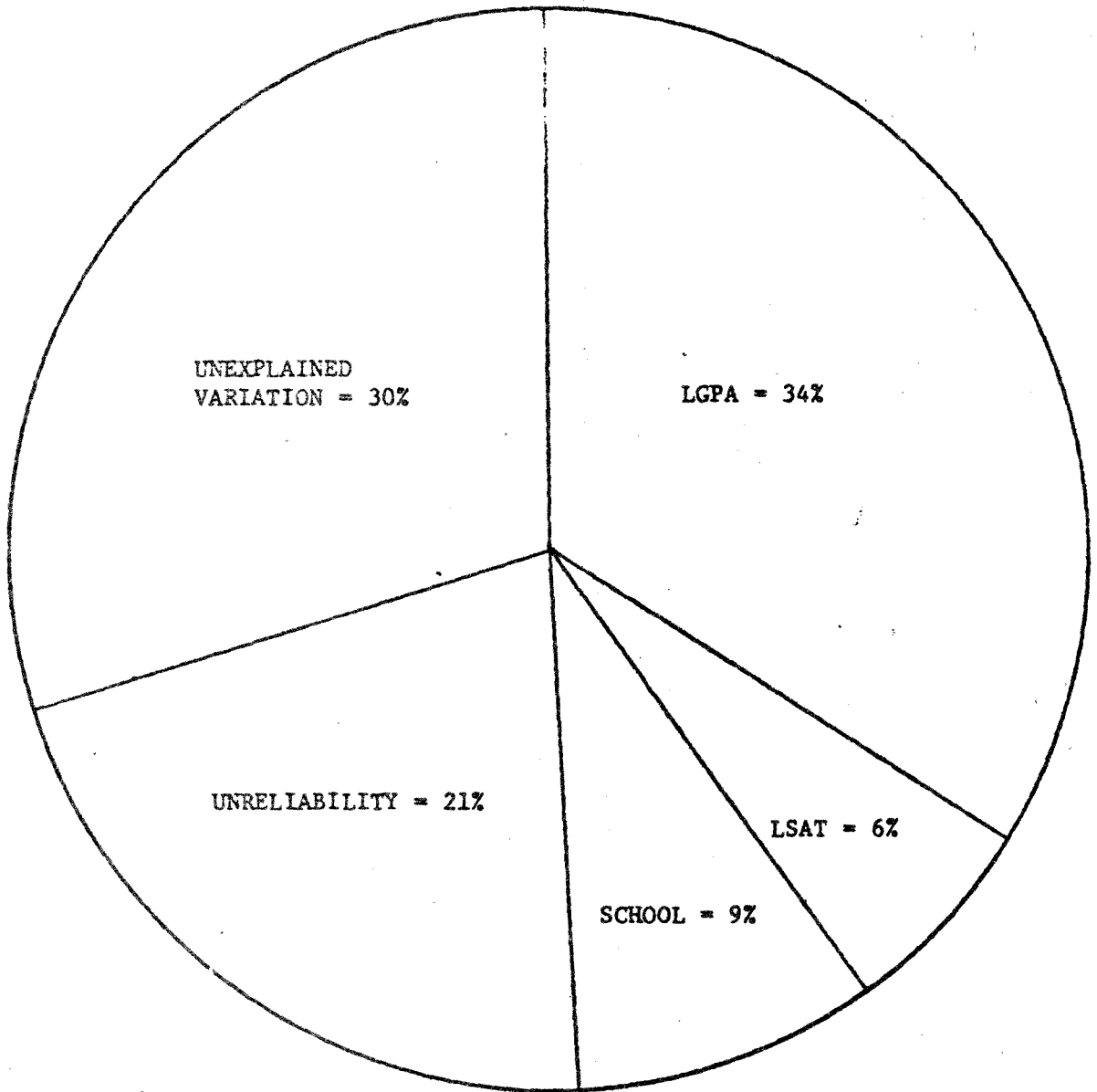


Figure 1. RELATIVE CONTRIBUTIONS TO THE PREDICTION OF ESSAY SCORES

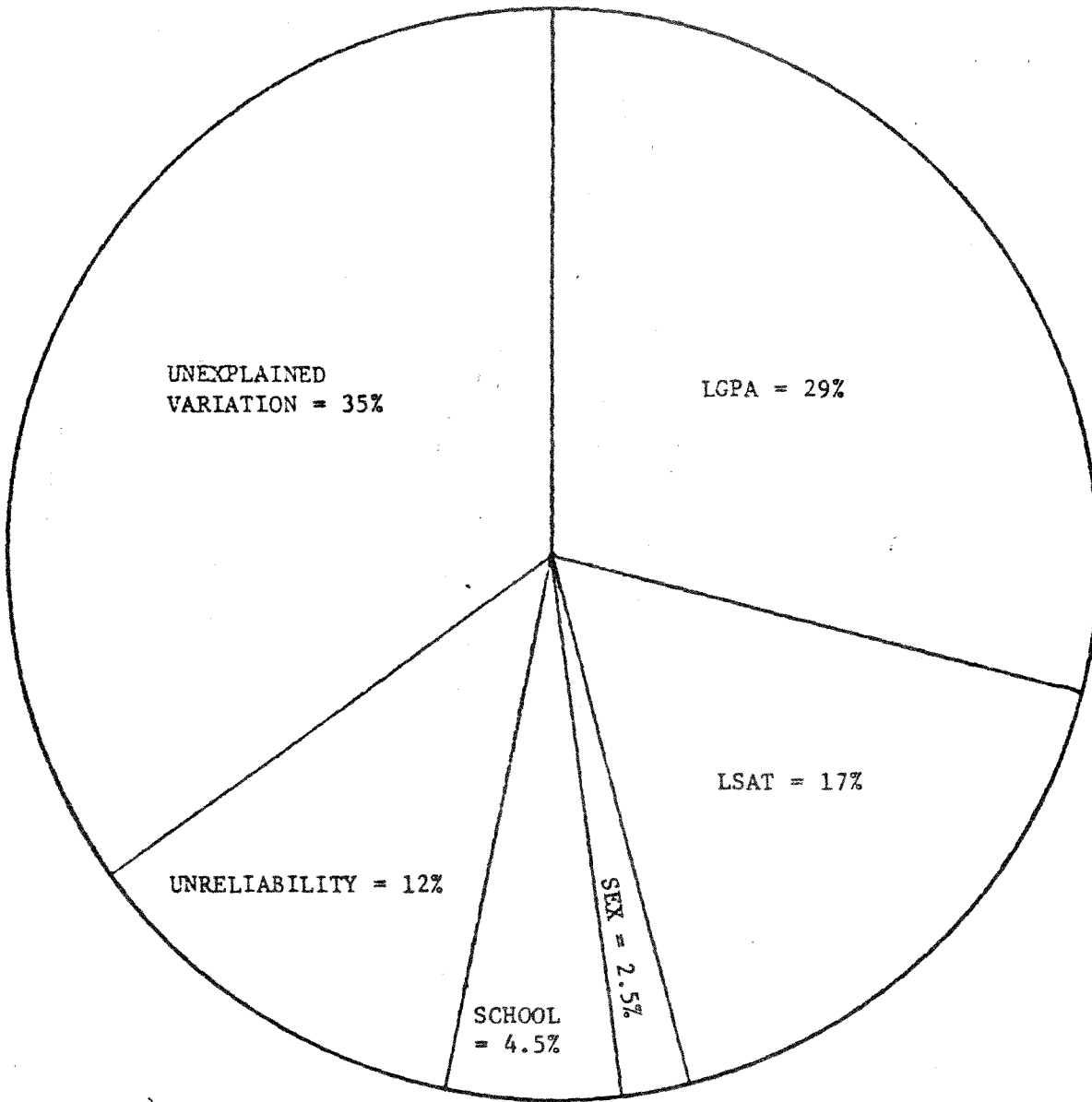


Figure 2. RELATIVE CONTRIBUTIONS TO THE PREDICTION OF MBE SCORES

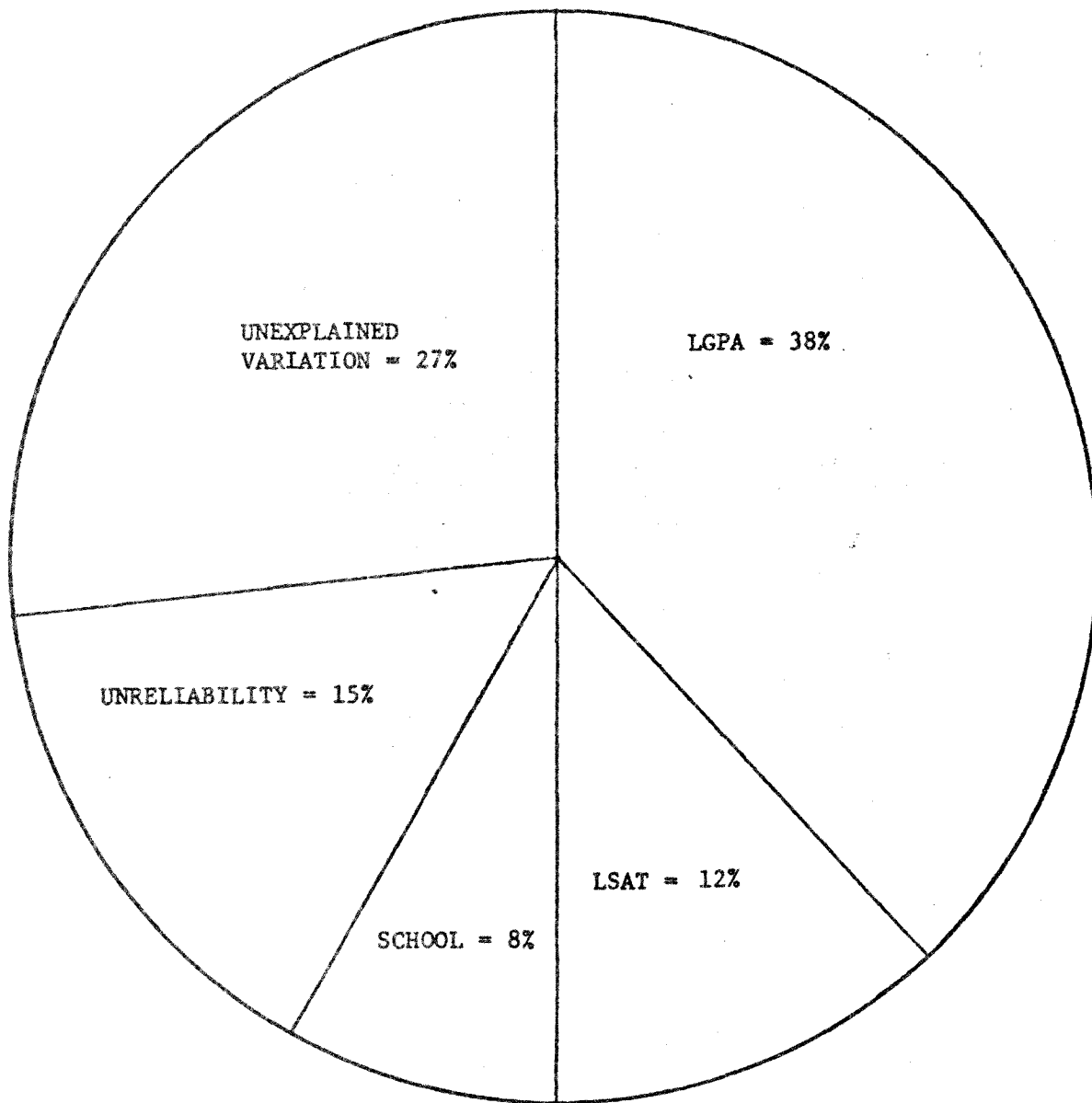


Figure 3. RELATIVE CONTRIBUTIONS TO THE PREDICTION OF TOTAL BAR EXAMINATION SCORES.

Despite the presence of the unexplained variance in bar scores, it was evident that the overall level of prediction achieved was quite high. For example, the combination of LGPA, LSAT, and School was able to explain 58 percent of the Total score variance (see equation #12). This is almost three times more variance than the combination of LSAT and undergraduate grade point average is able to explain in law school grades. Even when LGPA was used by itself, it explained 34 percent of the variance in Essay scores and 29 percent of the variance in MBE scores. These relationships of LGPA to Essay and MBE scores are identical with those obtained by Carlson and Werts (1976) in their seven-state study. The percentages of explained variance that Carlson and Werts reported for the LSAT are also quite similar to those listed in Table 4, equation #4. Thus, the results obtained in the present study are probably typical of those that would be found with bar examinations administered in other states.

SUMMARY AND CONCLUSIONS

This study investigated the extent to which disparities in bar examination scores between applicants were related to factors that were uniquely and systematically associated with an applicant's law school, racial/ethnic group, and sex. The study was conducted with almost all of the applicants who in the fall of 1977 were taking the examination for the first time and who had also just graduated from a California law school. The major results of this research were as follows:

- o Applicants from ABA approved schools generally had higher bar scores than did applicants from other California accredited or unaccredited law schools.
- o The average bar scores at ABA approved schools tended to be slightly higher than would be expected on the basis of their average LSAT scores while unaccredited schools tended to have slightly lower average bar scores than expected.
- o Within all three types of schools, certain ones had higher bar scores than expected while others had lower scores than expected. In general, the magnitude of these school effects were relatively small, especially in comparison to the relationship between bar scores and LGPA.
- o It could not be determined from the data available for this research whether the observed School effects were a function of differences in educational programs between schools and/or in the general characteristics of the students they enrolled. It was evident, however, that the factors which produced the School effects were not related to differences between the schools in their average LSAT scores and/or in their proportional representations of each sex and racial/ethnic group.
- o Schools which had average Essay scores that were higher than expected (on the basis of their average LSAT scores) also tended to have higher than expected MBE scores.

- o About the same percentage of racial/ethnic minority applicants as Anglo applicants attended the ABA approved schools which had positive School effects. Thus, the performance differentials between groups on the bar examination were not affected by school effects.
- o Knowledge of an applicant's racial/ethnic group did not contribute to the prediction of that applicant's bar scores once these scores had been adjusted for differences between applicants in their relative performance levels in law school. Even before this adjustment was made, racial/ethnic group explained only 6 percent of the variance in Total scores as compared to the 25 percent and 38 percent that were explained by LSAT and LGPA, respectively.
- o A disproportionately large number of minority group applicants graduated from ABA approved schools, and even within this category of schools, proportionately more minority applicants than Anglo applicants graduated from the five schools with the highest average LSAT scores. When these differences in Anglo and minority enrollment patterns were controlled, the differences between the groups in their law school grades still paralleled quite closely their differences in their Essay, MBE, and Total scores.
- o The size of the gap between Anglo and minority groups on the Essay portion of the examination paralleled the size of the gap between them on the MBE. In other words, the Essay section of the test was not relatively more or less difficult for racial/ethnic minority groups than was the MBE section. For example, the difference in passing rates between Anglo and Hispanic applicants on the MBE and Essay portions of the test were 25% and 28%, respectively. Thus, giving more or less weight to either section of the test would not have any affect on the relative passing rates of the groups.
- o The foregoing findings led to the hypothesis that whatever was producing the performance differentials between racial/ethnic groups in law school was probably also at work on the bar examination. In other words, the observed differences in average bar scores between groups were probably not a function of certain features of the examination (such as its time limits or the length, wording, or complexity of its questions), but rather they were due to differences between the groups in the degree to which they possessed the general skills and knowledge that are required to get high grades in law school. Whether these same characteristics are also required for legal practice is an issue that was not addressed by this research.
- o Female applicants did slightly less well on the MBE portion of the examination than would have been expected on the basis of their LGPA's and LSAT scores. For example, 7% more females than males passed the Essay, but 5% more males than females passed the MBE. While it is not known what produced this trend, it was evident that it had only a very minor effect on MBE scores and essentially no effect on an applicant's Total score.

- o The overall percent of variance explained in bar scores by LGPA and LSAT (or by LGPA and School) was quite high and consistent with what is usually found in similar types of research. Nevertheless, there was still a substantial amount of variation in bar scores that was not explained by the predictors, even after controlling for the less than perfect reliability of the measures involved in the analyses.
- o It was hypothesized that some of the factors that may have contributed to this unexplained variance were: lack of sensitivity of the LGPA's to reflect fully the true performance differentials within schools; post-law school preparation for the examination; individual differences in potentially relevant ability and personality characteristics that were independent of an applicant's LGPA, LSAT score, school, sex, and racial/ethnic group; complex interactions between these and other variables; and chance events.

Finally, it should be noted that the foregoing findings and hypotheses are based on the analyses conducted on a single examination. Replications of this investigation are therefore recommended so as to check on the stability of the results obtained, especially with respect to the effects of individual schools on their graduates' chances of passing the examination. If it were found that the size and direction of these school effects remained relatively constant across examinations, then subsequent research might be undertaken to determine the source of these effects.

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This study was conducted by Dr. Klein while he was serving as a private consultant to The Committee of Bar Examiners of The State Bar of California. The views expressed in this report are his own and do not necessarily represent those of The Committee of Bar Examiners or The Rand Corporation.

APPENDIX A

A

SUMMARY DESCRIPTIVE STATISTICS BY SCHOOL

School Number	School Type	Number of Applicants	Percent Passing	Percent Minority	Average LSAT Score	Percent Missing LSAT	Correlations		
							LSAT with LGPA	LCGPA with Total	School with Total**
01	UnAcr	27	37	15	519	0	.26	.35	-.05
02	ABA	125	49	6	550	1	.40	.70	-.08
03	ABA	144	71	7	594	1	.19	.65	-.02
04	ABA	396	78	13	621	2	.44	.78	+.03
05	UnAcr	10	10	0	480	30	.01	.64	-.05
06	UnAcr	70	50	8	511	33	.31	.57	-.07
07	ABA	278	85	8	612	1	.23	.63	+.10
08	ABA	262	92	6	598	0	.24	.61	+.18
09	ABA	334	59	9	573	0	.19	.66	-.10
10	ABA	78	78	17	682	0	.60	.77	.00
11	CalAcr	45	78	2	531	0	.08	.60	+.05
12	ABA	216	87	21	675	6	.40	.61	+.10
13	ABA	146	78	23	631	0	.41	.79	+.04
14	ABA	264	78	17	638	0	.44	.75	+.01
15	ABA	198	77	8	601	0	.22	.77	+.02
16	ABA	156	65	13	587	3	.41	.76	-.04
17	ABA	215	74	17	601	0	.48	.76	-.02
18	ABA	138	82	17	603	1	.48	.81	+.04
19	CalAcr	207	46	3	491	33	.26	.65	-.04
20	ABA	138	72	4	556	0	.11	.66	+.04
21	CalAcr	81	62	9	540	51	.19	.70	-.01
22	ABA	75	88	5	574	1	.23	.63	+.06
23	CalAcr	287	46	8	513	5	.36	.62	-.09
24	UnAcr	17	53	0	554	18	.48	.49	.00
25	UnAcr	39	54	10	543*	100	--	.51	-.03
26	CalAcr	16	81	0	598*	100	--	.80	+.01
27	CalAcr	49	39	6	507	0	.15	.72	-.06
28	CalAcr	18	83	0	529	0	.05	.82	+.07
29	UnAcr	41	34	7	501	66	.28	.62	-.06
30	UnAcr	24	25	4	483*	100	--	.69	-.05
31	CalAcr	165	52	5	515	1	.33	.62	-.07
32	UnAcr	19	21	5	475*	100	--	.49	-.07
33	UnAcr	17	71	0	571	0	.25	.60	.00
34	UnAcr	12	83	8	607	8	.01	.42	+.01
35	UnAcr	11	27	9	487*	100	--	.81	-.02
36	UnAcr	39	74	5	523	28	.43	.54	+.03
37	UnAcr	30	60	10	512	20	.31	.39	-.01
38	UnAcr	27	26	7	485*	85	--	.42	-.09

* Average LSAT score estimated for all applicants.

** This column contains the point biserial correlation coefficients between Total score and enrollment versus non-enrollment at the school with the effect of LSAT partialled out of Total score.

APPENDIX B

AVERAGE SCORES AND NUMBER OF APPLICANTS WITHIN EACH
RACIAL/ETHNIC AND SEX GROUP AT ABA APPROVED SCHOOLS

School's Average LSAT Score	Variable	Anglo		Asian		Black		Hispanic	
		Male	Female	Male	Female	Male	Female	Male	Female
Low	N	578	182	22	6	9	6	19	2
	LSAT	577.6	566.9	530.4	548.8	458.2	420.0	517.8	439.5
	LGPA	50.1	52.1	42.0	43.5	39.1	41.3	48.5	37.9
	Total	1214.1	1214.5	1132.9	1142.5	1152.0	1139.5	1184.4	1053.0
Medium	N	798	312	21	6	14	12	50	10
	LSAT	614.8	605.9	564.1	573.0	446.0	503.8	503.1	476.7
	LGPA	50.3	52.5	45.8	45.2	36.4	37.3	41.1	41.3
	Total	1254.9	1241.6	1193.5	1200.0	1130.1	1142.8	1179.5	1166.4
High	N	606	305	29	26	32	22	46	25
	LSAT	666.8	651.8	597.0	577.0	509.2	490.6	548.5	521.8
	LGPA	52.1	52.7	42.4	42.3	36.7	35.1	39.0	37.2
	Total	1267.4	1265.7	1227.6	1193.6	1148.1	1154.0	1184.4	1129.4

Appendix C

GLOSSARY OF STATISTICAL TERMS

Correction for Attenuation	The correction for attenuation is used to determine what the correlation between two variables would be if both variables were perfectly reliable; i.e., it provides an estimate of the underlying relationship between the variables.
Correlation Coefficient (r)	The correlation coefficient (symbolized by the letter "r") is an index of the degree to which the relative performance of the applicants on one measure corresponds to their relative scores on another measure. The correlation may be positive (which means that high scores on one measure correspond to high scores on the other) or negative. The coefficients themselves may range between ± 1.00 ; the higher the coefficient, the stronger the relationship between the two measures (regardless of its algebraic sign). A zero correlation means that there is no linear relationship between the measures.
Internal Consistency Coefficient (Reliability)	An internal consistency coefficient is a type of correlation coefficient. It indicates the extent to which an applicant's performance level is consistent throughout the test relative to the other applicants who took that test. If the content of the test is relatively homogeneous (e.g., all of the questions measure the applicants' general legal knowledge and skills), then its internal consistency coefficient provides an estimate of what the correlation would be between that measure and a parallel form of it. For example, the internal consistency of a 12-question Essay test is about .78. This means that if the applicants answered another 12 questions, their scores on this second set would correlate about .78 (all other factors being equal) with their scores on the first set.
Mean Score	The mean score is the arithmetic average score. It is computed by adding all the scores and then dividing by the number of scores added.
Percent of Explained Variance ($r^2 \times 100$)	The square of the correlation coefficient is called the "coefficient of determination." When multiplied by 100, this statistic indicates the percent of variance in one variable (such as Total Bar scores) that is associated with, determined by, or accounted for by the variance in another variable (such as LGPA). For example, if one applicant's Total score is 20 points higher than another applicant's Total score and if $r^2 = .60$, then about 12 of the 20 points can be explained by the differences between these two applicants in their respective LGPA's.

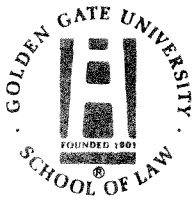
Standard
Deviation

The standard deviation of a test is an index of the degree to which the scores on that test spread out on either side of the mean (average) score. The larger the standard deviation, the greater the spread. Approximately 68 percent of the applicants fall within plus or minus one standard deviation of the mean, and about 95 percent fall within plus or minus two standard deviations. For example, the July 1977 examination had an average total score of 1222 points and a standard deviation of 81 points. This means that applicants with scores between 1141 and 1303 comprised about 68 percent of those taking the test.

Standard Error
of Measurement

The standard error of measurement is an index of the range within which an individual applicant's score is likely to fall on a parallel form of the test. For example, if the standard error on a test was 30 points and if an applicant had a score of 1170 on this test, the chances are two out of three that this applicant would have received a score between 1140 and 1200 had that applicant taken a different form of this test. The more reliable the test, the smaller the standard error of measurement.

APPENDIX D
Questions and Responses of Law School
Deans



OFFICE OF THE DEAN

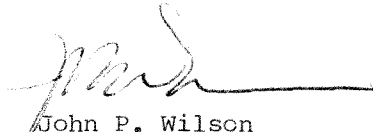
March 5, 1985

Mr. Mark T. Harris
California Legislature
Assembly Committee on
Judiciary
State Capitol
Sacramento, CA 95814

Dear Mr. Harris:

I am sorry that it has taken us so long to respond to your letter of February 1. Our answers to the inquiries set forth in that letter are enclosed.

Sincerely,



John P. Wilson
Dean

JPW/cn

1. Three major factors are considered in the admission process at Golden Gate University School of Law. They are the undergraduate grade point average (GPA), the Law School Admission Test score (LSAT), and the applicant's background or subjective factors. The GPA and LSAT are quantitative measurements of the candidate's potential to succeed in Law School, particularly during the first year of study. Together, the GPA and LSAT score comprise roughly two-thirds of the total consideration given to each application.

Although the GPA and LSAT score are the most significant factors for the majority of applicants, weight is also given to other important non-numerical factors. These include the ability to relate well with people, recognition of social problems, ethnic diversity, work experience, graduate study, socio-economic history, and others. The School seeks law students of diverse backgrounds who demonstrate growth, maturity, and the potential to succeed in Law School. Consideration is given to applicants who possess a combination of humanistic qualities and strong academic promise. We are aware that the results of a standardized test do not measure many of the qualities necessary to be a good attorney. Therefore, roughly one-third of the admission decision is based on non-numerical factors.

Certain applications are received each year that have low quantitative predictors and that contain no reasons to doubt a sub-par academic performance. Nonetheless, the applicant may represent such an extraordinary background or have such qualities that if he/she does succeed in Law School, in spite of the risk of failure, unique and valuable qualities would be shared with their classmates and brought to the practice of law. Some of the individuals are so compellingly attractive that the admissions committee has decided to give them a chance to "beat the odds."

Approximately fifteen minutes is spent reviewing the applications that have high numerical predictors and that, therefore, may be administratively admitted. This review process is conducted by the Director of Admissions. An Admissions Committee, composed of faculty and students, reviews the remainder of the applicant pool. Approximately twenty to twenty-five minutes are spent by at least two Admission Committee members who review each file independently.

Cases that present unusual circumstances or combinations of factors may undergo numerous reviews by the Admissions Committee and the Director. In these cases, the amount of time spent on each file varies according to the application's relative merits.

2. The admissions process at Golden Gate University School of Law primarily attempts to identify people who will succeed in Law School and who will serve the profession in a capable, responsible, and vigorous manner. Emphasis is placed on the identification of those applicants who possess predictors that indicate a probability of passing the bar examination. The School recently has conducted regression studies to identify the

numerical points below which students usually fail the bar examination. However, as was stated in Answer 1 above, the School also annually admits a small number of applicants who are "risks" based on their numerical credentials, but who, nevertheless, would be of such value due to their diversity that they are offered the opportunity to attend Law School.

The School is equally concerned in all cases with admitting conscientious, compassionate people to study law. It is beyond the capability of numerical predictors to measure all the characteristics and interpersonal skills necessary to be an effective attorney. Our responsibility to admit "people" and not "numbers" to the Law School and, ultimately, to the profession, is not taken lightly at Golden Gate.

To the extent that there is a correlation between bar pass, law grades, and LSAT as determined by internal studies, the numerical factors are the most significant in the majority of cases. Law grades were found to have the highest correlation with bar passage. The second highest correlation was the LSAT score.

3. Golden Gate's admission standards allow for a broad range of subjective factors to be considered for each applicant. We are interested in diversity. At the same time, attention is paid to the academic quality of each applicant's record as well as to his or her potential to excel in the program. Our consideration of the "total person" may seem unusual compared to the admission philosophies of other law schools where stress is placed on quantitative factors. Given the track record of socially, economically, sexually, and racially diverse matriculation at other law schools over the last decade, we are pleased that our comprehensive approach to admissions has allowed the School to remain a viable and attractive alternative for aspiring law students. The School has had close to 50% women over the past eleven years, and an approximate average of 13% minority students.

Twelve years ago, the Law School's governing body adopted the following policy related to traditional minority students:

"Golden Gate University welcomes and encourages applications from minority persons and provides a special admission policy for such persons. Our policy is as follows:

- (a) ...We reject a purely mechanical policy and will admit minority group applicants who, on the basis of their total record, 'demonstrate a reasonable chance of success in law school'."

In addition, the following statement appears on our current application form:

"Women applicants should be aware that the admissions committee will make every reasonable effort to equalize the number of female and male admittees."

The Law School continues to actively recruit women and minority students and remains committed to the maintenance of diversity in the classroom.

4. Financial aid resources at Golden Gate School of Law are not sufficient to support the number of special admission students who are offered admission each year. The School is a small, private institution with a budget that relies heavily on tuition revenues. The scholarship program, relative to state-funded and larger private institutions, fails to lure large numbers of highly qualified diversity students to the School. Nevertheless, the School is committed to leveraging its scholarship resources to attract as many bright students as possible. To this end, one-quarter of all first year scholarships are awarded to minority students.
5. A significant amount of time, energy, and money has been spent by different groups, including the Law School Admission Council and the American Bar Association to examine and to possibly correct the historic exclusion of women and minority students from the profession. There are four principal areas that must be addressed before the inequity can be remedied:
 - a) Law School admission policies in general must rely less upon quantitative factors in the selection process.
 - b) More women and minorities must be hired as faculty members at law schools.
 - c) More women and minorities must be hired and promoted by the major law firms. There is a dearth of minority lawyers who work at the partnership level.
 - d) Financial aid, in all forms, must be increased and made readily available to allow access to Law School and to other graduate programs. The specter of the new restrictions and limits currently contemplated at the federal level will be catastrophic if implemented.
6. See following page.

6. I believe we are at least as well qualified as the Committee of Bar Examiners. There is a high correlation between rank in class at this Law School and ability to pass the bar examination. Law Schools would be better qualified in the sense that they come to know a student and are certainly better able to judge potential in skills programs or clinics where actual legal work is performed. On the other hand, because law schools are not the final gatekeeper and because they are, in a sense, educational businesses, they may enroll students whom they know may have only a slight chance on the theory that the School can provide the opportunity, but it is the function of the bar examination to make the final decision. Certainly if law schools were to become the final gatekeeper it would require many to adopt more rigorous academic standards and would entail a significant restructuring of their staff and programs.
7. It is probably a good determiner of minimum skills, but it is doubtful that it is a very good determiner. One often hears from faculty members expressions of surprise that an able student did not pass and a less able one did. One also gets the sense that to a large degree passing the bar examination is probably a function of being just plain smart, that it is more an intelligence test than a test of knowledge. And typical of intelligence tests, it measures both accuracy and speed so that slower students may be penalized even though they know the law and will arrive eventually at the correct conclusion. It is difficult, however, to articulate improvements. I would not substitute law school grades for the bar examination, but it may be that a combination of Law School grades and bar examination results would provide a more thoroughgoing assessment. Thus, for example, if 100 points were needed to pass, then a student might receive fifty points if he or she were the top graduate of his or her Law School and have to make another fifty points on the bar examination, whereas a student earning only twenty-five points out of Law School would have to earn seventy-five on the bar examination. A problem with this scheme is that invidious ranking might have to take place among law schools, because most likely the twenty-fifth student at Harvard and the twenty-fifth student at Podunk University would not be equal in ability. This problem, and the wrangling it would create, is probably enough to kill the idea.
8. Unfortunately, I do not know the answer to this question. I certainly do not agree that the caliber of Law School graduates has deteriorated over the last few years, at least as measured by college grade point averages and the Law School Admissions Test scores. But those indices may themselves disguise weaknesses, e.g., inflation of college grades and a growing tolerance of poor writing which, of course, would not be caught on a multiple choice test like the LSAT. I doubt that students work any less hard, although some have advanced this possibility. It may be, however, that the cost of a legal education is now so high that many students are forced to work to support themselves and therefore must resort more to last minute cramming and the use of canned outlines that were not available in prior years.

9. Yes.
10. Golden Gate University School of Law has been in continuous operation for over eighty years. During much of this period of time it was a night school devoted to making legal education available to people working in or near San Francisco. It now has a full-time day program in which approximately two-thirds of the student body is enrolled, and many of these students are from other parts of California or the nation. Nevertheless, the School continues to view itself as an institution designed to provide a legal education to a broad cross section of society, including minorities and women. In pursuance of this objective, it recently instituted a successful part-time day program which attracts people who have competing obligations during the day--in particular women with childcare responsibilities.

The curriculum of the Law School is designed to train students for careers in all aspects of the legal profession. If it has an emphasis, it is in the direction of training students for practice in small to medium size law offices or in the public sector, e.g., district attorney, public defender, legal aid, and municipal attorney offices. Because most of these jobs are with employers who lack the staff to provide intensive training to neophyte lawyers, Golden Gate students must master both substantive law and practical skills before they graduate. It is, therefore, a key goal of the School to offer a broad range of skills courses and experiences in addition to the standard curriculum.

11. I do not think this is a good idea. In the first place, this requirement would separate lawyers into barristers and solicitors at a too early stage in their legal careers. It would make future change difficult, and it would force law schools into elaborate trial preparation courses for students intending to take the trial advocacy section of the bar examination. It is probable that this Law School could handle the burden, but we might find more students enrolling in litigation courses who, unsure of their future careers, would feel compelled to skew their studies in this direction in order to maximize their options.
12. I think this is an interesting and possibly useful suggestion, but only if the term "clinical" is broadly construed. Traditional clinical programs involving the instruction of a dozen or so students in real life situations under the tutelage of a clinical instructor are highly costly. On the other hand, if "clinical" work includes simulation courses and field placement and extern programs, then the cost is much more within the reach of the average Law School.



LOYOLA LAW SCHOOL

OFFICE of the DEAN

February 6, 1985

Mr. Mark T. Harris
Staff
Assembly Committee on Judiciary
California Legislature
State Capitol
Sacramento, California 95814

Dear Mr. Harris:

I am encouraged to see that the Assembly Committee on Judiciary shares the concerns of law school deans with the effectiveness of the California bar and the general quality of those who seek admission to the bar. I am enclosing copies of recent memoranda which will indicate some of our concerns at Loyola and our general responses to the overriding questions which you pose.

I will attempt to answer the questions raised by your questionnaire in an efficient and fair manner, although some of the questions are posed in such a way that it is difficult to give the kind of short responses that you seek without being at least potentially misleading.

1.) Factors considered on Admission.

A basic concern is whether an applicant has the intellectual ability and background to succeed in law school and to become a professionally adequate member of the bar. To this end, we give strong consideration to the LSAT and undergraduate GPA as these are the most significant indicia of these abilities. I am enclosing for your confidential consideration the minimum standards which we are applying to this year's applicants. These standards have been arrived at through a careful consideration of the performance in law school by previously admitted classes. Our basic formula calls for an equal weighting of grades and the LSAT. Our experience indicates that grades from University of California campuses are more reliable predictors than grades from California State campuses. On the other hand, any one who is not in the automatically admissible or automatically reject categories will be given full scrutiny by our admissions committee. Our admissions director fully reads every application to determine

Mark T. Harris
February 6, 1985
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whether there are special circumstances or anomalies. These may include changes in major, striking differences between early performance in classes and later performance, post-college achievements, etc.

Special attention is given to applicants who are members of under represented minorities. In our region these are most importantly, Black, Asian, Mexican American and certain Hispanic groups. Native Americans, Pacific Islanders and persons of Filipino background; and others with unusual ethnic backgrounds whether they be from the Middle East or Eastern Europe may also be given closer scrutiny; but again, in general, if an applicant has particular unusual talents and would contribute to the diversity of the student body, such factors are considered as long as the minimum academic qualifications are met.

With regard to the time spent on each admitted applicant, no generalization may be made. A clearly admissible individual with no striking anomalies in his or her application may only require very short scrutiny on admission. On the other hand, the same applicant might be given substantial consideration when financial aid through loans and scholarships are considered. With regard to all applicants, as much time as is necessary to determine whether they should be admitted will be afforded.

2.) Process to be engaged in as we select admittees.

Naturally, we are always concerned about whether or not someone is likely to be a good lawyer. It should be recognized, however, that other than obvious danger signs, such as a criminal record or serious and continuing psychiatric problems, judgments about a person's potential tend to be highly subjective. We do not base judgment on political backgrounds of candidates or on whether they have engaged in activities with which members of the admissions committee identify. For example, we would give equal weight to someone being active in Young Republican circles as we would to an activist in Democratic Party matters. Naturally, if there is a strong record of voluntary community involvement in areas where there are demonstrable societal needs, that may well carry weight with committee members. In many cases when applicants have been fully engaged in attending school or in raising a family or earning a living, their opportunities for voluntary activities have been limited.

Mark T. Harris
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As to whether people who are admitted at least in part because of their involvement in societal affairs maintain that involvement through law school and in their careers, I think that, in general, many do. On the other hand, it is very hard to predict how someone who enters school in their early twenties as a bright recent college graduate will develop in the future. On the whole, I do not believe that there is any indication that less bright and less able people will turn out to be more involved societally than those who are more intellectually qualified; and, therefore, in most cases, reliance on potential for achievement in law is as good a measuring stick as any other.

3.) Efforts to admit a socially, economically, sexually and racially diverse class.

Loyola does have a student body which is socially, economically, sexually and racially diverse. Although it is no longer necessary to take specific steps to consider applications from females in a different category than applications from males, we maintain our dedication to affirmative action for women and have been successful in employing significant numbers of female law professors and in expanding our curriculum into areas in which many women may have particular interests. Our student body is rapidly approaching equality in numbers between the sexes and for several years many of the major student offices have been held by women.

With regard to social and economic diversity, loans and scholarships are necessary to maintain diversity. We will certainly consider whether someone has overcome substantial handicaps socially and economically in determining whether an applicant above the minimum standard should be admitted. If the pool of resources for loans, scholarships and grants should diminish, this kind of diversity will, of course, be dealt a serious blow. Simply put, the cost of a legal education, whether full or part-time, cannot be met by many qualified students without substantial financial aid.

As far as racial diversity is concerned, we devote significant efforts in recruitment, scholarships and grants, tutoring and special programs such as a Summer Institute to meet the challenge of increasing the numbers of minority students within law school and the legal profession. Unfortunately, we are at the tip of the iceberg. Our pool of qualified candidates is determined by the quality of education that has

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gone before. Unless programs from Head Start through college produce significantly greater numbers of qualified minority candidates for law school, we will continue to have an up-hill struggle. It should be noted here that at least 50% of our scholarship resources are devoted to increasing racial and ethnic diversity.

In terms of our success, the results are mixed. Although we have and are producing a number of outstanding minority graduates, too high a proportion of minority students either fail, drop out or, if they graduate, have been unsuccessful at the bar examination. To some degree, it is because of this limited pool and because there are so many opportunities in other fields for highly qualified potential minority candidates. To some degree, it is inevitable that since we take greater academic risks with minority applicants, a larger number will not perform particularly well. We believe that we should admit minority candidates who have a reasonable chance for success. We should be honest with them about their chances, keep them fully informed; but, ultimately, the decision on whether to continue with law school is one which they must make. At the same time, we will not retain a student, whether majority or minority, who cannot meet minimum standards.

4.) Financial Aid for Special Admissions Students in Need.

As indicated above, substantial financial aid is available to minority students. Certainly, the availability of financial aid is critical to their enrollment.

With regard to students with special or extraordinary economic need, I am somewhat at a loss as to how to answer this question. A "needs" analysis is made for all of our financial aid applicants. A few scholarships a year are awarded both to majority and minority candidates on pure academic and other merit. Almost all of our other scholarships have a significant need component.

5.) As far as the exclusion of women from the legal community is concerned, it seems to me that the real difficulties now are not at the entry level but with women moving into leadership roles both in private firms and in government. The complexities of changing societal attitudes, not so much to women in high places, but rather in giving consideration to other aspects of life which both women and a growing number of men consider important are beyond the range of consideration

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appropriate for this particular survey.

As far as minorities in the legal community, I believe that, as indicated above, a full range of measures are necessary to increase the numbers of qualified minority members in the legal community. Academic and other socially significant steps must be taken from early childhood through adulthood. Whether or not these should be solely or largely the responsibility of government or whether, as exemplified by the current attitudes in Washington, private enterprise should play a major role may be debated endlessly. Some progress has clearly been made. The numbers of minority students in the University of California system appear to be increasing. Obviously, there is a great deal that could be said and has been said about this matter. These are problems that are not likely to go away in the foreseeable future. I can assure you that Loyola takes its obligation to expand the participation in the legal community of minorities and women very seriously and devotes considerable resources to these ends.

6.) Concerning the relative abilities of law schools and bar examiners to judge legal ability, talent or potential, I do not see a basic conflict between our roles. We identify people with potential and afford them a very high quality legal education. It is not unreasonable for an independent committee not directly linked to this or any law school to help determine a minimum skills level. I do not favor a diploma privilege or the elimination of the bar examination per se. In fact, I believe that were the law schools to be the sole judges of whether or not a candidate should be admitted to practice, there would be intolerable pressures on the law schools which would have a deleterious effect on our educational programs.

7.) I believe that a well-designed bar exam can help determine minimum skills necessary to practice law in California. It should be equally clear that a bar exam does not and probably cannot test other abilities and characteristics which may prove equally significant in determining whether a lawyer will be adequate or outstanding at his or her trade. I regard the bar exam as determining a minimum level of legal literacy. The problem with the California bar is that, in my opinion, based on recent statistics the bar is to some degree overly restrictive. As reflected in my comments directed to the bar examiners, even if the law schools should do more to insure that only qualified individuals will pass and graduate, a 40% failure

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rate for first-time takers from ABA accredited schools appears to be excessively protective of the bar.

Although I could certainly conceive of a number of different approaches, I would commend my suggestion that a general passing level in the 70 - 75% range from ABA accredited schools would insure greater consistency from year to year and would still afford the protection necessary for admittance to the California Bar.

8.) I do not agree that the caliber of law school graduates has deteriorated generally over the past few years. On the other hand, I would agree that there is tremendous pressure on the law schools not to fail students. These pressures are generated societally and, ironically, through the use of the legal system. Numerous law suits around the country and in California in recent years by disgruntled students have not generally been successful; but they, combined with a changed attitude which is more responsive to consumers, has made it very difficult for law schools to fail 20 - 30% of entering classes as was the practice a generation ago. (I hasten to add that I do not believe that such a failure rate is desirable.) Another problem is that the cost of law school is such that many students spend a great deal of time working while they are in law school. This certainly has resulted in some lowering of the quality of performance, particularly in upperclass courses. I think that it is generally agreed that the quality of writing has deteriorated throughout the society, and this may also be a factor. These problems are hardly unique to law schools. I certainly do not agree that there has been a sudden deterioration of the quality of law school graduates. The problems that I refer to have been prevalent for at least a decade.

9.) Loyola has an outstanding curriculum, a first-rate faculty and unquestionably is graduating significant numbers of attorneys who will not only be competent but outstanding members of the bar.

10.) I do not know that I can point to a primary goal of the law school. Obviously, as a professional institution, we strive to provide society with competent, novice attorneys who have the potential for making significant contributions, economically and socially, to the development of our society. Through our scholarship and financial aid programs, we attempt to make a quality legal education available to those who are qualitatively outstanding but who may lack the economic

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advantages to succeed. Certainly, on the basis of the record of Loyola graduates in all aspects of the legal community, we have been very successful in achieving this goal.

11.) I think far too much stress and emphasis have been put in recent years on distinction between lawyers generally and trial lawyers. I do not believe that there is a significant difference in the kinds of talents and abilities required for trial work as opposed to other kinds of work. I would strongly oppose any more additional qualifications for basic entry into the practice of law. This is not to say that certain kinds of certifications and specializations should not be seriously considered, but to simply single out trial advocacy would be putting even more emphasis on an area which has seen tremendous growth and development in the last decade. Loyola affords significant opportunities to study trial advocacy, lawyering skills and related subjects.

12.) I do not believe that all bar admissions applicants should be required to have spent some percentage of their law school career in a clinical program. Most graduates will have spent time either in clinical programs or in working for private or public law firms during their law school career. Others will gain that experience in their early months and years of practice. Very, very few of our graduates enter into sole practice. Most join medium to large-size offices where they may be afforded clinical training in a relatively efficient and cost-effective way. It may well be argued that legal education in this country should have been structured more on the medical model. At this time, given resources available and given the predilections of government nationally, to suggest or require a major increase in the clinical component would be to require an increase in the cost of legal education far beyond the capacity of most students. Loyola has a significant clinical program. Many students are involved. On the other hand, we have found that simulations in courses like trial advocacy, lawyering skills and ethics, counselling and negotiation can afford many of the skills that are gathered in specific clinical programs.

Sincerely,



Arthur N. Frakt
Dean



LOYOLA LAW SCHOOL

Appendix 2

OFFICE of the DEAN

TO: Students, Faculty and Directors

FROM: Arthur N. Frakt, Dean *Arthur N. Frakt*

DATE: November 30, 1984

RE: Bar Examination Results

The results of the latest California Bar Examination were discouraging. The overall state passage rate of 41.8% is distressing. Loyola's passage rate for first-time takers fell some eleven percentage points to approximately 60%. We take little comfort in the fact that a number of other fine A.B.A. accredited California law schools are significantly lower.

I have a great deal of ambivalence about even discussing the subject of bar passage rates. There is already an excessive amount of unfocussed and unproductive concern -- even paranoia -- about the bar exam. Bar exam pressures appear to affect students from even before their first day of classes. Invidious comparisons are made among schools based on bar passage, when the real questions should concern overall quality of education. And, if comparisons are made at all, they should focus on how well graduates with the same level of aptitude as measured by LSAT scores and G.P.A.s perform, not only on the bar exam, but, more importantly, in legal practice. Loyola does extremely well in these comparisons.

The unceasing and silly competitive bombardment by the bar review courses diverts students from the real and constructive purposes of legal education. Further, as our statistical studies show, there is no magic formula for bar preparation. Good students who have worked hard in law school and have mastered analytical and descriptive skills in challenging courses pass the bar exam. Poor and mediocre students are likely to fail.

This year's results confirm the basic conclusions drawn from prior studies. They are as follows.

Graduates who combine low LSAT scores with marginal law school grades have very limited chance for success on the California Bar Exam. Graduates who combine high LSAT scores with B (80) or better law school grades have a very high likelihood of success. Students whose LSAT scores and grades both fall in

the middle ranges have a lower than 50/50 chance for first time passage. Although a number of these applicants will pass the second or third time, many of those in the lower categories will never succeed.

The most striking thing about this year's figures is that, regardless of what bar officials may say about grading, it is crystal clear that bar passage required a solid "B" performance. Those more familiar than I with the bar exam suggest that on the essay and other written parts of the exam, C or C+ level work is simply not acceptable. It is also interesting and important to note that although at the very highest levels of LSAT results (700 or above) and at the lowest (below 500), the LSAT appears to be a near infallible predictor of bar success, between these extremes, performance in law school is a very strong indicator. Those who have overcome relatively low LSAT scores to perform at the B+ level in law school do very well on the bar exam.

The following figures include all Loyola graduates taking the summer bar including multiple takers. Relatively few multiple takers passed (15 of 54 graduates or 28%.) Most second time takers will be taking the winter bar exam.

SIMPLE ANALYSIS OF TWO VARIABLES AS THEY AFFECT BAR PASSAGE RATES SUMMER 1984

Loyola Grade	LAST	Pass	Fail
over 85	over 700	8	0
over 85	over 650	12	0
over 85	over 600	24	0
over 85	over 550	10	4
over 85	over 500	7	0
over 85	over 450	0	0
over 85	below 450	0	0
80 to 85	over 700	7	0
80 to 85	over 650	9	3
80 to 85	over 600	46	7
80 to 85	over 550	23	20
80 to 85	over 500	9	6
80 to 85	over 450	0	0
80 to 85	below 450	1	3
78 to 80	over 700	0	0
78 to 80	over 650	1	3
78 to 80	over 600	8	9
78 to 80	over 550	5	14
78 to 80	over 500	3	9
78 to 80	over 450	1	7
78 to 80	below 450	0	3

76 to 78	over 700	0	0
76 to 78	over 650	1	0
76 to 78	over 600	6	8
76 to 78	over 550	5	11
76 to 78	over 500	4	6
76 to 78	over 450	0	9
76 to 78	below 450	0	9
74 to 76	over 700	0	0
74 to 76	over 650	1	0
74 to 76	over 600	0	7
74 to 76	over 550	0	6
74 to 76	over 500	0	7
74 to 76	over 450	2	1
74 to 76	below 450	0	5

Some of the low grade / low LSAT passes are multiple repeaters. A number of the multiple repeaters have failed numerous times. There is no indication from this bar exam that multiple repeaters have a substantial likelihood of eventual passage.

Although direct comparisons between the former 200 - 800 LSAT and the new 10 - 48 LSAT are not entirely feasible, a rough comparison is as follows:

700	=	41+/-
600	=	34+
500	=	27+/-
400	=	19+/-

Pass Rate

LSAT

over 700	=	100%
650-700	=	80%
600-650	=	73%
550-600	=	44%
500-550	=	45%
450-500	=	15%
below 450	=	5%

GPA

85-100	=	94%
80-85	=	70%
78-80	=	28.5%
76-78	=	27%
74.5-76	=	10%

Note that above 85 G.P.A. and 700 LSAT, there was a 100% pass rate. Above 80 and over 600, inclusively, the pass rate was 90%. At the other extreme, below 78 and below 550, the pass rate was only 13.9%.

The question of whether the bar exam as currently graded is a fair and appropriate measure for entrance into the profession is certainly debatable.

Although faculties should always grade rigorously, I would argue that our graduates with averages in the high 70s have proven academic competence. However, the grading of the bar examination is not within our control. Therefore, students must evaluate their prospects for success based on the presumption that the current standards of grading will continue.

Is there anything students can do to improve their chances for success?

Obviously, taking the bar exam seriously, selecting a reputable bar review course and devoting substantial time to review and preparation continue to be important. Yet, there are more fundamental matters which must be addressed.

Diligent application to law studies, development of the facility for analysis and writing through basic hard work on papers and in law school examinations are critical. The kinds of pressured analytical skills that are developed in the classroom are the very skills that the bar exam would appear to test.

Those student who do minimal effective work in law school, who rely on watered-down study guides, who are content with mediocre grades, who avoid courses with demanding classroom, writing or exam components or who delude themselves by resort to pass-fail options are setting themselves up for failure.

Those who spend excessive time in outside employment, particularly where it is not monetary considerations, but a desire for "real world" experience which may motivate them, are short-sighted. If a student identifies him/herself as being at risk, consideration should be given to severely limiting extra-curricular activities, participation in externships or programs that may be less than challenging.

Students spend a very short time in law school. They must make the most of the educational opportunity. Students who tailor their schedules and course selection to considerations other than academic quality are making a grave, potentially fatal, error.

Of course, the faculty must share some of the responsibility for maintaining a challenging, demanding environment in our courses.

In upper-division classes, we should not accept poor attendance, lack of preparation, refusal to respond in class

discussion or general passivity among students while a small number of prepared students carry the burden.

Furthermore, although the bar results indicate that our grading is highly predictive of bar performance, we should be constantly vigilant to maintain fair but accurate grading standards. Our students deserve an honest evaluation of their performance.

In conclusion, the purpose of this memorandum was neither to frighten nor threaten anyone. Rather, it is in keeping with our dedication to an open and frank exchange of information within the Loyola community. I have attempted to provide information which should be of value to students as they make judgments concerning their academic programs and their future as members of the legal profession.



LOYOLA LAW SCHOOL

OFFICE of the DEAN

January 25, 1985

The Committee of Bar Examiners
of the State Bar of California
555 Franklin Street
Post Office Box 7908
San Francisco, California 94120

Ladies and Gentlemen:

I am writing to express my concern and that of our faculty over the passing rate for the most recent bar examination.

Although I have both publicly and privately rejected any notions that there is some general agreement to limit the number of bar members, I do believe that a grading standard which results in the failure of 40% of first-time takers from California ABA accredited law schools is excessively stringent and goes beyond the purpose of the bar examination to assure basic legal competence among those licensed to practice law.

I am enclosing a copy of a memorandum I recently sent to the faculty and students along with comparative statistics on our grading and bar passage. As you can see, we readily acknowledge our responsibility and that of our students to strive to upgrade the quality of education and performance within the law school. I would also acknowledge that a small number of graduates each year may be only marginally qualified to enter the legal profession. All grading and line drawing involves a certain margin for error. At the same time, I am convinced that the percentage of our graduates whose legal reasoning ability is below that necessary for competent legal representation is very small indeed. Historically, although 20% to 25% of our graduates might fail the California bar examination once, ultimately over 90% would qualify for admission. Also, virtually all of our graduates in the B (80) or above category would pass and a substantial percentage of those at the C+ level (upper 70s) would also qualify.

Since the quality of our educational program has not deteriorated and since, statistically, the members of our most recent graduating class are the equivalent of any that have gone before, there must have been a more stringent grading

The Committee of Bar Examiners
January 25, 1985
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standard applied, even if it was done without plan and with the best of intentions.

Among the greatest of our concerns is that if the current standards for the bar exam are continued, members of minority groups will be even less represented in the California bar than they are now. In fact, given the discouraging statistics, many black and Hispanic college graduates who could play an important part in the legal life of the state, will not even apply to law school but will turn to other careers instead.

Loyola and other law schools have devoted considerable resources to affirmative action over the last several years. We have a number of outstanding minority graduates who are making a major contribution to our legal institutions and to their communities. At the same time, the number of minority graduates with limited prospects for ever passing the bar under current standards has grown alarmingly. Frustration and despair are replacing hope and ambition.

We at the law schools are put in an untenable position. We provide scholarships and other financial aid, tutorials and teaching institutes to encourage and aid students with minority or disadvantaged backgrounds. Yet, if there is less than a substantial chance for the ultimate success of these students in joining the bar, even if they perform reasonably well in law school, we may be violating our obligations under ABA accreditation standards in admitting and retaining them.

I know that you spend a great deal of time and effort in evaluating the bar examination. I will not propose any radical changes here. It does seem to me that consideration of a consistent passing rate in the 70 to 75% range for California ABA accredited law school graduates would preserve the integrity of the bar and would provide a substantial likelihood that qualified applicants could gain admittance without years of frustration and disappointment. If upon evaluation of a particular exam it was clear that an unexplained substantial deviation had taken place, an adjustment should be made in the passing score. This is standard practice in law school grading. Such a practice would moot the criticisms and suspicions that fluctuation in the bar passage rate was related to extrinsic pressures and considerations and not to the quality of the particular group of applicants.

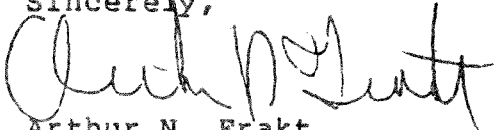
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Undoubtedly, there are a number of other means to ameliorate the situation.

As it stands now, the bar examination is in danger of becoming an almost impenetrable obstacle for many students. Rather than stimulating them to becoming better law students, it may be the sole focus of their concern and have an effect on course choices, teaching methods and involvement in significant extra-curricular activities such as law review and moot court. Low pass rates may also encourage a proliferation of questionable schemes and programs which may use scare tactics to persuade applicants to part with their hard-earned funds in order to learn some sure-fire method of passing the bar, while ignoring the need to concentrate on challenging courses in law school.

I know that you share my concern and will consider this issue with your customary fairness and thoroughness.

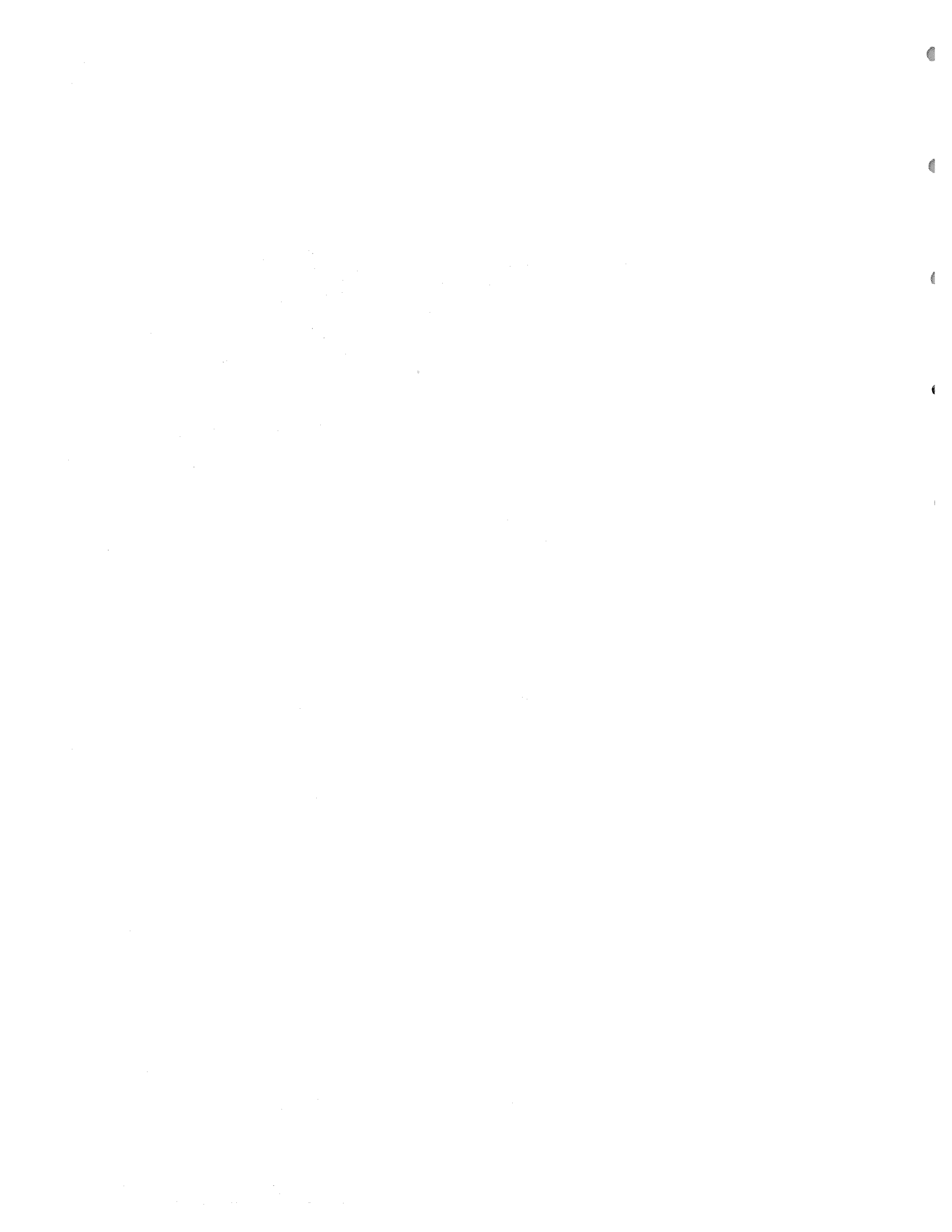
Sincerely,



Arthur N. Frakt
Dean

/lw

Enclosure





Newport University
3720 Campus Drive
Newport Beach, CA 92660
(714) 756-8297
Telex No. 501279

February 25, 1985

Elihu M. Harris, Chairman
Assembly Committee on Judiciary
California Legislature
State Capitol
Sacramento, CA 95814

Attention: Mark T. Harris

Dear Assemblyman Harris:

Your efforts to direct the activities of the Committee of Bar Examiners and the states law schools are to be applauded.

I have answered your questionnaire as directly as I could. The questions are interesting.

I shall attend both sessions of the Judiciary Committee. If I may be of other assistance in support of your worthy cause, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Eugene W. Evans".

Eugene W. Evans, J.D.
Dean, School of Law

EWE/k1
Enclosure

Answers to Questionnaire for Law School Deans

1) Factors considered in determining whether to admit an applicant:

- Most of our applicants are adults who did not have the opportunity to go to law school immediately after completing their undergraduate work. Therefore, our questions are somewhat different from others you may receive. These questions are important to us:
 - a. Does this person really have the desire to change vocations and become an attorney?
 - b. Will this applicant be able to devote the time necessary to complete the program successfully?
 - c. Does this person have the necessary undergraduate background and sufficient indications of success in other college endeavors to be successful?
 - d. Does the applicant meet the requirements of the California Committee of Bar Examiners?
- The average applicant requires more than one hour to evaluate and process. Most of our applicants are contacted by phone if they are not able to appear for a personal interview.

2) Applicant process:

- a. After we are contacted by the prospective student, we send a packet describing our law program and setting forth the requirements for admission, taking the full law program, passing the bar, obtaining employment as an attorney.
- b. Usually, an interview, either in person or via telephone, takes place between the Dean or a faculty member.
- c. The prospective student's application follows. If the Dean has not talked to the applicant, he does so now. The application is evaluated and the decision concerning admission or non-admission is made.

Concerns are:

Does this person really want to be an attorney, as opposed to what glamour or affluence he might expect? Will the student be able to apply himself to succeed in the course and pass the bar?

Most of our students indicate a desire to utilize their legal training for some admirable objective. Many of them have impressed us with their accomplishments while still in school.

3) Is there an effort to admit a class which is socially, economically, sexually or racially diverse?

- No, we have not consciously made an effort to admit any one class of person over or ahead of another. Our students do come from all walks of life and their backgrounds are different. We are used to this diversity and it becomes a consideration only when there is a concern for the individual's language skills. Even then, we may try to work with that person in sharpening those skills.
- Your question asks if we are "opening up the legal profession to people who have traditionally been excluded?" Of course we do. The American Bar Association pushes for full time students only. The University of Southern California, Fordham and Notre Dame, among others, had to close their night law programs or lose their A.B.A. accreditation. A.B.A. states that their schools cannot accept credit for any correspondence work. The majority of our students have a job, they have families and responsibility. They could never attend law school unless they could continue to work. Students at Stanford require \$20,000 per year for tuition, books, board and room. They cannot work for the three years they are in school.

Most of our students are excluded by this economic requirement. We don't allow any "special admission." We are proud that our program is flexible enough to provide our students with the opportunity to work and be creative in their jobs and still advance toward a degree and a new career in the law. But it is not because of any special provisions.

4) Financial aid to special students?

- Tuition payment plans are available to all who request them. All tuition grants are honorary awards based upon merit, not need.

5) What more is needed to correct the historical tradition of the exclusion of women and minorities from the legal community?

- Presently, women are not excluded from admission to any law school that I know of. Certainly, they are welcome here. Their opportunities in the job market are opening more and more. Some law firms hire only the "token females" because they feel that their clientele demands an experienced male only. Women will prove themselves, it just takes time.

The aid for minorities must come in the form of a more general "solid education" from elementary school through law school. The educational process cannot start at age twenty-five. The student must be educated as a youngster if he or she is to be successful as a law student.

6) Do you feel that you are better qualified to judge one's legal ability, latent or potential, than the Committee of Bar Examiners?

- No, I don't feel that I am "better qualified" than the Committee of Bar Examiners, but I am as well qualified and I do get to know the applicant better than they do. However, we need to set standards of excellence and upgrade them periodically or we will not improve mankind. High

6) Continued

- standards are fine, just be careful not to exclude those who might well meet the performance requirements because of economic or other barriers.

7) Regarding the bar examination:

- Yes, I think the bar examination is a good determiner of whether one has the legal knowledge. It does not determine if one has the "minimum skills" to practice law. It is important that the one who performs a heart transplant or who represents one in a court case be qualified. The bar examination is one determiner. I'm pleased that the state of California does not allow public outcry nor a law passage rate lower than standard to force the Committee of Bar Examiners to lower the standards. If anything, it should be higher.

8) Why poor performance on the bar examination?

- In my humble opinion, any normal college graduate can enter law school, succeed and graduate, and pass the bar examination. Those that do not do this, so simply as I state it, have not convinced themselves that they need to know the law in great detail in twelve areas of concentration. Once they decide that it is necessary to know the law to this great detail, then they will pass.

I don't believe that the caliber of law school graduates has deteriorated. They are more knowledgeable in a general way, but the bar requires a detailed concentration.

9) Do you feel that your law school's curriculum is sufficient to graduate students who can pass the bar examination and who will perform competently as attorneys?

- Yes, of course. If it were not, it would have been revised.

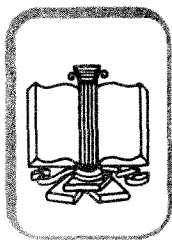
10) The primary goal of our school is to prepare our students to practice the law.

- We are proud that we succeed in providing this opportunity to those who could not get the chance in an A.B.A. accredited school.

11) Regarding the two-tiered bar admission process:

- For the majority of all legal clients, a single attorney is best if he has the proper talents and legal skills to do whatever needs to be done. To add another level of specialization and force the client to hire two attorneys is not prudent nor necessary.

12) Any way in which the over-all skills of the attorney can be improved is good. A clinical program might well do this.



McGEORGE SCHOOL OF LAW

UNIVERSITY OF THE PACIFIC 3200 Fifth Avenue, Sacramento, California 95817

February 14, 1985

Honorable Elihu M. Harris
Chairman
Assembly Committee on Judiciary
California Legislature
State Capitol
Sacramento, CA 95814

Attn: Mark T. Harris

Dear Mr. Harris:

The admissions process at McGeorge involves a very careful review of each file regardless of whether the basic indicators of aptitude (aptitude test score and undergraduate grade point average) indicate that the applicant is in a range where acceptance is relatively routinely granted or denied. All factors such as age, maturing experiences, activities in which the applicant has engaged, personal statements, and recommendations are reviewed. Whatever time is required is taken by the Dean of Students for initial screening of all files.

Applicants from minority groups are specially reviewed by an advisory committee composed of minority students as well as faculty.

While the aptitude test score and undergraduate grade point average are given significant weight because of the logic of human experience which has demonstrated that they are predictors of academic success, our experience has also shown that other factors may well demonstrate prospective academic and practice success and, thus, are permitted in a number of cases to prevail respecting the admission decision.

The likelihood of successfully completing our academic program is the important inquiry because it is highly predictive of ability to become a member of the bar. Special concern is exercised to give opportunities which would diversify the membership of the bar and,

also, permit service to underrepresented segments of our society. Thus, there is a serious effort to bring about diversity in the entering class.

More available financial aid in the private sector would undoubtedly make efforts at diversity even more fruitful. We do make special financial aid available, but it simply cannot match the savings that can be made by students by attendance at tax supported law schools.

We do not believe that a bar examination should be eliminated as a condition to practice. The diploma privilege, once in vogue, has significant problems of its own. However, I am not satisfied that there have not been continuous changes, experiments, and other activities not necessarily related to competency to practice which have been major factors, in and of themselves, to a significantly falling pass rate on the California Bar Examination:

1. Abandoning the practice of having Deans, professors, and others in the legal community at the sessions following the bar examination where grading levels are reviewed and proposed course coverage is discussed.

2. Abandoning the practice of having a Committee on Legal Education in which the Bar Examiners and Deans of Law Schools would discuss problems of mutual concern respecting legal education and the bar exam.

3. Returning the bar examination to a full three-day marathon from the reduced time frame recommended by the law schools over the years when there was a law school education committee.

4. Eliminating an optional question in each of the essay sections. This, by its nature, reduces the number of different subjects which the applicant may choose to answer.

5. Maintaining one of the highest levels of MBE score needed in the United States to contribute at a passing level to the overall bar examination score.

Honorable Elihu Harris
February 14, 1985
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6. Scaling the results of the objective portion of the performance portion of the bar examination to the MBE portion which has resulted in less weight being given to a student who does particularly well on this part of the performance examination, even though the MBE and performance sections purport to test different skills.

7. Changing over the past decade a variety of other matters related to format and grading (i.e., number of essays; time for each essay question; weighting of MBE; changes in overall "pass" criteria; introduction of and variations in phased grading; introduction of two-part performance test; elimination of part one (multiple choice questions) of performance test). Changes relating to format or grading processes have occurred in at least 1972, 1974, 1977, 1979, 1980, 1983, and 1985. Although a wealth of statistics are available related to these changes, it does not seem clear that a combination of frequent changes in format and grading, the absence of the former cooperation between the law schools and the Committee of Bar Examiners mentioned in 1 and 2 above, and the attempt of graduates to prepare for the bar examination in light of a changing scene is not having an effect unrelated to competency to begin practice.

The McGeorge graduates of the past two years who had lower bar results than our excellent results of over ten years running were of the same caliber and had the same education which resulted in such success by their predecessors. The goal of the McGeorge School of Law, adopted by our faculty, is attached. We believe we are accomplishing all facets of this goal successfully.

We see no basis for a special trial advocacy portion of the bar examination nor a specific requirement of clinical skills. We have excellent programs in both of these areas which are undertaken by many of our students, but we see no basis to presume that additional requirements upon law students in the curriculum will assist in developing more competent practitioners.

Very sincerely yours,


Gordon D. Schaber, Dean

GDS/jk
Enclosure

McGEORGE SCHOOL OF LAW STATEMENT OF GOALS

Men and women who pursue a legal career have special knowledge and professional skills, and they bear special responsibilities to their clients, their associates, their communities, and the administration of justice. McGeorge, a national law school, seeks to prepare students for competently and responsibly filling the many roles performed by members of the legal profession. To achieve this goal, McGeorge's educational program combines required fundamentals, elective opportunities, skills training, practice in real-life situations, and the advanced study of law and policy in local, state, federal, and transnational areas.

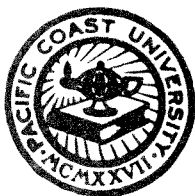
Society changes, of course, and new laws and institutions emerge. Lawyers must be able to respond appropriately. McGeorge educates for change in its traditional Socratic classes and by individualizing instruction through simulations, computer exercises, and clinical experiences with real clients. Thus we seek to graduate well-rounded persons who possess legal knowledge, skill, imagination, and good judgment.

Acquiring a legal education, as thus understood, calls for much more than learning substantive rules of law. Law students must also learn how to apply law in the context of litigation, arbitration, mediation, planning, and counseling. Solving problems in those contexts requires incisive analysis, creative thinking, effective communication, and skills of interviewing, fact gathering, research, advocacy, negotiation, and judging. In addition, lawyers must appreciate how legal and social institutions interact, and they must develop an ability critically to assess their own work.

Advancing knowledge of the law and its practice as well as contributing to the wider communities of which law and legal education is a part are also important goals for the school of law. Through faculty scholarship and student publications, McGeorge enriches the literature of the law as well as its educational programs. Through an array of law-related services locally and at state, national, and international levels, McGeorge students and faculty serve these various communities and thereby gain a deep understanding of human activities, institutions, and conflict.

Legal education must be a moral force as well as an intellectual challenge. Lawyers owe loyalty to the clients whose confidences they acquire and whose rights they guard. Lawyers also owe loyalties to the administration of justice because the legal profession seeks to advance justice through law. When resolving conflicting loyalties, lawyers must integrate professional responsibility and conscience.

Legal education never truly ends. It is a lifelong process. McGeorge School of Law, treating students as co-professionals, seeks to provide students with a solid foundation for a lifetime of learning. We hope to instill a standard of excellence against which an emerging professional may measure and critically evaluate his or her own work and lifelong learning. Thus educated for professional challenges, McGeorge graduates will be ready and able to represent clients effectively and to help fashion the future of our democratic society in an increasingly complex and interdependent world.



Founded 1927

PACIFIC COAST UNIVERSITY
SCHOOL OF LAW

Irv Schleimer, Dean

440 Redondo Avenue, No. 203
Long Beach, California 90814
(213) 439-7346

February 22, 1985

Mark T. Harris
Office of the Hon. Elihu M. Harris
California Legislature
State Capitol
Sacramento, CA 95814

Dear Mr. Harris:

In response to your questionnaire, I am pleased to register my views in the attached reply.

Let me take this opportunity to express my thanks to you and others of the Assemblyman's staff for your efforts to make improvements in the vital area of legal education in California.

I am also writing to Assemblyman Harris concerning the forthcoming hearings, which I am planning to attend.

Sincerely yours,


Irv Schleimer

IS/gj
Encl.

Questionnaire Response:
Pacific Coast University
School of Law-California
Assembly Judiciary Comm.
Feb 25, 1985

1. We believe in the open door. We admit those who possess the qualifications set forth in the regulations and who have the motivation to succeed.

2. All of the qualities mentioned are important: potential competence, academic ability, and desire to serve. As a community-based school, we are proud to say that scores of our graduates are presently serving in private practice, on the bench, in district attorneys' offices, and as public defenders.

3. Our student body reflects a wide diversity in background because our tuition is low, our classes are in the evening, close to students' homes, and our door is open to all. Of this year's entering class, about one third are minority students (13 out of 41), including Black, Latino and oriental students. Nearly one half (17) are women.

Our graduates reflect the success of our approach in that two of our Black alumni have become judges in our community and another rose to be a member of the Board of Governors of the California Bar, the first Black member so far as we are aware.

As to the question of why many minority students leave law school before graduation, we find that the First-Year Bar Examination, with what we see as its unreasonably severe grading practices, discourages many students. There is no reasonable justification for the First-Year Bar to be more rigorous than the General Bar itself.

We do feel that we are making a contribution to opening opportunities to those traditionally excluded from the profession. All of our students, minority and other, represent those older working adults with family responsibilities who would otherwise not be privileged to study law. A significant percentage are CLEP students, those admitted with less than the traditional number of college units on the basis of the College Level Equivalency Examination.

4. We have no financial aid. Total tuition for the current year is \$595, plus \$50 in fees. There are no other charges to the student.

5. Encourage the independent, community-centered, non-accredited law schools! There have been moves in recent years by elitist-minded elements in our profession to force these traditional California institutions to close. Mayor Bradley graduated from one of these schools. In the sixties, four out of seven California Supreme Court justices were graduates of then-nonaccredited schools. What future leaders of our state will we be excluding if we close such schools today?

6. As a teacher as well as Dean in a small school, I know all my students well; I have a mental list of those who should be able to pass the Bar Examination. I do believe however that the examination should be retained as the ultimate criterion of who has met the necessary standards to begin the practice of law.

7. The bar examination is essentially fair in that all the students take the same examination and are in the same boat so far as evaluation is concerned. It is a Rite of Passage that no one has found a way to replace without doing severe damage. True, those with fewer opportunities in their earlier education are at a disadvantage. Recent changes instituted to alleviate this situation, however, have been counter-productive. The pass rate has declined from year to year.

The multiple-state section and the performance test have not improved the ability of the examination to measure what it should be measuring and can measure: the extent of the student's legal knowledge. The questions on the multi-state section have the weakness of all "objective" examinations. While cheap and efficient, they attempt to trip up the examinee rather than probing his or her legal knowledge. The fact that old test questions are not released further calls into question the validity of this section.

As for the performance test, it can be argued that an undergraduate English major with no special knowledge of the law could outperform many a well-prepared candidate.

No test is perfect, but an all-essay test is best suited to measure what we should be measuring--how much does the candidate know about the law?

(I will bring an alternate proposal as part of my testimony at the forthcoming meetings.)

8. If anything, the caliber of students has improved; it is the law which becomes more complex year by year. To say that student quality is declining is akin to the argument that the lower pass rate is due to students from the unaccredited schools. Not so! In the July, 1984, examination, only 89 first-time takers and 189 repeaters from unaccredited schools were among the 7532 candidates. Clearly, the problem is a more general one.

9. Yes. Our school, one of the smallest in California, has been producing competent attorneys since its inception in 1927. In the past three decades, of all eligible candidates, a large majority, 74.9%, became attorneys. Our estimate is that we have 350 to 500 alumni as members of the Bar, many of whom have served in such roles as Municipal and Superior Court judges, President of the Association of Trial Lawyers of Los Angeles County, and Member of the Board of Governors of the State Bar. Today the city attorneys of four or five California cities, including our own city of Long Beach, are alumni, and five of our graduates have become judges in the past two years, joining their many distinguished colleagues on the Bench.

10. For over half a century our goal has been to provide an affordable quality legal education to qualified adults in our community.

11. A two-tiered bar admission process would result in a two-class system of legal practice such as that of Britain. Were we to have the equivalent of barristers and solicitors, the process of screening the former, the elite of the profession, would of necessity involve an oral performance test. The resulting loss of anonymity, in which applicants would be subject to the personal scrutiny, and by implication the personal prejudices, of the examiners, would defeat the goal of fairness that we are all pledged to support.

12. For those entering law school directly from college, clinical experience can be most valuable. Our own students have been, on average, out in the working world for upwards of five or ten years, in many cases in law-related occupations. While they have been raising families and supporting themselves, they have undergone a schooling in the day to day functioning of the law in the course of their own working lives.

Please note; We would like to submit to the Judiciary Committee proposals for their consideration.



SAN FERNANDO VALLEY
COLLEGE OF LAW
University of La Verne

8353 Sepulveda Blvd.
Sepulveda, California 91343
Telephone: (818) 894-5711

February 7, 1985

Elihu M. Harris, Chairman
California Legislature
Assembly Committee on Judiciary
State Capitol
Sacramento, CA 95814

Attention: Mark T. Harris

Dear Mr. Harris:

Enclosed is my response to Chairman Harris's request,
by letter of February 1, 1985.

Very truly yours,

John C. Huffer
Dean

JCH/b

RESPONSE TO QUESTIONNAIRE
FOR LAW SCHOOL DEANS

- 1) What factors do you consider when your school is determining whether to admit an applicant?

Because we admit students with varying levels of pre-law academic training, it is necessary to specify a base category in terms of each admission applicant. Our academic mission describes a fundamental objective of providing maximum opportunity consistent with academic integrity. Thus, we are looking for criteria by which to establish a level that assures these objectives.

Degree Applicants - (Bachelors Degree or Equivalent)

LSAT, undergraduate GPA, courses of study at bachelor level, interview.

Non-Degree Applicants - (60 or more units of postsecondary education but no degree)

LSAT, age (and other factors that might justify law school without returning for bachelor's degree such as economic necessity) alternative life experience, undergraduate GPA, courses of study at bachelor level, interview.

Special Students (less than 60 units of postsecondary education)

Special evidence of equivalent academic development to compensate for lack of formal education such as extremely high LSAT, career success, CLEP scores (mandatory), age and other factors that justify admission without additional academic background such as economic necessity and alternative life experience, interview.

How are these factors weighed in relation to each other?

The most constant point of reference is the LSAT, required of all applicants. The level required to satisfy an admission approval varies with the applicant's category and is also weighed in terms of factors that might affect scores (such as time away from academic pursuits and standardized testing, English as a second language, etc.). Course of study is at least as significant as undergraduate GPA which is difficult to evaluate due to wide grading variances. Personal interviews are relevant mainly to evaluate attitude and motivation which is considered a relevant criteria.

How much time is spent on each admitted applicant's application?

This would, again, depend upon existing criteria. An automatic administrative admission decision can be made for "Regular" students whose LSAT and GPA is high enough. Admission Committee review is required of all others. An interview is required of all Special "Students" and will be required as to all marginal "Regular" applicants.

- 2) What process do you engage in as you select admitted applicants? Are you concerned with their ability to be a good lawyer?... their ability to pass the bar?...their ability or desire to, in some way, serve the community or the needs of society?

The process is generally described above. Our concerns are chiefly with academic potential rather than career objectives. Academic potential includes ability to succeed in law school and to pass the bar. However, our opportunity orientation mandates that some students will not succeed in law school (more often out of factors other than basic inability) and results in lower passage rates on the bar examination than schools whose academic policies are aimed at recruiting the brightest possible student body. We generally feel that a passage rate of 80% after three opportunities represents validation of our admission policy and academic program. We essentially do not consider career goals of service, except as they translate into perceptions of special motivation and therefore do not have any basis for measuring student success in reaching these goals.

- 3) Is there an effort by your school to admit a class which is socially, economically, sexually or racially diverse?

A second aspect of our academic mission has been service, as a regional law school, to the geographic community of the San Fernando Valley. This, coupled with an opportunity orientation, results in exceptionally broad diversity in all the described areas.

- If so, are these efforts successful? ...i.e., do people you admit for reasons of diversity actually attend and complete law school?

We feel we are very successful in reaching out to a broad range of social, economic and sexually diverse students and in graduating an appropriate portion of those who enter. We have not been as successful in the area of racial diversity. Despite efforts to attract Black and Latino students, racial groups that represent approximately 40% of the population area we serve, we have not achieved a proportionate enrollment from these groups. Our success in graduating those that do enroll has been only slightly lower than our general enrollment.

- If not, why do they go elsewhere or leave before graduation?

It is our perception that a combination of family environment, substandard schools and cultural estrangement have resulted in a disproportionately low number of applicants from those racial groups who possess the special communicative and analytic skills that are necessary to law school. Affirmative action plans have attracted those who are well qualified to more affluent schools that can offer more in student aid as well as to top law schools where prestige is a factor.

- In effect, are you opening up the legal profession to people who have traditionally been excluded? Are you allowing some students "special admission" because of the diversity they may add?

We have, as noted, been successful in several areas. Close to 50% of our students are female, many are career change adults. Approximately 75% of our students attend part-time making it possible for economic obstacles to be overcome. We are equipped to and do handle physically handicapped students. We do not have "special admissions" since our qualifying criteria, as discussed above, are designed to provide broad opportunity. Any lessening of standards would threaten to foster unrealistic expectations in students so admitted and could adversely affect the academic effectiveness of the classroom.

- 4) Is financial aid available to special admissions students who need it?

Financial aid is available through limited tuition remission, and State and Federal loan and work study programs. We do not have special admissions.

- 5) What more is needed to truly correct the historical tradition of the exclusion of women and minorities from the legal community?

As to women, current enrollments and opportunities after graduation appear to have closed the gender gap. As to minorities, concentrated effort must be taken in the pre-law school education if standards are to be retained while increasing minority representation. I enclose a copy of a brochure on a program that we tried unsuccessfully to introduce through our institution (it failed for lack of enrollment.) We see poor training at the college level as the most significant obstacle.

- 6) Do you feel that you are better qualified to judge one's legal ability, talent or potential than the Committee of Bar Examiners?

I believe that successful completion of law school at a qualified institution is a more significant criteria for judging legal ability. In the interests of uniform standards, however, I believe there is a need for a general bar examination. I believe the recent trend of the Committee of Bar Examiners to minimize the consultative process with law school administrators and faculty and resulting efforts by that body, particularly efforts to eliminate the essay portion of the bar examination, lessen the effectiveness of the Committee's role in the licensing process.

- 7) In your opinion, is the bar examination a good determiner of whether one possesses the minimum skills necessary to practice law in California?

I believe that it is about as good as could be currently devised. Given adjustments in the Performance Test portion of the exam based upon experience, I believe it is a fair approach to a difficult problem. I endorse the effort to increase "skill" evaluation both as a safeguard to the public and a message to law schools to put more emphasis on such areas. At this time I would suggest the Committee concentrate on stabilizing the process, assuring its integrity (and appearance of integrity) and allow the law schools time to address the adjustments in curriculum that are likely to follow from the current format. The contemplated elimination of the essay portion of the examination would be one of the worst things that could happen to the educational process.

- 8) Why are students from every law school throughout the state, doing so poorly on the bar examination?

Obviously, no one has the answer. A partial answer undoubtedly lies in the recent research by the National Institute of Education of the U.S. Department of Education. Test scores in GRE, LSAT, GMAT and MCAT indicated an increase in undergraduate professional majors (as opposed to arts and science majors) of 30% with a corresponding decrease in test scores among these majors. This movement away from areas characterized by formal thought processes, deductive reasoning and structural relationships such as mathematics, philosophy, engineering, economics, etc. (where test scores were higher) is particularly pertinent to law school and ultimate bar examination success (which are extremely closely correlated.)

It is also my belief, inherently undemonstrable, that subtle, perhaps subliminal attitudes about the 'glut' of lawyers can significantly affect the rather subjective grading process through the practicing lawyers that make up the Bar Exam Readers. I certainly do not subscribe to any conspiracy theory. It is, however, beyond argument that our California students are held to standards that are much higher than in many other states. Ample proof of this lies in the bar passage rates of attorneys sitting for the California Attorney's Examination involving the same essay portion of the general Bar Examination. As to the caliber of law school graduates, I am uncertain. Based upon firsthand observation, I would say no. They are largely bright, hardworking students that are graduating today. The explanation may be found in specific deficits they possess coming into law school, as discussed at the beginning of this section. There is some perception of a lack of skill in analytic reasoning that would be consistent with this and might explain why seemingly bright, hardworking students are writing inadequate exams and doing poorly on the analysis oriented multi-state portion of the examination.

- 9) Do you feel that your law school's curriculum is sufficient to graduate students who can pass the bar examination and who will perform competently as attorneys?

Yes, as to sufficiency but no as to an idealized curriculum. We are working toward a better balance in skill training which, however it effects the bar examination, will unquestionably improve performance as attorneys.

- 10) Please describe the primary goal of your law school.

Our primary goal is to provide an opportunity for quality legal training to residents of the geographic area we serve. Our curriculum is designed (and being reviewed on an ongoing basis) to reflect the role of our graduates which will be essentially to enter the mainstream of private practice in small firms, associations and sole practice and as attorneys in government and private agencies. This involves a heavier emphasis on practical training than some schools with a highly academic orientation but includes strong concern for introducing students to concepts of professionalism and ethical conduct. In terms of realization, we are now undertaking a major curriculum revision that would promote this emphasis and lessen the existing gap between law school success and and competency in the practice of law.

- 11) Should California adopt a two-tiered bar admission process with those seeking to become trial attorneys being required to pass an exam that includes a trial advocacy section?

I would be cautious in considering such an approach simply because the level of an exam that could legitimately be administered to recent graduates would be relatively meaningless as a criteria for significant classification. I would prefer a specialization process similar to programs now under study.

- 12) Should all bar admission applicants be required to have spent some percentage of their law school career in a clinical program?

Probably not. There should be greatly expanded opportunity for such training but there are certainly law students headed in career directions for which any generalized clinical training would be inappropriate. A specialized clinic for these students would impose an impossible burden on the law schools by way of alternative clinical offerings.

STANFORD LAW SCHOOL

February 13, 1985

The Honorable Elihu M. Harris, Chairman
Assembly Committee on Judiciary
California Legislature
Sacramento, California 95814

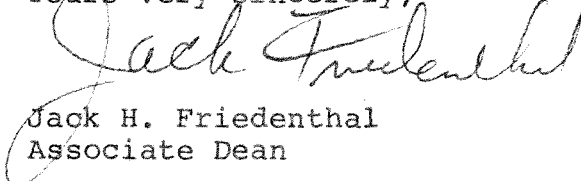
Attention: Mark T. Harris

Dear Sir:

Attached to his letter are Stanford Law School's responses to your inquiry of February 1, 1985. I certainly hope they provide the information that you require. If you have any questions whatsoever, please do not hesitate to write me for explanation or further information.

I await your response. In accordance with your plans, I am preparing to appear at the Hearing on March 26, 1985, if that is so desired.

Yours very sincerely,



Jack H. Friedenthal
Associate Dean

t

Encl:

*Jack H. Friedenthal,
George E. Osborne Professor of Law
Crown Quadrangle
Stanford, California
94305*

RESPONSES TO QUESTIONNAIRE DIRECTED TO THE STANFORD UNIVERSITY
LAW SCHOOL DEANS, ISSUED BY THE COMMITTEE

1. Stanford Law School considers a student's undergraduate academic record, including grades and nature of courses taken, the Law School Aptitude Test, and specific factors about the individual applicant which make him or her provide diversity for our student body and make him or her an especially attractive member of a class.

Every case is, in essence, a special case. We do maintain a very high threshold, although no specific numerical floor has been set. We have a large number of applicants who generally are the highest quality applicants applying to the law schools in the United States. It is very important that we not admit people to our law school who, though certainly qualified to study law and become lawyers, will not be able to meet the special level of competition at our institution. It is difficult to say how much time is spent on each admitted applicant's application because, in many cases, it will go through a number of hands for comments and evaluation. A typical application, ultimately accepted, will be read first by the administrative director of admissions, then by the chairman of the faculty admissions committee, who will have it sent along with a number of other files to another faculty member. The latter will look through the files sent and specify those that are of particular interest. He will then write a memo as to why certain applicants look particularly promising. The file will then return to the chairman of the admissions committee who will re-read it. He or she may decide at that point to admit the applicant or to circulate the file to another committee member. In the latter case the committee member will read it, comment upon it and return it once again to the chairman of the committee. Some files will be circulated to the dean of students who has special expertise regarding applicants who belong to recognized ethnic minority groups. She or he will provide the chairman of the committee with an evaluation, and frequently the two will consult face-to-face about a particular applicant. In some cases, then, several hours may be spent on an individual file.

2. Our process is described in our answer to Question 1. Basically we are concerned (1) that applicants be thoughtful, highly intelligent persons who will be able to understand legal concepts and the policies behind them. (2) We also are concerned that they have some feeling for other individuals as well as

for national and local institutions, since we are deeply concerned that they be capable of and willing to serve the community and society after they have completed their law school careers.

We are not directly concerned with the question of whether they are capable of passing the Bar, simply because the people whom we attract and admit to our school are extremely bright and capable and we can safely assume that the Bar will not be a serious barrier to all but a very, very few. Our graduates generally meet all of our expectations.

3. Yes, we do make a special effort to make classes that are economically, socially, sexually, and racially diverse. We are successful, but it takes constant work. The vast majority of all our students complete their education here. Again, please refer to our answer to Question 1.

4. Financial aid is available on an equal basis to all students. It is our policy to assist every student with needs to attend; therefore those people with extraordinary need receive the largest financial packages. Because of our high tuition and other costs, many of our students would not be able to attend without such assistance. Of course our financial awards are limited by our overall resources. However, we believe that we are generally more generous than comparable private institutions.

5. It seems that little more is needed to correct the situation respecting women. Our first-year class, for example, is over 49% women. As to minorities, the needed correctives run very deep, into economic status and early education, and probably are substantially beyond the competence of either the organized bar or law schools.

6. We are each qualified to judge different things, which is why it probably is a good idea to maintain two screens.

7. See answer to Question 6.

8. We emphatically disagree that the caliber of the Stanford graduates has deteriorated over the years. We cannot speak for other institutions, although the overall number of applicants nationwide for law school seems to be falling, and that would indicate a trend away from law. The logical result would be some deterioration in the overall caliber of students who attend.

9. Yes.

10. Our law school has many goals; the primary one, we suppose, is to train broad-gauged, idealistic, and highly competent lawyers. We believe that we have been quite successful in achieving this goal.

11. No. Litigation is but one of many specialties, and there is no reliable evidence of which we are aware to suggest that the incidence of incompetence is any higher among litigators than among office lawyers.

12. Although Stanford Law School's clinical offerings are unusually rich, we do not believe that such an experience should be required.



JESSE H. CHOPER
DEAN

SCHOOL OF LAW (BOALT HALL)
BERKELEY, CALIFORNIA 94720
TELEPHONE: (415) 642-6483

February 13, 1985

Mr. Mark T. Harris
Office of Assemblyman Elihu M. Harris
State Capitol
Sacramento, California 95814

Dear Mark:

This is to respond to Elihu Harris' questionnaire concerning issues related to the practice of law in California. Although his letter suggested shorter answers than I have provided, I hope you will find the following helpful:

1. What factors do you consider when your school is determining whether to admit an applicant? Official faculty policy reads, "Those applicants shall be accepted for admission who, on the basis of their academic achievement, LSAT scores and other data, appear to have the highest potential for law study and for achievement in and contribution to the legal profession, legal scholarship or law-related activities." (See enclosed policy for further details.) In respect to grades, we consider quality of undergraduate institution, difficulty of course work, age of grades, trend of grades, preparation for academic work, substantial time commitments while in school, disadvantaged background, physical or learning disabilities, and any other relevant factor presented in the application. In respect to the LSAT, we consider circumstances under which the test was taken, prior test history, repeated tests, and other relevant factors that the applicant may point out. No weight is given to the applicant's sex, political background, sexual orientation or age. Letters of recommendation are weighed, as are work experience, extracurricular activities, special talents or accomplishments, academic honors, and graduate studies. Geographic origin is considered only insofar as needed to secure preference for California residents. No weight is given to use to be made of legal education nor financial condition (since financial aid is available to all who need it). The information considered is presented in a personal statement and letters of recommendation, as well as transcripts and LSAT reports.

-- How are those factors weighed in relation to each other? The undergraduate grade point average and the LSAT score are weighed equally, and each is viewed in relation to the factors under which it was earned. Every file is read; we have no cut-off points. Individual judgment is employed in determining further review by the members of the faculty/student committee in making final decisions.

-- How are anomalies or special cases explained or justified? Special cases such as special consideration for racial and ethnic minorities and a sensitive understanding of the circumstances of the disabled, are handled through a case by case method. Faculty policy for the diversity goals for the makeup of the class justify special consideration for minority students. Extraordinary accomplishments, sometimes in view of negative circumstances, justify such decisions for others.

-- How much time is spent on each admitted applicant's application? A minimum of two hours, a maximum of twice that depending on the complexity of the circumstances. Since the Director of Admissions admits the most outstanding candidates on academic measures, these applications may receive as little as a half-hour of professional time.

2. What process do you engage in as you select admitted applicants? Are you concerned with their ability to be a good lawyer? their ability to pass the bar? their ability or desire to, in some way, serve the community or the needs of society? Faculty policy states that, "In no event, and irrespective of special consideration, shall an applicant be admitted unless it appears that there is a high probability that he or she will be able to compete successfully in the course of instruction at Boalt Hall." Therefore, our primary consideration is an academic one -- to succeed as a law student -- assuming that this leads to successful performance as a lawyer. Ability to pass the bar is an implied criterion and, because of lower pass rates among minority students, it is a matter of substantial concern to us. Faculty policy also states that "No weight shall be given to how an applicant intends to use his/her legal education." Thus, we do not admit people on the basis of their stated desire to serve the community or needs of society. A high proportion of our applicants do state this as a personal goal, but applicants often lack a clear understanding of the work of a lawyer and the opportunities to serve society and, in any event, the weight to be given this stated goal is extremely difficult to appraise.

-- Do the people you accept for one of the above-mentioned reasons go on to perform in the way you expected? As indicated above, we don't track people on the basis of such subjective admission decisions. However, observation indicates that many more applicants and entering students state that they will work in the public sector in service to society than in fact do so.

3. Is there an effort by your school to admit a class which is socially, economically, sexually and racially diverse? Our admissions policy states: "Diversity within the student body is recognized as a legitimate goal of the

admissions process. Experience indicates that this goal is satisfactorily met without its explicit consideration in individual admissions decisions except with respect to those racial and cultural minority groups which have not had a fair opportunity to develop their potential for academic achievement and which lack adequate representation within the legal profession. Special consideration shall therefore be given to applicants from those groups to the extent necessary to achieve significant representation from each of them at Boalt, defined approximately as follows: 8-10% Blacks, 8-10% Chicanos, 5-7% Asians, and roughly 1% Native Americans," or, taken together, "23-27% of each entering class."

-- If so, are these efforts successful: i.e., do people you admit for reasons of diversity actually attend and complete law school? Yes.

-- If not, why do they go elsewhere or leave before graduation? They generally stay at Boalt and graduate, although the disqualification and withdrawal rate among students given special consideration is slightly higher than average.

-- In effect, are you opening up the legal profession to people who have traditionally been excluded? Are you allowing some students "special admission" because of the diversity they add? Because Boalt Hall has for years enrolled one-quarter or more of each entering class from members of underrepresented groups, it is clear that we have done a great deal to open the profession to those traditionally underrepresented. We regularly enroll a richly diverse class.

4. Is financial aid available to special admissions students who need it? Yes, on the basis of financial need.

-- Does the availability of financial aid improve attendance by special admissions students? Yes.

-- Do you actively use financial aid to recruit students with "special" (i.e., extraordinary) economic need? Yes, principally by pointing out that Boalt Hall is one of least expensive law schools in the country and that we have substantial aid available to our students. (Of course, we could always use more than we have.)

5. What more is needed to truly correct the historical tradition of the exclusion of women and minorities from the legal community? The entering class at Boalt Hall this year was 47% female. We have moved rapidly toward parity in this area and the problem at the admissions end of law school seems close to resolution. The issue with regard to minority admission is more complex and less easily resolved. The pool of qualified applicants, while growing, is still very small.

As of January 6, 1985, there were only about 3500 black applicants nationally, 700 Chicanos, 1100 Asians and fewer than 300 American Indians. Further, their average entrance credentials were fairly uniformly below the 50th percentile. Until more minority students are prepared in college for law school entrance, and more high school students are prepared for college, this situation will continue. The Law School Admissions Council has aggressively addressed this question with its Task Force on Minority Admissions, and additional and broader efforts of this kind should be supported.

6. Do you feel that you are better qualified to judge one's legal ability, talent or potential than the Committee of Bar Examiners? I really have no confident judgment as to this question.

7. In your opinion, is the bar examination a good determiner of whether one possesses the minimum skills necessary to practice law in California? I have made no careful study of the bar examination and thus cannot answer the question with any real confidence. But, on the basis of my knowledge of the California bar examination, I think it is quite well conceived.

8. Why are students from every law school throughout the state, doing so poorly on the bar examination? I really do not have an answer, although I should add that Boalt Hall students overall continue to do quite well. We are, however, very concerned about the lower bar passage rate of our students from some minority groups.

-- Do you agree with the Committee of Bar Examiners that the caliber of law school graduates has deteriorated over the past few years? While it is possible that this may be the case, the quality of applicants admitted to Boalt Hall in the past few years has not deteriorated. In fact, each minority entering class has been modestly better qualified than the one immediately preceding it.

9. Do you feel that your law school's curriculum is sufficient to graduate students who can pass the bar examination and who will perform competently as attorneys? Yes.

10. Please describe the primary goal of your law school. There is no easy answer to this question. Personally, I believe our primary goal is to "stretch the minds" of our extraordinarily talented student body. I see our function as being much larger than familiarizing our students with existing bodies of law. It is primarily to develop and sharpen their analytic skills so as to prepare them for the wide variety of tasks that lawyers perform -- as practitioners, government officials, judges, civic leaders, teachers and scholars, and specially informed and responsible citizens.

-- How successful have you been in achieving this goal?
In light of the achievements of our graduates, I would
say we have been very successful.


11. Should California adopt a two-tiered bar admission
process with those seeking to become trial attorneys being
required to pass an exam that includes a trial advocacy
section? I have no considered opinion on this but am not
inclined to favor it.

12. Should all bar admission applicants be required to
have spent some percentage of their law school career in a
clinical program? I have the same answer as to question 11.

Please let me know if I can provide any further information.

Best personal wishes to you.

Sincerely,


Jesse Choper

FACULTY POLICY GOVERNING ADMISSION TO BOALT HALL
DECEMBER 1, 1978

Those applicants shall be accepted for admission who, on the basis of their academic achievement, LSAT scores and other data, appear to have the highest potential for law study and for achievement in and contribution to the legal profession, legal scholarship or law-related activities. Diversity within the student body is recognized as a legitimate goal of the admission process. Experience indicates that this goal is satisfactorily met without its explicit consideration in individual admission decisions except with respect to those racial and cultural minority groups which had not had a fair opportunity to develop their potential for academic achievement and which lack adequate representation within the legal profession. Special consideration shall therefore be given to applicants from those groups, to the extent necessary to achieve significant representation from each of them at Boalt, defined approximately as follows: 8-10% Blacks, 8-10% Chicanos, 5-7% Asian-Americans¹ and roughly 1% Native Americans. The approximate goal for representation of these groups taken together, in order to obtain which special consideration shall be given where necessary, is 13-17 percent of each entering class. It is recognized that these proportions, and the total minority representation will vary with shifts in the quality and availability of applicants from the respective groups and that the nature of the admission process is such that, without regard to that fact, variations on either side of these goals may occur in any given year.

In no event, and irrespective of special consideration, shall an applicant be admitted unless it appears that there is a high probability that he or she will be able to complete successfully the course of instruction at Boalt Hall. No weight shall be given to how an applicant intends to use his or her legal education. The admission of a few qualified applicants may be influenced by individual circumstances of an exceptional nature which indicate that the applicant has compelling reasons to attend Boalt Hall. Except in unusual cases where concurred in by a majority of the Admissions Committee, no applicant shall be admitted whose predictive index is below the current equivalent of a predicted grade point average of 68² under the formula in effect in 1973.

¹The Asian American group contains a variety of different cultural, racial and ethnic sub-groups and special consideration shall be given only to members of those sub-groups which appear not to be able to achieve significant representation in the entering class without such special consideration.

²Based on the prior grading system under which 60 was the passing grade for a course and a 65 average was required for graduation.

UNIVERSITY OF CALIFORNIA, DAVIS

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OFFICE OF THE DEAN
SCHOOL OF LAW

DAVIS, CALIFORNIA 95616

February 19, 1985

The Honorable Elihu M. Harris
Chairman, Assembly Committee
on Judiciary
State Capitol
Sacramento, CA 95814

Dear Chairman Harris:

Enclosed is my response to your questionnaire concerning various policies and practices of our School.

I regret very much that I was unable to meet your February 15, 1985, deadline. If you desire more detailed or additional information, please let me know.

Best wishes.

Sincerely,


Florian Bartosic
Dean

FB:ag

Enclosures

Response of Dean, U.C. Davis Law School

1) What factors do you consider when your school is determining whether to admit an applicant?

The factors considered are set forth on pages 1-3 of our school's attached Admissions Procedures and Criteria.

- How are those factors weighed in relation to each other?

The factors are weighed according to the individual and collective judgment of the Admissions Committee members.

- How are anomalies or special cases explained or justified?

Under our procedures all applications are processed in the same fashion. No applications are considered anomalous or special cases.

- How much time is spent on each admitted applicant's application?

Approximately two hours.

2) What process do you engage in as you select admitted applicants? Are you concerned with their ability to be a good lawyer? ...their ability to pass the bar? ...their ability or desire to, in some way, serve the community or the needs of society?

The process is described in the attached copy of our Admissions Procedures and Criteria. We are concerned with all three factors listed.

- Do the people you accept for one of the above-mentioned reasons go on to perform in the way you expected?

We do not have statistical data. Anecdotally, we are told that our graduates are excellent lawyers. As for performance on the bar examination, the results speak for themselves. Obviously not all of our students pass the bar. In part this is a reflection of our willingness to admit students with lower traditional indicators of academic achievement in order to achieve our goal of a diverse student body. As for service to the community, data suggest that we have a relatively high number of alumni/ae in local, state, and federal government service, and some do public interest work.

3) Is there an effort by your school to admit a class which is socially, economically, sexually or racially diverse?

Yes.

- If so, are these efforts successful? ...i.e., do people you admit for reasons of diversity actually attend and complete law school?

Our efforts have been generally successful, with the exception of the admission of Black students.

- If not, why do they go elsewhere or leave before graduation?

We have no hard data. We can only speculate that Black students are attracted to other schools because of their well established reputations and their location in large urban areas. Some have told us that the lack of a substantial Black community in Davis is a factor.

- In effect, are you opening up the legal profession to people who have traditionally been excluded? Are you allowing some students "special admission" because of the diversity they may add?

Our affirmative action in seeking a diverse student body has had this effect. We do not have a special admission program as such. Because of affirmative action to achieve diversity, we do admit students who would otherwise not be admitted.

4) Is financial aid available to special admissions students who need it?

Financial aid is available to all students who need it. We do not have special admission students. Each applicant's financial need is analyzed and eligible students are funded to the extent of their need, subject to federal, state, and university financial aid guidelines.

- Does the availability of financial aid improve attendance by special admission students?

It improves the attendance of all students.

- Do you actively use financial aid to recruit students with "special" (i.e., extraordinary) economic need?

We use financial aid to recruit all students with financial need. The initial need determination is based on the standard cost of education at our school. If a student establishes special or extraordinary

economic need, the student's status is reanalyzed and every attempt is made to fund the need, again within available funding levels based on federal, university, and state regulations.

- 5) What more is needed to truly correct the historical tradition of the exclusion of women and minorities from the legal community?

In my opinion, law schools are making every reasonable effort to do our part. What remains is to improve the caliber of the applicants and to change the attitude of certain segments of the legal profession. Women comprise half our present student body; minorities, approximately 27 percent.

- 6) Do you feel that you are better qualified to judge one's legal ability, talent or potential than the Committee of Bar Examiners?

We have the opportunity to observe students in a much more varied environment and over a longer period of time. There is, however, an extraordinary correlation between bar failure and low law school grades. It thus appears that generally the Committee on Bar Examiners is effectively measuring the same abilities as our school.

- 7) In your opinion, is the bar examination a good determiner of whether one possesses the minimum skills necessary to practice law in California?

On balance, yes.

- If not, what improvements to our current system could you offer?

In some ways it is too weak a standard since it probably allows some applicants to practice who lack sufficient ability. Passing the bar examination is no substitute for a good legal education. A major improvement to the current system would be to require that each applicant have graduated from a school accredited by the American Bar Association, as is the case in the overwhelming majority of states.

- 8) Why are students from every law school throughout the state doing so poorly on the bar examination?

- Do you agree with the Committee of Bar Examiners that the caliber of law school graduates has deteriorated over the past few years?

We do not know the reasons for the low statewide bar passage rate. Our own students have done well on the bar examination fairly consistently. Last year's bar passage

was lower than the previous year, but higher than some years and not clearly outside the bounds of normal year to year fluctuation. As for law school graduates in general, it is possible that the dramatic increase in law school enrollment has brought with it a decline in the overall quality of the pool. It is also possible that the poor performance on the bar examination is a reflection of the decline in student performance on other measures of intellectual ability, such as the SAT, which only in the last few years has been marginally reversed.

- 9) Do you feel that your law school's curriculum is sufficient to graduate students who can pass the bar examination and who will perform competently as attorneys?

Yes.

- 10) Please describe the primary goal of your law school.

The primary goal of the law school is to train students for the legal profession.

- How successful have you been in achieving this goal?

In my opinion, we have been very successful.

- 11) Should California adopt a two-tiered bar admission process with those seeking to become trial attorneys being required to pass an exam that includes a trial advocacy section?

I doubt that trial advocacy skills can be tested by means of multiple choice questions or even written examination. Adequate testing would present considerable problems of validity and expense. Requiring trial attorneys to have taken trial advocacy courses in or out of law school, and/or that they have some equivalent training by competent attorneys, would not seem unreasonable. The difficulty here is that much of the same could be said for any legal specialty. If a special examination is required for those seeking to be trial attorneys, it would seem that a special examination should be required of those seeking to be specialists in criminal, family, labor, tax and other areas of the law.

- 12) Should all bar admission applicants be required to have spent some percentage of their law school career in a clinical program?

Given the very different career aspirations of law school graduates and the limitations of a three year program, it seems inappropriate to insist upon this. The financial cost would also be exceptionally high. Moreover, many students develop the skills that a clinical course would

provide in other settings, such as job experience, before and during law school. We support the availability of clinical and skills programs for students who wish to enroll in them.

**SCHOOL OF LAW
UNIVERSITY OF CALIFORNIA, DAVIS
ADMISSIONS PROCEDURES AND CRITERIA**

I. INTRODUCTION

Each year the law school receives many more applications from qualified persons than it is possible to admit. One of the major purposes of the admissions process therefore is to choose those applicants who appear likely to become the best law students and attorneys and who will hopefully make the greatest contribution to society and the legal profession.

The basic requirements are established by the law faculty and specify that all applicants must have earned a bachelor degree or an equivalent degree from a college or university of approved standing prior to the time the applicant begins work in the law school.

Decisions concerning admissions are made by the admissions committee which is composed of faculty and students. The selection decision will be made in two steps. At the first step (Level One) applicants will be divided into three groups: those who will be offered admission, those who will be considered by the admissions committee during the second step (Level Two), and those who will be denied admission. Level One decisions are made by the admissions committee utilizing the recommendations of the director of admissions. (See section III B.) Level Two decisions will be made by the admissions committee from among the applicants placed in the "to committee" (TC) category as a result of the Level One selection process.

Decisions by the admissions committee and the director of admissions at each level will utilize the selection criteria indicated in section II. Selections will be based on the particular qualifications of each applicant. The weight given to each criterion may vary by applicant and by level of decision.

II. THE SELECTION CRITERIA

A. Indicators of Academic Achievement and Future Performance

1. The Statistical Index

The current statistical index is a prediction of first year law school performance based upon undergraduate grade point average (GPA) and the Law School Admission Test (LSAT) score. It is computed by the Law School Admission Services and is validated annually.

2. Grade Point Average and Test Scores

In addition to their consideration as components of the statistical index, grade point average and the Law School Admission Test score may be considered as separate factors. The Writing Ability Test score may also be considered [Applicants whose LSAT score is below 400 will not be admitted. Applicants whose LSAT score is between 400 and 449 and whose GPA is below 3.00 may be admitted in the discretion of the admissions committee if the committee communicates its reasons for so doing to the law faculty.] Bracketed section suspended 1982-83 and 1983-84.

3. Quality of Index Score and GPA

- a. Multiple LSAT or index scores. Normally multiple LSAT or index scores will be averaged for purposes of the selection decision.
- b. School where GPA earned.
- c. Rigor of the course of study.
- d. Time period in which GPA earned (degree of grade inflation).

4. Discrepant Predictors

Discrepant predictors such as a high GPA and a low LSAT score or a low GPA and a high LSAT score indicate a need for particularly careful consideration. Low index scores resulting from discrepant predictors may be discounted, but only when additional evidence of ability and motivation are present (e.g., strong major, documented history of underpredictive test taking, span of time between undergraduate degree and pursuit of legal studies, dramatic increase in upper division work).

5. Factors which previously may have affected GPA but which are not now present

Some examples of this kind of factor are:

- a. Prior temporary physical or emotional handicaps
- b. Change in environment, e.g., change of undergraduate school.

B. Other Factors

There are other factors which bear on the applicant's suitability for the study and practice of law. These will also be considered, and include:

1. Growth and Maturity and Commitment to Law Study

- a. Extra-curricular activities during undergraduate studies.



- b. Community activities during and after undergraduate studies.
- c. Employment experience during and after undergraduate studies.
- d. Advanced degrees or other advanced studies.
- e. Other objective evidence of growth and maturity and of commitment to law study, including the student's personal statement and letters of recommendation.

(CAVEAT: While the applications will be examined for evidence of the applicant's motivation and capacity, statements as to how an applicant intends to use his or her legal education are regarded as unreliable and will be given no weight. Similarly no weight will be given to the applicant's particular social, political or religious views or to an interest in any particular kind of law.)

2. Racial or Ethnic Minority Status

Because the legal system should serve all sectors of society, it is desirable both that all sectors of society participate in the legal system and that each participant be familiar with the major racial and ethnic groups which make up our society. These goals are furthered by the admission of a diverse student body. Therefore, the fact that an applicant is a member of a racial or ethnic minority will be considered a positive factor in the admissions process.

3. Economic Disadvantage and Physical Handicap

The fact that an applicant has managed to accomplish his or her achievements in the face of severe economic disadvantage or physical handicap will be considered a positive factor in the admissions process.

4. Other Factors Relating to Diversity

Because it promotes learning, one important goal of the admissions process is a student body with a considerable diversity of backgrounds, interests and skills. Past experience indicates that application of the criteria discussed above, including those relating to racial and ethnic minority status and disadvantage, tends to produce a student body of this type. Other factors relating to diversity, including bilingual skills, may also be taken into account. The fact that an applicant has unusual accomplishments, skills, or abilities relevant to the legal profession but not listed in the paragraphs above will be considered a positive factor in the admissions process.

III. ADMISSIONS PROCEDURES

A. In General

- 1. The admissions files shall be prepared by the admissions office under the direction of the director of admissions. All inquiries concerning files in preparation shall be directed to him or her.
- 2. Interviews with members of the admissions committee are not part of the admissions process. Group discussions designed to provide applicants with general information about the School of Law will be held on dates specified in the Bulletin and at other times.

B. Level One

- 1. The director of admissions will initially review applications with a view toward recommending approximately 350 applications for admission (for the duration of 1983-84 only), approximately one-third for further committee consideration, i.e., "to committee" (TC), and the remainder of the applications for denial. All recommendations will be based upon the "Selection Criteria." (See Section II.) If the number of offers which the committee is permitted to extend varies from the average of the offers extended by committee during the prior years, the number of files sent to committee may be adjusted in proportion to the number of offers available to the committee.
- 2. In selecting the applications to be recommended as possible admits and those to be referred to the committee for further consideration the director of admissions will pay particular attention to the non-index factors in the "Selection Criteria."
- 3. The committee will establish and maintain a regular procedure for monitoring the recommendations for possible admission and denial. The director of admissions will send to all members of the committee a weekly report on such recommendations.
- 4. Committee members will have 48 hours from receipt of the report within which to review the proposed admits and denials. Any committee member may request that an individual file be referred to the committee. Any file referred to the committee under this procedure will be processed in the same manner as a file originally categorized for further consideration (TC) by the director of admissions.
- 5. The remainder of the proposed admits and denials will be sent admission or denial letters at the end of the 48 hour period.

C. Level Two

- 1. The committee will be divided into two panels, Panel A and Panel B, with each panel to consist of two faculty and one student.
- 2. Each panel will be periodically furnished with equal groups of applications consisting of those completed applications which have survived Level One (TC category), as described above. Insofar as possible each group of

applications furnished each panel will be randomly selected from the completed files comprising the TC category. Individual members of each panel will be furnished with itemized lists of these groups of applications on a form which will permit notation of proposed admission decisions either to admit or deny.

3. Panel members will review each group of applications with a stated goal of proposing to offer admission to the appropriate percentage of the applications. This proportion will be confirmed each week by the director of admissions.
4. Each week the panel will meet to consider the current group of applicants.
 - a. Applications which all three members of the panel propose to deny will be sent denial letters by the admissions office.
 - b. Applications which all three members of the panel propose to admit will be sent admissions letters by the admissions office, **PROVIDED THAT** the total of such applications does not exceed the determined percentage of that group of applications.

In the event that the number of proposed admissions exceeds the appropriate percentage of the particular group of applications, the panel should decide which applicants will be immediately offered admission and which will be added to the next group of applications for further consideration.
 - c. If panel members disagree as to whether an applicant should be admitted or denied admission, the file will be held until the panel meets to consider hold files. Panels should attempt to hold no more than a reasonable number of the files considered.
 - (1) Panel meetings to consider hold files will be held approximately every fourth week.
 - (2) The panel can decide to admit or deny the hold category applications at this time.
 - (3) When a disagreement cannot be resolved, the disputed file will be submitted to the other panel with its next group of applicants. Applications so referred under this procedure will not be identified as "disputed" applications, but will form part of the regular group of applications for consideration by the panel, insofar as that panel is concerned. Applications which are resolved will be sent admission or denial letters, as appropriate.
5. Applications referred to a second panel will be handled as follows:
 - a. If the second panel is unanimous in its proposed disposition and concurs with a majority of the first panel (that is to say, if five members of the committee concur on a common disposition), the applicant will be sent an admission or denial letter as appropriate, with the admission or denial charged to the first panel.
 - b. If the second panel is unanimous in its proposed disposition but concurs with a minority of the first panel (that is to say, if four members of the committee concur on a common disposition, but two members disagree), the application will be placed on the next agenda of the full admissions committee.
 - c. When the full admissions committee considers applications which have been referred to a second panel as described in 5(a) and (b) above, the concurrence of four members is required to admit the candidate.
6. At regular intervals the full committee will meet to consider applications which have been referred to it. Full committee decisions will be charged to the panel originally assigned the applications. The full committee will also make decisions on any applications that remain at the end of the admission season.
7. Applicants who are not admitted may be assigned to the waiting list at any point in the process. The waiting list will be comprised of the applicants whose overall credentials most nearly reflect those who are admitted. At appropriate times during the process the panels may admit applicants from the waiting list. At the conclusion of the admissions season, the waiting list will be ranked by the committee. The committee ranking shall be the principal factor in determining the order in which applicants will be admitted from the waiting list.
8. If two members of the same household (excluding blood relatives) apply, their files will be sent to a panel at the same time. The panel will review both files so that where possible candidates will be notified of the admission decision at the same time.

Note: This process is contingent upon both files being completed nearly simultaneously. The admissions office will wait a reasonable period of time for the completion of both, but not to the detriment of the one ready for committee review.

IV. COUNCIL ON LEGAL EDUCATION OPPORTUNITY (CLEO)

The admissions process is nearly over before students are selected in mid-May for the Council on Legal Education Opportunity (CLEO) Summer Institute. The School of Law is a member and participant in the CLEO consortium. Applicants who have been denied admission or placed on the waiting list but who are subsequently admitted to CLEO will be notified that they may request reconsideration of the decision of the admissions committee based on CLEO performance evaluations and recommendations from institute faculty at its conclusion.

V. ADMISSIONS COMMITTEE OPERATING PROCEDURES

1. Matters discussed by the admissions committee and decisions reached by them are strictly confidential. All questions

concerning the status of individual applicants or the contents of decisions made about applicants should be referred to the admissions office for handling.

2. The committee is not to be apprised of the make-up of the proposed class during the decision making process.
3. Committee members should not accept telephone calls from applicants, correspond with applicants or in any way put themselves in the position of interviewing an applicant. Any inquiries of this nature should always be referred to the admissions office. Whenever any person supporting an applicant communicates with a committee member, the committee member should request that this communication be reduced to writing and sent to the admissions office.
4. Committee members should not participate in the review or evaluation of an applicant who is a relative or close friend. Committee members should also not participate in the review or evaluation of any other applicant who is personally known to the member in such a way that the member is unable to make an objective evaluation of the file. In all cases in which the committee member excuses himself or herself from consideration of an applicant for reasons discussed in this paragraph the file will be considered by the other committee panel.
6. Committee members will not write any letters or memoranda or place anything in an applicant's file that might affect the judgment of the other members of the committee.

VI. CONFIDENTIALITY OF DOCUMENTS AND PROCEEDINGS

A. Admissions Committee

All materials in applicant folders, all lists of applicant names, all proceedings and deliberations by the admissions committee related to specific applicants and all other information involved in the admissions process related to specific applicants will be maintained in a confidential manner and may not be revealed by members of the admissions committee to any person who is not a member of the admissions committee or of the admissions office.

B. Admissions Office

All admissions records and information are maintained in a confidential manner and may not be released except as provided in paragraphs C, D, and E below.

C. Disclosure to University Employees and Officials

Officers, agents or employees of the University will have access to information if such disclosure is relevant and necessary to the ordinary course of the performance of their official duties and is consistent with the purpose(s) for which the information is acquired.

D. Disclosure to Applicants

Applicants will be permitted to inspect and review all admissions records relating to themselves except:

1. Confidential letters and statements of recommendation or evaluation to which they have waived their right of access.
2. Evaluative summaries, notes and other records of deliberation by the admissions office, the director of admissions or the admissions committee.
3. Letters and statements of recommendation or evaluation prepared, submitted, or retained with a documented understanding of confidentiality.

E. Disclosure to Third Parties

Generally admissions information will not be available to third parties, officials, agencies or organizations without the written consent of the applicant. Summary information which is not personally identified and "non-personal information," such as names and campus addresses, may, however, be disclosed without the consent of the applicant. All disclosures must conform to the University of California, Davis, Policy and Procedure Manual, Section 320-20.

VII. PARTICIPATION OF STUDENT INTEREST GROUPS

1. Any student interest group officially recognized by the law school and the admissions committee ("recognized group") may participate in the admissions process as herein provided. Any recognized group may participate by notifying the director of admissions.
2. The admissions office will inquire whether applicants wish to be assisted by a recognized group and to allow the group access to their application and personal statement. If the applicant signs a release authorizing the admissions office to disclose this information, the admissions office will provide a duplicate of the application and personal statement to the recognized group.
3. The admissions office will also notify recognized groups of the completion of a file of an applicant within its membership criteria so that the group may submit a recommendation in writing on that applicant to the committee. The admissions office must be notified of the group's intention to write a recommendation within one week, and any such recommendation must be received by the admissions office within two weeks of the notification of completion of the file. Recommendations should relate specifically to the Selection Criteria, and be as concrete as possible. Recommendations against admission will not be considered by the committee, nor does the committee desire a ranking of the applicants.

4. The file will be considered complete upon the lapse of one week after notice is given to the recognized group or if notice of intent to write a recommendation is given, upon receipt of the recommendation or the lapse of two weeks.
5. Late recommendations from recognized groups will be added to the file and their contents considered if no decision has yet been reached.
6. Upon request, the admissions office will provide any recognized group with the names and addresses of all applicants who fall within its membership criteria and who have been offered admission by the admissions committee.
7. Upon request, the admissions office will provide any recognized group with the names and addresses of all applicants who fall within its membership criteria who have been offered admission by the admissions committee and have declined to accept the offer of admission.

VIII. ADMISSIONS APPEAL PROCEDURE

An applicant to the School of Law who is not admitted may appeal the decision of the admissions committee. The appeal must be submitted in writing to the dean of the School of Law not later than 30 days from the date of the rejection letter and must state the basis for the appeal. Appeals will not be granted to those applicants who are merely dissatisfied with the decision of the committee and who cannot demonstrate adequate cause for appeal.

Appeals will be granted only for the following reasons:

1. Procedural errors in the review process which were not the applicant's responsibility.
2. Factual errors in the information considered which were not the applicant's responsibility.
3. In the discretion of the dean of the School of Law upon the submission of important new information (within the time limit for appeals) concerning the applicant's qualifications, including:
 - a. A new LSAT or index score.
 - b. A substantial change in GPA occurring after the admissions committee has reviewed the applicant's file.
 - c. In rare instances, compelling personal circumstances.

Upon receipt an appeal will be reviewed initially by the director of admissions. Final decisions will be made by the dean of the School of Law. If the applicant establishes that he or she falls within the criteria above, the appeal will be granted and the applicant's file re-reviewed. The method of re-review will depend upon the basis of the appeal, the stage of the committee's considerations and the time of the year. The dean may, if he chooses, refer an admissions appeal to the admissions committee.

All appeals will be ruled on within a reasonable time.

IX. REVIEW OF PROCEDURES

The admissions committee reviews these procedures annually and makes recommendations for change to the faculty.

School of Law Admissions Procedures and Criteria Revised 10/83

The University of California, in compliance with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, does not discriminate on the basis of race, color, national origin, sex, handicap, or age in any of its policies, procedures, or practices; nor does the University discriminate on the basis of sexual orientation. This nondiscrimination policy covers admission and access to, and treatment and employment in, University programs and activities, including but not limited to, academic admissions, financial aid, educational services, and student employment.

Inquiries regarding the University's equal opportunity policies may be directed to the Vice Chancellor of Academic Affairs—Affirmative Action Officer and Title IX Coordinator, 521 Mrak Hall, (916) 752-2070. Speech and hearing impaired persons may dial 752-6TTY for assistance.

School of Law
Office of the Dean
Kendrick Hall (415) 666-6307

March 7, 1985

Hon. Elihu M. Harris, Chairman
Assembly Committee on Judiciary
State Capital
Sacramento, California 95814

Dear Mr. Chairman:

I am pleased to respond to the important questions raised in the questionnaire accompanying your letter of February 1. My responses are contained in the accompanying memoranda. I should add that these responses represent my personal views, and do not necessarily reflect those of the U.S.F. Law School Faculty.

I should be happy to appear before your committee at the hearing to be held on March 26, if you believe my testimony could be helpful to the committee in its deliberations.

Sincerely,

David L. Ratner

David L. Ratner
Dean

MEMORANDUM

Re: Questionnaire for Law School Deans

Question 1

Admission is based on those factors believed relevant to predicting success in law school: previous educational performance, law school admission test score(s) and employment history. The weight assigned to each depends upon the particular applicant. The decision may be made in a few moments or may require a lengthy discussion by the full admissions committee.

Question 2

An applicant may be selected for several reasons. The Committee is concerned with the applicant's ability to succeed in law school; the intent to practice law, however, is not a factor. The Committee strives to select a class reflective of the diversity within our society. The demands of legal education are such that individuals are affected differently; older, non-traditional students and minority group members may respond in a different way than more traditional students. People are human, of course, and do not always meet our expectations.

Question 3

The School established its Special Admissions Program in 1969. The program, designed to attract those people previously underrepresented in legal education and in the bar, has greatly increased the diversity of the student body. Their performance is not the same as majority students.

Question 4

Financial aid is awarded based on need and without regard for admission status. An emergency loan fund is also available exclusively for special admission students. Increased financial aid (grants) for special admission students might help to improve their performance by alleviating their financial concerns.

Question 5

The number of women now applying to, and graduating from, law schools is almost equal to the number of men. The only remaining barrier to equal participation by women in the legal profession is the negative attitude of some employers. Full minority participation in the legal profession remains a problem because of the very small number of students in certain minority groups who have the necessary educational background for successful law study.

Question 6

I believe that it is extremely difficult for any person or group, whether consisting of professors, practicing lawyers, judges, public officials, or others, to predict with a high degree of accuracy whether a particular applicant possesses the necessary attributes to be permitted to practice as a lawyer. There are simply too many qualities to be measured, and no really adequate tools with which to do the measuring.

If it is desirable to test applicants for a basic understanding of the legal system, I believe that test should be administered by a disinterested body, such as a governmental licensing board. It should not be administered by law school teachers, who may have an interest in seeing their graduates admitted to practice, nor by present members of the bar, who may have an interest in limiting the number of people licensed to compete with them.

Question 7

In my opinion, bar examinations, of the type currently being administered in California and other states, are not a good measure of an applicant's possession of the minimum skills necessary to practice law. First, they test largely for one kind of analytical skill, which is only a small part of a lawyer's function. Second, they require an applicant to memorize large numbers of rules from widely scattered areas of law, a process which is more of an obstacle course than a test of skill, and which is something that a lawyer in practice will almost never be called on to do. Third, they tend to emphasize complex and tricky issues, which may easily confuse an applicant under severe time pressure, rather than the basic questions to which we would expect every lawyer to know the answer.

I think that a bar examination, to be fair, should emphasize skill, rather than memorization, and should be a test which any practicing lawyer would be willing to take at regular intervals as a condition to continuing in practice. In that respect, I consider the new performance test section on the California bar

exam to be an improvement over the essay and multiple-choice sections of the exam.

Question 8

I had thought until this year that one important reason for students' poor performance on the bar exam was the deterioration in the teaching of writing skills at the elementary and high school levels, which has had a serious impact on law school performance for several years. However, our experience this year indicated that our students had the greatest difficulty with the multistate portion of the exam, which does not test writing skills.

I have come to the conclusion that the reason for the unusually low pass rate in 1984 was that the bar examiners gave a very difficult test, and graded it on an unrealistically strict basis. I simply cannot believe that more than 40% of the graduates of the ABA-accredited schools in California lack the basic skills required for the practice of law. If that is the case, something is terribly wrong with our system.

I also cannot accept the explanation that the decline in the pass rate results from a deterioration in the quality of the applicants. While there has been a decline in the number of applicants to law schools in 1984 and 1985, the class which entered in 1981 was drawn from one of the largest applicant pools in history, and, in the case of our school at least, had higher credentials than students who entered in earlier years.

It has been suggested that one reason for the low bar pass rate in California is that graduates of unaccredited law schools are permitted to apply for admission to the bar, and the exam therefore serves as a means of screening out those who have received an inadequate legal education. It is interesting to note, therefore, that while the graduates of every one of the 16 ABA-accredited law schools in California did worse in 1984 than in 1983, the graduates of unaccredited schools, as a group, did better in 1984 than in 1983. It therefore seems that the standards being applied by the bar examiners are going in the opposite direction from the standards being applied by the accrediting agencies in determining what constitutes a high-quality legal education.

Question 9

I feel that virtually all of our students who meet the

standards for graduation from USF Law School are qualified to pass a bar examination which is a fair test of their legal skills, and have the training to perform competently as attorneys. We have recently completed a substantial revision of our first-year curriculum to put greater emphasis on the integration of writing and other lawyering skills with the study of substantive areas of the law. Our graduates in future years should therefore be even better qualified in these respects.

Question 10

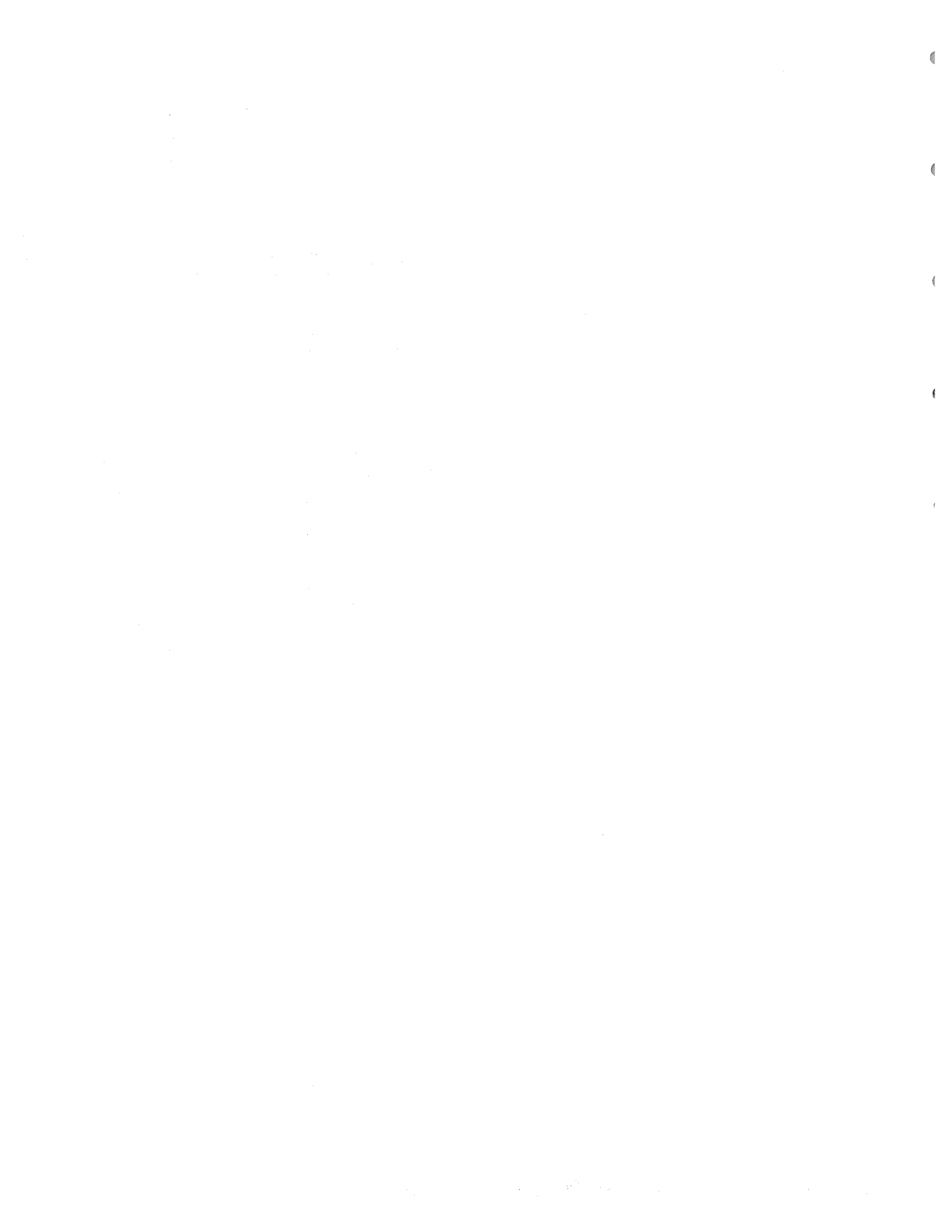
The principal goal of USF Law School is to turn out graduates who not only have the basic skills necessary for effective legal practice, but also have an appreciation of the role and responsibilities of lawyers in our society, as well as the moral and ethical obligations of the profession.

Question 11

In general, the American legal profession has not established special examinations for lawyers specializing in particular areas. In view of the variety and flexibility of lawyers' roles in the society, I believe that is the wiser approach. I do not believe that trial practice is sufficiently different from other specialties to warrant different treatment. Furthermore, the skills that make a person an effective trial advocate are particularly difficult to test on a standard examination, and are often developed only after considerable experience.

Question 12

While clinical programs, either involving simulations or real clients, offer a valuable supplement to traditional forms of legal instruction, I do not believe that a state-mandated requirement of a particular course or type of instruction is a good idea. The ritualized and formalistic courses in Professional Responsibility which are now being offered in the nation's law schools are an example of the results of misguided attempts to prescribe curriculum content.



WESTERN SIERRA LAW SCHOOL
Administrative & Admissions Office
6035 University Ave., Suite 2
San Diego, California 92115
(714) 287-8703

Feb. 13, 1985

ANSWERS TO QUESTIONNAIRE FOR DEANS

- 1) Western Sierra maintains an "open door" policy. Those who meet the pre-legal requirements are given the opportunity to attempt the study of Law. Within the first (5) weeks of the quarter, the student will usually decide if the law is for them. The school also is able to better evaluate the students potential. Cost is minimul. (No more than an LSAT review course given at a leading University).
- 2) We would like to be concerned with the applicants serving society and their ability to be good Lawyer's, however, we seem faced with the question of whether the student will ever pass the Bar Examination.
- 3) With the open door policy, our classes are well mixed. We do not have to make any special efforts in this regard.
- 4) We have no financial aid in the unaccredited school. Therefore, we take advantage of the fact that the school is not regulated into charging high tuitions to meet the inflated cost of other (accredited) Law Schools. The savings are passed on to the student.
- 5) Open door admission policies; removal of the first year law students examination as an impediment to the continued study of law; some form of financial aid; and, a fairer testing for minimum competence, would all help in correcting the exclusion of women and minorities.
- 6) Yes. However, this does not mean that I believe admission should be left to law school Deans. Minimum competency determination by an independent disinterested body is a compelling State interest.
- 7) Not as presently constituted. The examination is testing more exammanship than basic knowledge and skills. It is not administered


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by an independent disinterested agency of the State, and it involves to much subjective grading by Lawyers affected by the competition of new admittees.

Proposed improvement:

- a. A more standardized objective test. (Sets courses and goals to be attained in school & removes grading bias).
 - b. Formulated and administered by the admitting authority. (The Supreme Court).
 - c. Require a period of clinical internship of enumerated practice projects and procedures which are documented and graded for admission purposes.
- 8) The current examination is graded to critically. Passage depends as much upon exammanship as the other relevant items. Exammanship is not used in the practice of law our by a Judge in administering it.
The caliber of student has not changed. At Western Sierra, there has been an increase in the first year class which we attribute to the high tuition cost found in the accredited schools.
- 9) Not by today's requirements for Bar passage. We are faced with teaching the examination.
- 10) To produce hard working, competent honest graduates and Lawyers. We have not been successful with the latter.
- 11) No. I don't think we should go to the Solicitor-Barrister system. (Require satisfactory performance in a clinical internship section on trials).
- 12) Yes.

Respectfully Submitted


Fred P. Eason
Dean

Questionnaire for Law School Deans

- 1) What factors do you consider when your school is determining whether to admit an applicant?
 - How are those factors weighed in relation to each other?
 - How are anomalies or special cases explained or justified?
 - How much time is spent on each admitted applicant's application?

- 2) What process do you engage in as you select admitted applicants? Are you concerned with their ability to be a good lawyer? ...their ability to pass the bar? ...their ability or desire to, in some way, serve the community or the needs of society?
 - Do the people you accept for one of the above-mentioned reasons go on to perform in the way you expected?

- 3) Is there an effort by your school to admit a class which is socially, economically, sexually or racially diverse?
 - If so, are these efforts successful? ...i.e., do people you admit for reasons of diversity actually attend and complete law school?
 - If not, why do they go elsewhere or leave before graduation?
 - In effect, are you opening up the legal profession to people who have traditionally been excluded? Are you allowing some students "special admission" because of the diversity they may add?

- 4) Is financial aid available to special admissions students who need it?
 - Does the availability of financial aid improve attendance by special admission students?
 - Do you actively use financial aid to recruit students with "special" (i.e., extraordinary) economic need?
- 5) What more is needed to truly correct the historical tradition of the exclusion of women and minorities from the legal community?
- 6) Do you feel that you are better qualified to judge one's legal ability, talent or potential than the Committee of Bar Examiners?
- 7) In your opinion, is the bar examination a good determiner of whether one possesses the minimum skills necessary to practice law in California?
 - If not, what improvements to our current system could you offer?
- 8) Why are students from every law school throughout the state, doing so poorly on the bar examination?
 - Do you agree with the Committee of Bar Examiners that the caliber of law school graduates has deteriorated over the past few years?
- 9) Do you feel that your law school's curriculum is sufficient to graduate students who can pass the bar examination and who will perform competently as attorneys?

10) Please describe the primary goal of your law school.

- How successful have you been in achieving this goal?

11) Should California adopt a two-tiered bar admission process with those seeking to become trial attorneys being required to pass an exam that includes a trial advocacy section?

12) Should all bar admission applicants be required to have spent some percentage of their law school career in a clinical program?



**WESTERN STATE UNIVERSITY
COLLEGE OF LAW**

1111 North State College Boulevard • Fullerton, California 92631 • (714) 738-1000

Office of the Dean

February 14, 1985

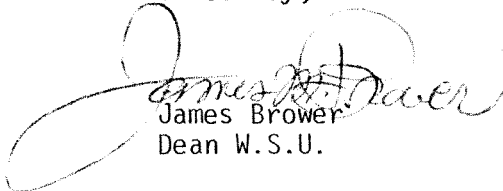
Elihu M. Harris, Chairman
Assembly Committee on Judiciary
State Capitol
Sacramento, CA 95814

Dear Mr. Chairman:

In response to your letter of February 1, 1985 I am pleased to attach answers to your "Questionnaire for Law School Deans". My answers are given in the same order and paragraph identification as in the questionnaire.

Please advise me if I can be of any further assistance to you and your committee in this important undertaking.

Sincerely,


James Brower
Dean W.S.U.

JB/bs

Enclosures: Questionnaire Answers

Answers to the Questionnaire for Law School Deans

- 1) Western State University does not limit its choice of students to those who meet rigid numerical admission standards but uses a "whole person" admission policy. Within the framework of this admission policy the following factors are considered:
 - (a) law school admission test scores;
 - (b) undergraduate transcripts;
 - (c) career learning and experiences;
 - (d) other personal traits such as attitudes, enthusiasm, past history of community service, ect., as determined in personal interviews.
 - All factors work together to give a picture of the "whole person".
 - Some students have been accepted as special students under the guidelines set out by Rule XVIII when for example they are lacking in undergraduate credits. Such students or applicants have demonstrated strength in other regards. These individuals must pass the FYLSX at the end of the first year in order to continue their legal education.
 - Each applicant is personally interviewed, and this time, together with the admissions committee work and other required processing, normally takes from one to three hours.

- 2) Applicants are screened and those who appear to meet admission standards are then personally interviewed. From those interviewed offers are made to those satisfying the factors listed in answer one. Those who are accepted are judged to have the potential of passing the bar, becoming successful lawyers, and desires in serving society in some manner.
 - Some exceed our expectations. Others fall short for many reasons such as personal problems, lack of perserverance and motivation, illness, ect.

- 3) We accept all qualified applicants without regard to categories listed. Because of our admission policy, we find our student body is quite diverse from many stand points; socially, economically, racially, and sexually.
- Approximately 41% of our students are women, 12.9% are minorities, and 75% depend on government loans.
 - Some complete school while a cross section do not for a variety of reasons. Reasons for leaving range from job change to family problems. Those who leave generally do not finish law school.
 - Yes, we are providing opportunities to join the legal profession to many persons who might have been excluded under traditional concepts.
- 4) Yes, financial aid is available, and it does improve attendance by special students. Every student is advised of available financial aid.
- 5) The opportunity now exists as evidenced by the large number of women now in law school and the significant increase in minorities over the past several years. Better preparation at the public schools and undergraduate level would likely increase those qualified for legal study.
- 6) In the context of the academic environment the law schools are certainly more familiar with a student's demonstrated capabilities and talents than the bar examiners. As to the student's true or ultimate potential as law practitioners, it is difficult to measure under any circumstances. The data gathered by the bar examinations as a means to measure an individual's ability to practice law differs in many respects from that provided by law schools. Certainly, a standardized examination for all applicants stretching over a period of three days, which covers in large part three years of legal studies, presents a situation not duplicated at the law schools. However, each step, from law to the Bar Examination to the demands of law practice, serves its own important and essential

place in the identification and development of sound legal practitioners.

While it is true that all students who graduate from law school do not pass the bar, it is equally true that all who pass the bar do not make successful lawyers. However, this process is not unique to the legal profession but is duplicated to some degree in other professions such as nursing, medical, engineering, and accounting in that some persons, for whatever reason, may have completed studies and graduated from school but have been unable to pass the required standardized professional examinations.

- 7) As a predictor of who will be a sound practicing attorney, the bar examination like any testing procedure involving large numbers of applicants has its limitations. As noted earlier not all who pass the bar are successful lawyers. Either the potential was never there or a multitude of personal factors limited the individual capacity and capability to perform as well as he/she might. There are many other procedures possible but most are simply not practical given the magnitude of the job. For example oral examination and required internship have their benefits.
- 8) Why so many law school graduates fail the bar could have as many complex and varied answers as the individuals taking the examination. As noted, the examination given by the bar examiners presents an environment significantly different than that at law school. During a student's three years of legal studies, a thorough and detailed instruction of some fourteen weeks or longer in each subject area is followed by an examination tailored to that specific area of study. On the other hand the bar examination is a pressure situation in which a large volume of information is being examined in a short period of time. Not all individuals function well in such situations. Other factors such as the continued changes being made in the examination itself can have a negative

impact as it introduces an element of unpredictability and thus a negative impact on the student's confidence to achieve.

- Our data does not support the conclusion that the caliber of law school graduates has deteriorated over the past years.

- 9) Our curriculum covers each area of law examined by the bar, and additionally there are clinical studies, moot court, law review, and other electives available for those wishing to expand their knowledge and skills in specific areas. There is every reason to believe that to the extent the student applies himself or herself to a thoughtful, committed study of the subject matter they will obtain the necessary academic foundation, pass the bar, and be a successful lawyer.

Whether the applicant will in fact be successful in the bar examinations and later in the practice of law, depends much upon other personal traits such as motivation, integrity, enthusiasm, creativity, dedication, perserverance, stability, and interpersonal relations.

- 10) Our primary goal is to provide quality legal education to all who have the required capacity, capability, potential, and motivation. The admission policy of the "whole person" necessarily provides opportunity not otherwise open to second careerists and others who do not meet the traditional standards.

- 11) I would not be in favor of a two-tiered bar admission process. I believe our current procedure of a single bar for all applicants is sufficient. Specialities are now being covered by examination and qualifications of attorneys in different areas of the law.

12) We strongly encourage all students either to participate in our internal clinic program or clerk with various law firms in the area. In addition, we feel that participation in moot court, law review, and other student organizations is important to building the well-rounded individual as he/she puts academic knowledge into practice. Because of our large number of part-time students, who work at full-time jobs, we have hesitated making clinical work required. The matter is still under study.



APPENDIX E
Questions and Responses from Undergraduate
Law School Deans

Student Services Division • Office of the Dean
One Washington Square • San Jose, California 95192-0031 • 408/277-2191

February 28, 1985

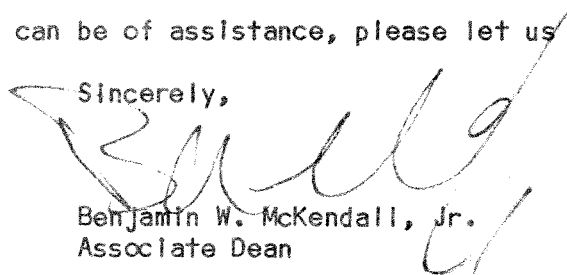
Mr. Mark T. Harris
Assembly Committee on Judiciary
State Capitol
Sacramento, CA 95814

Dear Mr. Harris:

Unfortunately, the February 1 letter from Assemblyman Harris concerning the Judiciary Committee's look into legal education in California went to an obsolete address here, and only this week has it found its way here. We hasten to send you, therefore, the completed questionnaire, in the hope that it will be useful.

If there is any further way we can be of assistance, please let us know.

Sincerely,



Benjamin W. McKendall, Jr.
Associate Dean

Questionnaire for Undergraduate Deans

1. What steps, if any, does your office make to identify those students interested in a legal career?

San Jose State University's current procedure for identifying pre-law students is informal: no provision has been made as yet to identify such students on the master computer file at entrance and/or registration. The names of students interested in law careers generally surface through advisors, membership in the student pre-law club, and inquiries made either to this office or to pre-law advisors.

2. Have you found that many students arrive at college with the specific intent to go on to law school?

Yes, many students do arrive with a specific intent to head toward law, but at least as many reach that decision at some later point in their undergraduate career, frequently at the point of choosing a major concentration.

Presumably the University has an effect on this decision through various law information seminars, updated information for advisors, activities of the student pre-law association, and an extensive pre-law information library in the career center.

3. Have you noticed a "different" attitude towards a career in the law among your school's minority or women populations?

If there is a "different" attitude toward law among minority and/or women students, there is also a "difference" between the two. Access for women to law school is no longer a serious issue, with the vast increase in numbers of women entering and completing law schools. Our impression, given the lack of hard data in identifying pre-law students here (see number 1) is that a very substantial proportion of our pre-law students - perhaps even close to one half - are women.

Among minority students, however, the participation in pre-law preparation has been uneven, though overall it has been growing. The number of Black students pointed toward law has been growing, as has the number of Asian students, but the number of Hispanic students is still small. In an attempt to correct underrepresentation of minorities in this preparation, we have made efforts for a number of years to disseminate information widely to various campus constituencies about pre-law preparation and activities; to create pre-law preparation programs which are multi-cultural in their representation (e.g., minority lawyers and judges); and to facilitate whenever possible the development of student pre-law clubs for minority students.

4. Are there pre-law courses available to undergraduates at your institution?

There are no "pre-law" courses as such, nor do the law schools recommend this. There are a number of courses which have a legal orientation, such as business law, environmental law, constitutional law, and several courses addressed to writing and speaking in legal environments. We very strongly do not recommend a specific pre-law curriculum for any students.

5. Does your institution encourage law school recruiters to come to your campus?

Yes, the University encourages law school recruiters and provides several occasions during the year for such recruiters, either individually or collectively.

6. Are there law school courses available to undergraduate students on your campus?

No, see number 4.

7. How available are Law School Admissions Test preparation course offerings on your campus?

The student pre-law association normally conducts at least one LSAT review, and the University distributes to all known pre-law students a list of commercial test preparation organizations, without recommendation. The University's Continuing Education office also offers a series of LSAT and other graduate school preparation courses throughout the year.

8. Does your office provide assistance for pre-law students who want to find legal work while contemplating or preparing for law school?

The pre-law advisory system does not provide employment assistance as such, but the University's career center does actively promote listings from law-related organizations, including law firms. The University also maintains a list of alumni which law students can consult both for advice and for employment referral.

9. Should undergraduate schools offer a specific curriculum for pre-law majors analogous to pre-med course offerings?

Absolutely not! The comparison with pre-medical preparation is inappropriate - pre-medical students take a minimum number of required courses in the sciences for medical school, but otherwise are encouraged to major in a variety of fields and are not held to a specific curriculum pattern. The kind of scientific background required for pre-medical students is essential for their continuance in the curriculum of a medical school, whereas at law school virtually any major in the liberal arts and sciences which requires a student to think critically and to write well is both sufficient and desirable.

A specific curriculum for pre-law students also tends to serve the interests of one or two academic departments most traditionally associated with law preparation, whereas our experience is that some of our most outstanding pre-law students come from majors not usually associated with law, e.g., English and philosophy.

What undergraduate institutions could do, however, is to offer a small body of courses which students would find useful in preparing for law specifically, but which would not imply a required or prescribed curriculum and which would be open to students from any major and/or background.

Please note that the average age at this University is nearly 27. Most of our students, even those who are of the traditional 18 - 22 year old population, work their way through San Jose State, and a very sizable proportion of our students take more than four years to complete their degrees. A sizable number of our pre-law students are "non-traditional", in the sense that they return to the University after intervening years of experience either to complete the degree or to take post-degree courses in preparation for graduate professional school.

February 28, 1985

STANFORD UNIVERSITY

STANFORD, CALIFORNIA 94305

HUMANITIES AND SCIENCES
Office of the Dean
(415) 497-2275

February 21, 1985

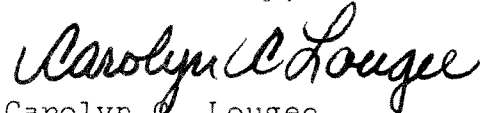
Elihu M. Harris
Chairman
Assembly Committee on Judiciary
California Legislature
State Capitol
Sacramento, California 95814

Dear Mr. Harris:

Enclosed please find the Stanford University answers to your recent questionnaire as well as copies of the materials we disseminate to our undergraduates interested in a legal career.

Although I will not be available as a witness in your hearings, I hope they yield useful information on the state of legal education in California.

Yours sincerely,



Carolyn C. Lougee
Undergraduate Dean

UNDERGRADUATE DEANS QUESTIONS

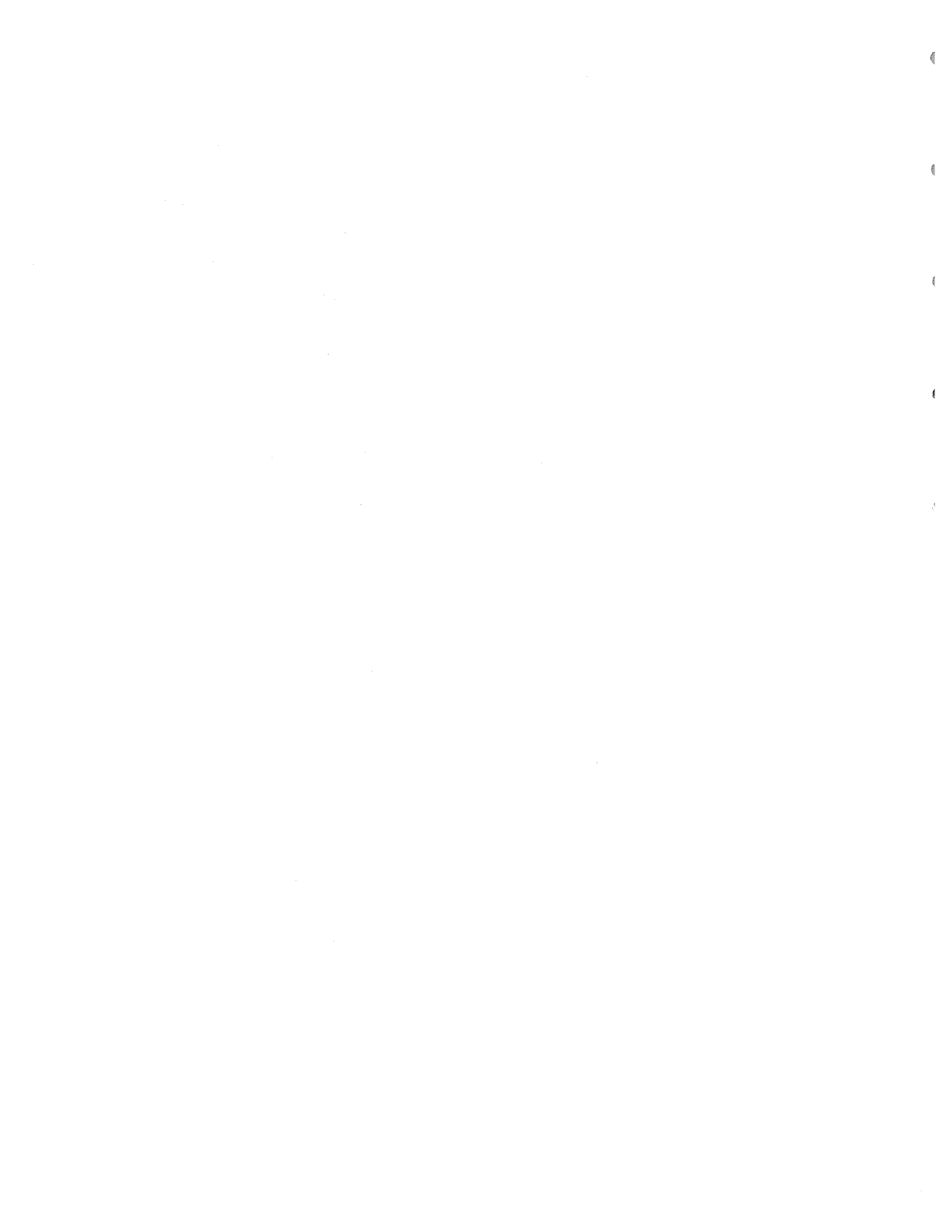
1. Students aren't identified per se - but all "pre-law" activities (seminars, talks, etc.) are advertised in the student newspapers, fliers, etc. so any interested students can come to any or all activities of interest.
2. A number of freshmen do enter college with the specific intent of going on to law school. No exact numbers - but we do have many freshmen who come to the office with questions about "what does it take to get into law school?" For that reason we publish the enclosed booklet - "Pre-Law Information" which is designed for freshmen and sophomores.

There is lots of change in the "pre-law" population during all four years - with students considering law school as freshmen, sophomores, juniors and seniors. A disturbing number of students probably "float" into law school without a clear sense of what they're getting into but rather a desire to go to graduate school (on a misconception that graduate school of some sort is "necessary" to land a "good" job).

Our office has a Stanford law student who is available 5-10 hours per week to talk to any students about law school. He gives group presentations for freshmen and sophomores, plus reviews application procedures for juniors and seniors. Do we effect decision on whether to apply or not - hard to measure?

3. No sense of "different" attitude towards a career in law among minority or women's populations except in terms of motivation. Minority might be slightly more interested in law as agent for social change than non-minority student.

4. No pre-law curriculum at all. Students are encouraged to hone their writing and analytical skills - plus courses in economics and logic might be beneficial.
5. We accommodate their requests to visit the campus, do not seek them out.
6. Yes - undergraduates may take a few courses that are cross-listed in the law school and an undergraduate department; (eg, Law in Radically Different Countries, Communication Law); however, none of these courses are really representative of formal legal education.
7. No LSAT preparation courses on campus.
8. Career Planning and Placement Center has some internships and part-time summer jobs in law firms; plus Bowman Alumni House has listings of alums (some lawyers) who welcome visits of undergraduates to explore their particular professions.
9. NO! All undergraduates (pre-med, pre-law, pre...anything) are encouraged to pursue a broad liberal education that ensures their ability to reason, analyze, communicate orally and in writing - and to make their decision on a major based on love of subject matter, NOT that it will please a certain professional school.



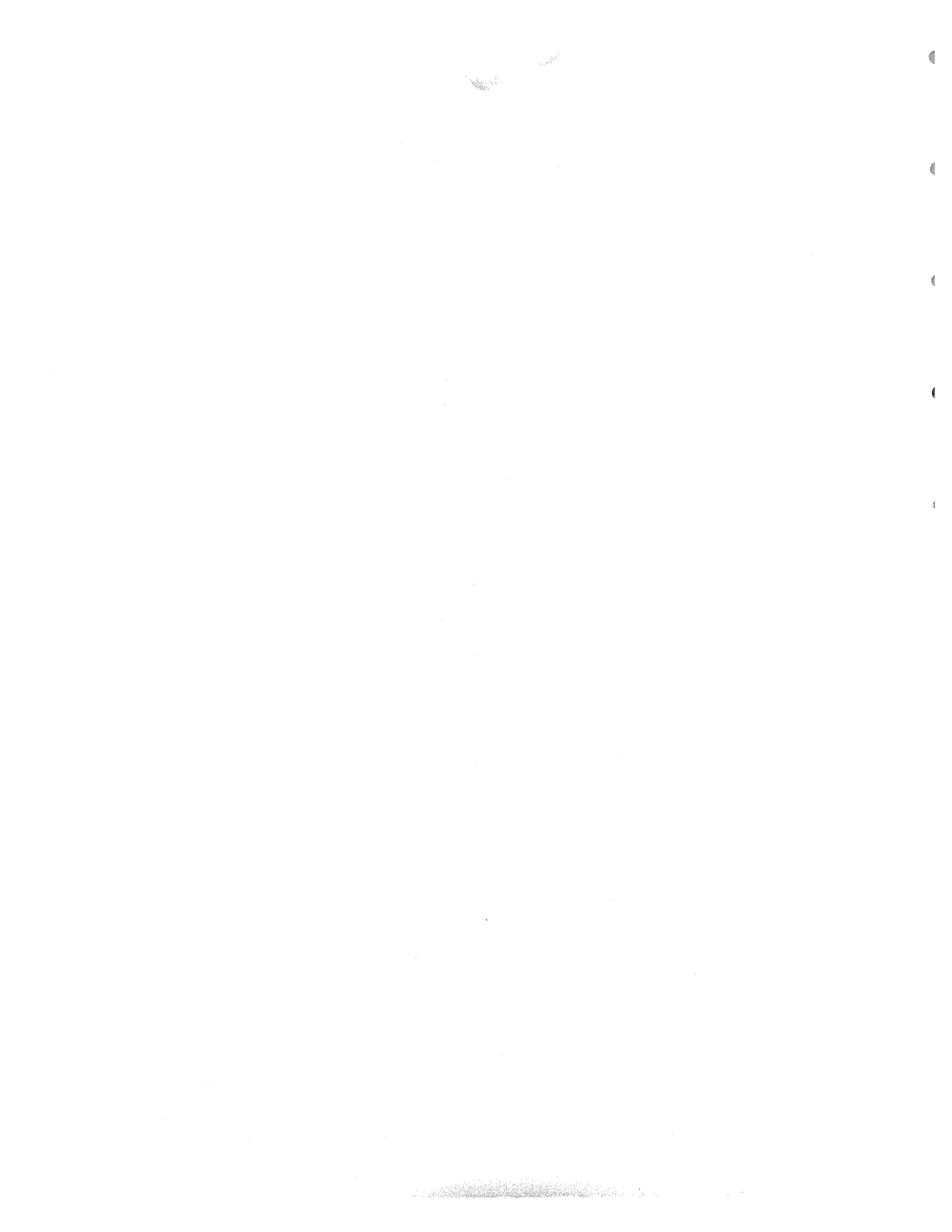
Stanford University

Pre-law
Information

Academic Information Center

Old Union 306
Stanford University
Stanford, CA 94305

(415) 497-1151



STANFORD UNIVERSITY
Academic Information Center

- PRE-LAW INFORMATION -

- Introduction
- Advising Services
- Pre-law Education
- Is Law for Me?
- A Final Note

INTRODUCTION

Recognition of some of the special needs of the many pre-professional students at Stanford resulted in the development of a pre-professional advising office based in the Academic Information Center (AIC). This advising service covers law, business, medicine, and some allied health fields, and is staffed by the Assistant Director of the AIC, the Pre-professional Advising Assistant, and two Advising Consultants. In addition, a Stanford Law School student works closely with pre-law students as the AIC's Pre-law Advisor. This staff is available to help you plan your pre-law education and reach decisions about law school. We have attempted to make as many resources as possible available for your use, but the ultimate responsibility for your professional school plans rests with you.

Your undergraduate years will be a time to explore many academic fields, to perfect your learning abilities, and to demonstrate expertise and experience in a particular field, usually your major. It has been said for years that a solid general liberal education and a study of western society and culture are the best preparation for the study of law, and this advice remains valid. The pre-law advisors at the Academic Information Center hope to explain what law school is about, suggest additional readings, and provide you with statistical data and information about your probability of admission at selected law schools. We cannot tell you whether you will

enjoy the law, or whether you will be a good lawyer, or whether you will be able to find a job when you graduate from law school. The answers to these questions depend, to a large extent, on you.

This handbook is designed to be used in conjunction with the Prelaw Handbook published by the Association of American Law Schools (AALS) and the Law School Admission Council (LSAC). The AALS/LSAC Prelaw Handbook is revised annually and is the official guide to all ABA-approved law schools in the country. In addition to individual school profiles, the book has excellent and essential discussions of law as a career, preparation for law school, the admission process, the law school experience, and a list of suggested pre-law readings. Students who are just beginning to think of the possibility of attending law school, as well as those who are actually applying, are strongly urged to review the AALS/LSAC Prelaw Handbook. The introductory pages of the Handbook are available as a handout at the AIC; we also have reference copies of the entire book or you may purchase your own at the Stanford Bookstore.

ADVISING SERVICES

The list below highlights some of the resources and services you may wish to use at the AIC. Please remember that this is only a partial list.

AIC Staff

- The Advising Assistant can answer your questions on a walk-in basis and can make arrangements for you to speak with other members of the staff.

Handouts

- "Applying to Law School"
- "Timetable for Applying to Law School"
- "Pacific Pre-Law Conference Participants"
- "Guidelines for Writing Recommendations"

Pacific Pre-law Conference

- Representatives from approximately 50 national law schools attend this annual conference. Held in November, the Conference is intended to provide pre-law students with the opportunity to talk informally with law school representatives.

Miscellaneous

- Freshman-Sophomore Pre-law Talks. Several small group sessions are held at the AIC each fall to introduce students to pre-law planning.

- Pre-professional Senior Survey. This annual survey solicits profiles of individual Stanford applicants to law school. The results, available for reference at the AIC, provide some insight into competitiveness of applicants to particular law schools as well as advice on pre-law preparation and the application process.
- Statistical information on law school applicants. Each year the AIC receives a report on Stanford applicants to law school from the Law School Admission Services. Although the reports are confidential, current applicants may want to discuss the summary results with a pre-law advisor.
- Readings. Available for reference at the AIC are a binder of law-related newspaper and magazine clippings, copies of the American Bar Association's Student Lawyer, and several good pre-law books.
- Referral to pre-law groups at Stanford. Each year a number of student groups such as the minority student pre-law associations and Stanford-In-Law host various pre-law activities. Check at the AIC for the names of current groups and their contact persons.
- Past LSAT's (Law School Admission Test). Copies of past administrations of the exam, with answers, are available for reference at the AIC.
- Registration packets for the LSAT and LSDAS (Law School Data Assembly Service).

Information on Individual Law Schools

- Referral to Stanford graduates now attending law school (approximately 75 names at 25 different schools; updated every two years).
- Survey of Stanford Graduates in Law School. This survey, conducted every two years, is sent to Stanford graduates currently enrolled in law school. The questionnaire is designed to solicit "insiders" perspectives on pre-law preparation and on their respective schools. Many applicants have found this an invaluable resource for help in choosing where to apply and ultimately where to go.
- Catalogs and sample application materials.

PRE-LAW EDUCATION

Curricular Choices

Many students ask about suggestions for planning a pre-law educational program. At Stanford, there is no formal pre-law major, and a pre-law student, quite simply, is one who defines himself or herself as such. Although you

may have the intention of going on to law school immediately upon graduation, many students do not reach a decision to apply to law school until several years after graduation.

Law schools do not prefer students with any specific major. Beyond a disciplined study of western civilization, most schools recommend that students study and perfect their skills in English composition and communication. Words are the tools of the lawyer, and the student who can express himself or herself with confidence and clarity will be at an advantage. Beginning with Stanford's freshman Writing Requirement, students should concentrate on developing their writing skills to the utmost. The importance of good verbal skills cannot be overestimated. In conversations with the staff of the AIC, Stanford students now in law schools have emphasized the development of writing as the number-one priority for pre-law students.

Most law schools suggest exposure to other disciplines which might be useful in the practice or study of law. Of increasing importance is an understanding of basic economic principles. Other disciplines include statistics, computer science, and accounting. In addition, if you are planning to practice law in a bilingual or ethnic community, you may want to do some university-level study of the culture and language of the community in which you hope to work.

It is strongly suggested that early on in your Stanford career you read the introductory chapters of the AALS/LSAC Prelaw Handbook. These chapters provide a very helpful discussion of undergraduate curricular options. In anticipation of the great deal of time they will spend doing legal research, pre-law students might also consider enrolling in Stanford's course on Library Resources and Resource Methods (Library 1). In addition, the Learning Assistance Center offers classes in effective study skills and reading skills, as well as a course in critical and analytical reading and writing. The mastery of these techniques and approaches can be applied at the undergraduate level as well as in professional schools.

Most law schools actively discourage students from taking too many law classes as undergraduates. Law is based upon sets of fundamental principles which are reflected in such basic fields as contracts, torts, criminal law, constitutional law, property, and civil procedures. These courses are almost universally taught in the first year of law school. Most law students do not understand what law is all about until they get well into the study of these subjects. Other subjects in law school are often based upon varied combinations and applications of those basic principles learned in the first year. The undergraduate student taking a variety of law courses cannot hope to achieve such an ordered understanding of the legal fundamentals. Upon entering law school, students who have taken such courses may mistakenly believe that they are simply relearning what they already know. In addition, those students will have less of the general liberal arts background which would serve them well in law school. These reasons, coupled with the fact that unnecessary duplication of courses costs you time and money, indicate that you should be careful not to overdo the taking of law courses as an undergraduate. In short,

while a law-related course may help you decide whether law is a field which interests you, undergraduate law courses neither help you get into law school, nor do they help you once you are there.

Academic work is often related to the specialization of attorneys, and much of that specialization may occur at the undergraduate level. The pattern of specialization in law is very different from that of the pre-medical student, who first completes broad pre-medical courses in basic sciences, then proceeds to basic medical subjects in medical school, and finally may spend additional years of study in residency specializing in a chosen field. Although most attorneys specialize after law school, they generally do so through practical work in a particular field. If academic preparation for specialization is a factor, it is most likely to have occurred during the undergraduate years. Thus, many patent attorneys are ones who studied engineering or the sciences as undergraduates. Many corporate attorneys have backgrounds in economics or in fields related to their employer's products, such as electrical engineering. You need not know which type of practice you wish to pursue before you enter law school, but it will help you to use your undergraduate time wisely if you can explore the varied fields. If you have always thought a course "would not interest you," do not avoid it like the plague. You should explore. You may find that once you are exposed to unfamiliar territory, it may become a very exciting academic interest. Take courses as an undergraduate that will keep open options which are of potential interest to you as a prospective attorney.

The Pass/No Credit Option

Most admissions committees have what are best described as mixed emotions about pass/no credit grading. Although committees sympathize with the notion that pass/no credit grading gives students the opportunity, without the pressure of grades, to take courses that they otherwise would not, committees also find that the more pass/no credit grades present on your transcript, the less information they have on which to base a judgment about your qualifications as an applicant. One of the consequences of a permanent record laden with pass/no credit grades is that increasingly greater weight in an admission decision is placed on your LSAT score. By the same token schools may make a judgment or assumption on the basis of your few letter grades that may not be valid. Schools do not convert your pass grades to a "C." They are not included in any way in the computation of your GPA.

Having discussed this issue with numerous law school admissions officers, the AIC suggests that as a general rule you should not take more than one academic course per quarter on a pass/no credit basis and that you should not use this option in your major. Your decision to take a course pass/no credit is a personal one. If you have questions about a particular course, you may want to discuss your use of this option with an advisor or with faculty members in your field of interest.

IS LAW FOR ME?The Law School Experience

Law school, like college, can mean a lot of different things and can lead to a wide variety of careers. Many undergraduates, however, perhaps think of law school as more of a continuation of the college experience than it is in fact. Although a law degree can lead to a variety of occupations, and one law student's experience can be quite different from another's, virtually all accredited law schools share the common and specialized objective of training lawyers. Like medical and business schools, law schools exist to train professionals. The professional orientation is reflected in the similarity of the curricula at different law schools, as well as in the attitudes of most students. At least during the first year of law school, most students will be taking the same courses. Each student is anxious to master the same fundamental legal skills, and most will work hard to achieve that end. While law school is not necessarily more difficult intellectually than college, the workload is usually greater, and the level of competence demanded by professors -- as well as the standards set by the performance of other students -- is uniformly higher than in college. Since more students are studying the same materials, all with a desire to master skills certain to be needed in a legal career, students often find in law school -- to a greater or lesser extent depending on the law school and the individual -- a heightened sense of competition.

Most law schools offer very similar curricula for the first year of law study. Since law schools generally see themselves as "teaching people to think like lawyers," the first year is usually devoted to a process of reeducation. Students are forced to think critically and precisely and to articulate their ideas with clarity and conviction. Although its dominance has been reduced somewhat in recent years, the Socratic method remains the traditional method for this reeducation process. The Socratic method involves rapidly paced question-and-answer sessions in the classroom, sessions designed to teach students how to analyze and synthesize into a coherent framework the raw materials of the common law: court cases. Rarely will a law professor attempt to explain to first-year students precisely what the law is in a particular area, often because it is impossible to do so. Instead, the students are expected to develop and organize their own understanding of the current shape and texture of the law as they digest the hundreds of cases that are assigned during the first year. Daily classes, as well as the inevitable examinations on which students are graded one or twice a year, require extensive reading and preparation. Accomplishment, however, depends far more upon skills of analysis and articulation than of memory.

In addition to dealing with the traditional "casebook" courses that tend to typify the first year, most first-year law students participate in legal-writing courses and "Moot Court" programs. These provide introductions to the essential skills of legal research, preparation of legal memoranda, briefs and opinions, and oral advocacy. In the second and third years, law

students may choose from among a variety of elective courses that will further strengthen these skills while providing substantive familiarity with various specialized areas of the law, such as taxation, evidence, criminal procedure, antitrust, corporations, family law and administrative law. In addition to classes which are based on either a Socratic or lecture format, most schools offer seminars and "clinical" courses that enable students to pursue specialized interests or to perform legal tasks under supervision. For further information concerning legal education, please read the introductory chapters of the AALS/LSAC Prelaw Handbook.

Experiences outside the classroom are as vital to legal education, especially for second and third-year students, as formal course work. Law students learn as much from their peers as from their professors, and many extracurricular activities in law school revolve around student-run projects in legal education and advocacy. On the academic side, most law schools have programs in moot court and trial practice, as well as a law review that publishes legal scholarship in periodical form, produced entirely by students. On a more practical level, many students participate in organizations that provide legal assistance or research to individuals such as the elderly, indigents, or prison inmates, and to other groups concerned with political and environmental issues. Most students supplement the practical skills gained through involvement in such extracurricular activities by summer employment, or "externship" placements during a part of the school year with private or public-interest law firm, a governmental agency, private business, or the legal staff of a non-profit organization.

One hurdle remains after graduation from law school before most students are qualified lawyers: passing the bar examination. Bar exams are administered in each state for persons who wish to qualify to practice law in that state. Most law students now go directly from law school to a six or eight-week "bar review" course given in the state in which they plan to practice, especially if that is a different state from the one in which they have attended law school. Once accepted to the Bar, young lawyers enter a variety of types of law practice, although the vast majority will accept their first job with a private law firm (65-75%) or a governmental agency (10-15%). The tendency for most law students to enter private or government practice upon graduation from law school should be recognized by those who are considering law school as an avenue to a different type of career. While it is true that a law degree can lead to many occupations, most law students become private lawyers, and even those who eventually pursue "non-traditional careers" often feel that a legal education is not complete without at least a few years' experience in the practice of law.

Law as a Career

Many students whose experience has been limited to academic situations find it difficult to determine whether or not law is a suitable career for them. There are several ways to explore the option of law school. The most convenient for students is academic exploration.

As an undergraduate, you may want to enroll in one or two law-oriented courses to test your interest in the study of law. Several courses at Stanford that offer some exposure to the law are listed below. Be sure to browse through Courses and Degrees and to check Undergraduate Specials and SWOPSI (Stanford Workshops on Political and Social Issues) courses for other ideas.

American Studies 171 - The Development of American Law
Anthropology 157 - Law in Radically Different Cultures
Law 149 - Communication Law
Law 150 - Regulation, Welfare and Public Policy
Political Science 130 - Introduction to International Law
Political Science 180 - Supreme Court and the Constitution
Political Science 181 - Conservatism and Constitutionalism
Political Science 183 - Civil Liberties in the United States
Psychology 125 - Psychology and Law
Sociology 109 - The Criminal Law and the Criminal System
Sociology 139 - Women, Family and Law

Another way to explore your interest in law is to test your tolerance for ambiguity. To the layman, law appears to be a very precise field. Something is clearly right or wrong, legal or illegal. Yet any lawyer or law student can tell you that law is full of if's, also's, and maybe's. It is not a world of black and white, but of varying shades of gray. If you are the type of person who likes precision and exactness, then you might think twice about a career in law.

Many students, motivated by humanitarian interest, do not realize that the long hours and hard work devoted to learning legal fundamentals may seem, and sometimes are, totally irrelevant to their long-term goals. A law student must learn every aspect of the law. If you are interested in migrant labor law and organization, you must be willing to learn a great deal about contracts, torts, civil procedure, corporate law, taxation and riparian law. Only by following this long, arduous, and indirect route will you be able to acquire the legal tools you will need to represent effectively an organization or group of people in need of legal aid.

The AALS/LSAC Prelaw Handbook contains a good general description of the broad range of opportunities available for lawyers. It is very interesting to take the time to talk with attorneys who are engaged in various types of practices -- large firms, individual practice, corporate practice, and legal aid. You might want to observe the holding of arraignments and preliminary

hearings on felony counts at the Municipal Court of Palo Alto; you might take note of the way that the judge interacts with the attorneys, and they with him. Additional suggestions include talking with law students, and, if you are ever in Washington, D.C., observing a session of the Supreme Court. Thomas Ehrlich and Geoffrey Hazard have edited a book entitled Going to Law School?: Readings on a Legal Career that is recommended highly. The selections are very interesting and informative, especially for those who really are not aware of the different ways that a lawyer can establish his or her career. An extensive list of other pre-law readings is included in the AALS/LSAC Prelaw Handbook.

Opportunities for Women in the Law

Between 1965 and 1981, the number of women attending law schools in the United States increased from 2,537 to 44,902 or over 35% of total law school enrollment. Although very few law schools have any type of preferential admissions policy for women, most of them are now actively seeking and recruiting female applicants. As women have become more visible in law school, attention has turned to the professional roles of women lawyers, as well as to specific problems within the present legal system that have significance for women. Most of the major law schools now have women on their faculties and offer at least one course dealing with women and the law.

For women, the normal pressures of law school may be compounded by any latent prejudice or orientation in a setting that has been dominated by males for hundreds of years. The degree of prejudice will vary depending on the individual school. Most law schools now have women's organizations designed to provide support in situations that might be difficult. In addition, these organizations are now taking a positive role in legal education and issues. It might be a good idea to contact such groups at the time of your application; they may be able to provide you with valuable information about a school's educational program and interest in recruiting women.

Opportunities for Minority Students in the Law

The under-representation of minority groups in the legal profession has been a serious and long-standing problem in this country. Only within recent years, however, have any significant strides been made to correct this situation. Presently, most law schools are actively recruiting minority applicants, and have established policies to assure that qualified minority applicants are given the opportunity to pursue the study of law.

If you are a minority student, it is wise to be well informed of the opportunities that are available. When applying to law school, you should make sure to identify yourself as a member of a minority group at the time you register for the LSAT and LSDAS. This will enable schools which might be interested in your application to contact you through the Candidate

Referral Service. You also are advised to be in touch with admissions officers at the schools which interest you. Each fall, the AIC sponsors a Pacific Pre-law Conference which is attended by representatives from some fifty national law schools. In recent years, the Conference has been followed by a reception hosted by Stanford's minority pre-law organizations. It would be well worth your while to attend the reception and make personal contact with the law school representatives. A similar opportunity is available at the annual Information Day on Graduate Opportunities for Minority Students. Check at the AIC for the dates of both these conferences.

You might also want to contact minority student organizations at the law schools to which you apply. It will be to your advantage to discuss your interests and application with members of these organizations. They will, in most instances, keep track of your application and sometimes have a role in admission decisions. These students also can advise you of any special problems or special advantages for minority students at their particular school. In addition, the AIC maintains a list of Stanford alumni contacts enrolled in law schools, many of whom identify their ethnic origin. You might wish to communicate with some of these minority alumni.

Each year, the Council on Legal Education (CLEO) helps economically and educationally disadvantaged students enter law school and become lawyers. This is done through a number of summer institutes designed to introduce college graduates to the study of law. Information on CLEO is available from law school admissions offices, at the AIC, or CLEO's national office at 818 18th Street, N.W., Suite 940, Washington, D.C. 20006.

Finally, you also may want to become involved with the minority student pre-law groups at Stanford; check with the AIC for the names of the current student leaders of these groups.

A FINAL NOTE...

Once again, we would like to encourage you to consult, early in your undergraduate career, a copy of the AALS/LSAC Prelaw Handbook. Most students wait until they are actually applying to law school before consulting this guide, and miss the excellent and valuable discussions of pre-law education. When you do begin the application process, you will want to consult the Handbook again. We also hope you will pick up a copy of the AIC's handout on "Applying to Law School."

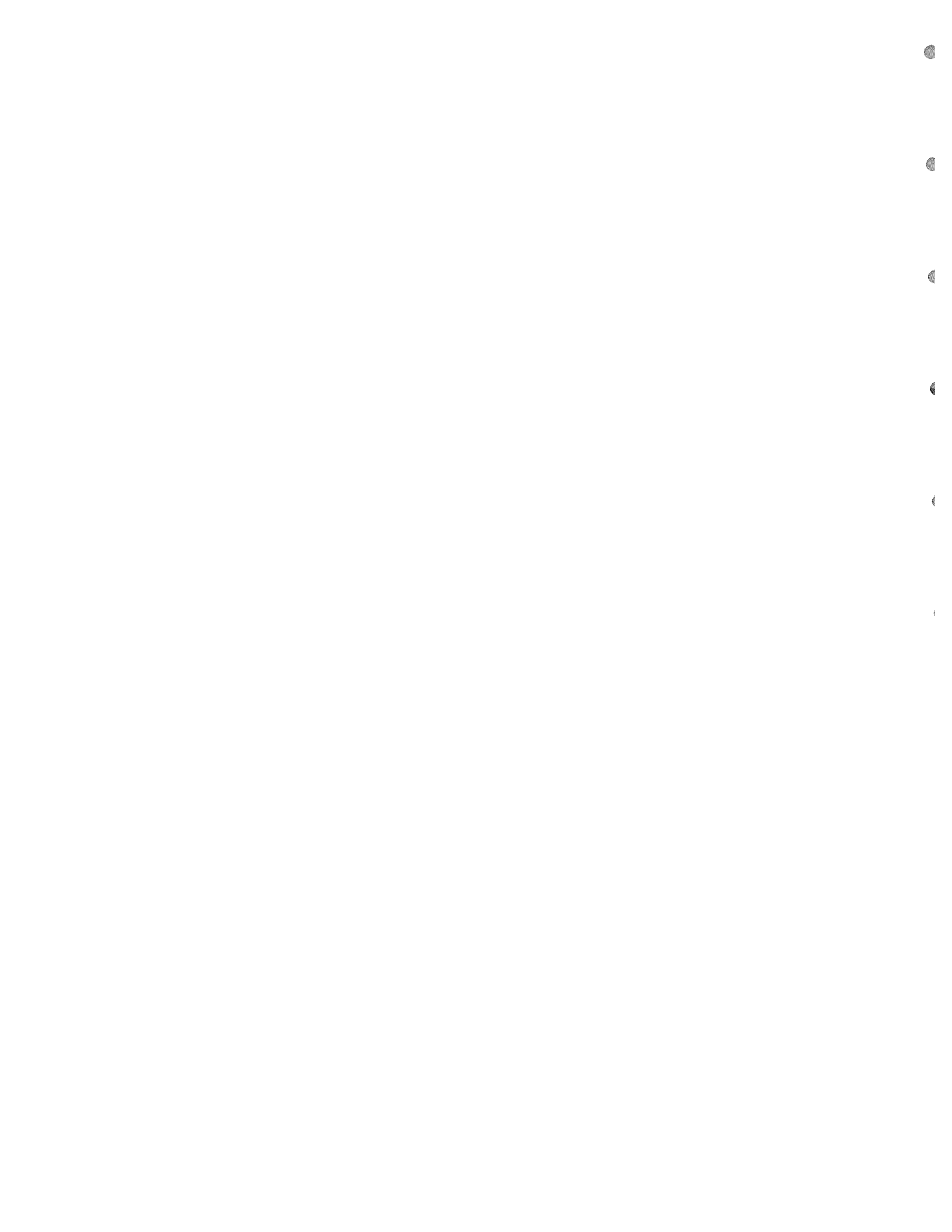
Stanford University

Applying to
Law School

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Stanford University

ACADEMIC INFORMATION CENTER

- APPLYING TO LAW SCHOOL -

- Introduction
- Timetable for Applying to Law School
- Admission Criteria and School Selection
- The Law School Admission Test (LSAT)
- The Law School Data Assembly Service (LSDAS)
 - Applications and Financial Aid
 - Letters of Recommendation
 - Writing a Personal Statement
- Postponing Your Application or Enrollment
- Appendix

INTRODUCTION

This publication is a companion to the Academic Information Center's handout on "Pre-law Information." We strongly suggest that you pick up a copy of "Pre-law Information" for a general discussion of pre-law education and a description of AIC services and resources for pre-law students. In addition, the Prelaw Handbook published by the Association of American Law Schools (AALS) and the Law School Admissions Council (LSAC) should be considered essential for anyone applying to law school. The book has individual law school profiles as well as excellent discussions of law as a career, preparation for law school, the admission process, the law school experience, and a list of suggested pre-law readings. Copies of the AALS/LSAC Prelaw Handbook are available for reference at the AIC or can be purchased at the Stanford Bookstore.

The process of applying to law school is time-consuming and sometimes complicated. Being informed about the process and knowing what to expect during your application year will increase your chances of acceptance, as well as your peace of mind. The information contained in this and the publications mentioned above are intended to give you some of that background.

TIMETABLE FOR APPLYING TO LAW SCHOOL

This timetable starts in the spring of your junior year (if you plan to enter law school in the fall after you graduate from Stanford). The steps for applying are listed roughly in order and are suggestions only. Check at the AIC (Old Union 306) if you have questions; you may also pick up single copies of the timetable at the AIC.

1. Register to take the LSAT. It is recommended that you take the exam no later than October of the year prior to the year you would like to enter law school. For most people, this means taking the exam in June following their junior year, or in October of their senior year. Registration materials are available at the

AIC; although deadlines are approximately one month before the exam, it is advisable to register early. (WARNING: the registration deadline for the October LSAT will arrive before you return to campus for autumn quarter, so obtain your registration materials and plan accordingly).

2. Register with LSDAS (Law School Data Assembly Service). Complete instructions and forms for doing this are part of the same packet you will use to sign up for the LSAT. It is not necessary for you to register with LSDAS at the same time that you register for the LSAT, but you may find that it is easier to do both at once (and doing so will save you a second processing fee). We encourage you to register with LSDAS by the end of September of your senior year at the latest (assuming you want to enter law school the following fall).

3. Recommendations. If you wish to use the Career Planning & Placement Center's recommendation service, stop by the CPPC to pick up their complete set of information and instructions. Before you leave for the summer, talk with professors or other potential recommenders about preparing a letter of recommendation for you. It is desirable to have at least two academically oriented recommendations, at least one of which is from a professor familiar with your writing skills.

4. LSAT Preparation. Prepare for the LSAT (if you are taking it in June). The LSAT/LSDAS Registration Packet contains LSAT preparation materials, including a sample test. In addition, copies of past LSATs are available for reference at the AIC. Most Stanford students have not taken a test of this nature in several years, and it is helpful to review format and practice speed and self-pacing.

5. School Selection. Begin to think about the schools to which you might want to apply. Among the resources available at the AIC to aid you in this process are reference copies of the AALS/LSAC Prelaw Handbook, law school catalogs, sample applications, a survey of Stanford graduates in law schools, a list of Stanford contacts at law schools throughout the country, and results of the annual Senior Survey.

6. Review Transcript. Arrange to get a copy of your Stanford transcript once spring quarter grades are reflected. This will give you plenty of time to check for incompletes, unreported grades, errors, etc. that might appear, and to correct them before sending your transcript to LSDAS.

7. Obtain Applications. Request admissions information and applications from law schools in September. Included in your LSAT/LSDAS Registration Packet are post cards which you may use for this purpose; please note that law schools prefer post cards to letters when requesting applications. If you will be applying for financial aid, be sure to ask for information and a financial aid application as well.

8. LSAT Exam. If you did not take the June LSAT, prepare for and take the October exam.

9. Nailing Down Recommendations. Conclude arrangements and requests for your recommendations shortly after you return in the fall.

10. Personal Statement. Begin to prepare a personal statement, which can usually be adapted to most law school applications. You may want to consult with the pre-law advisor at the AIC for some guidance on your statement.

11. Advising. If you are uncertain about the strengths of your credentials and wonder for example, whether or not you should retake the LSAT, you might consider speaking with the pre-law advisor at the AIC. The AIC can also help you finalize the list of law schools to which you will apply.

12. Pacific Pre-law Conference. Each November the AIC sponsors the Pacific Pre-law Conference at Stanford, attended by representatives from over 50 national schools. You may wish to attend the Conference in your junior year to collect catalogs and informaton, and certainly will want to attend in your senior year to ask specific questions of the law school representatives.

13. Completing Applications. Have all applications (including LSDAS Report and letters of recommendation) complete and in the mail by Thanksgiving. Law schools begin to consider applications soon after Thanksgiving under rolling admissions policies, so it is greatly to your advantage to have your application complete and on file by then. This will also make it easier on you, and will give you time to correct any problems that might occur at the law school, such as the misfiling or loss of required forms.

ADMISSION CRITERIA AND SCHOOL SELECTION

The two most important criteria for admission to law school are the applicant's undergraduate grade point average (GPA) and performance on the Law School Admission Test (LSAT). The more competitive and prestigious the law school, the more likely that these two factors will be higher for the average accepted applicant. Information on scores and grades by individual law schools can be found in the AALS/LSAC Prelaw Handbook, in the AIC's annual list of "Pacific Pre-law Conference Participants," in the Pre-professional Senior Survey results on reference at the AIC, and in the Survey of Stanford Graduates in Law School (available for reference at the AIC). The most accurate estimation of your chances for admission based on GPA and LSAT will result from consulting all these sources.

The weight that is placed on the GPA and LSAT will differ from school to school, but often other factors will be considered only if your GPA and LSAT are competitive enough to put you in contention for admission. Factors which may be of importance to varying degrees are your personal statement, letters of recommendation, your state of residence, and work experience.

In selecting the schools to which you would like to apply, a good guideline is to try to select three to four "long shots," schools whose admission standards (based on GPA and LSAT averages) are higher than you think you can meet, three to four whose standards you're fairly sure you can meet, and at least one or two whose standards you're sure you can exceed. Beyond this, there are a number of factors you might want to consider.

You will certainly be concerned with the quality of the schools. While rankings do exist, use such lists with caution. Quality can be defined by such various indicators as faculty reputation, number of volumes in the law school's library, percentage of graduates passing the bar examination on the first attempt, faculty/student ratio, job placement, or number of graduates who are faculty members at law schools around the country. In addition to "quality," factors that may be of importance to you include the size of the school, location, cost, availability of financial aid, and special programs or opportunities. Another consideration is to determine whether you want to attend a prestigious and highly competitive institution, or whether you would be happier at a less competitive school where you'll be able to study law under less pressure, or perhaps where professors are known to be easily accessible to students.

One standard of comparison between law schools is the educational orientation or philosophy of each school. Some schools emphasize the teaching of law courses you'll need to pass the bar exam in order to become a practicing lawyer. Other schools may approach the study of law through analysis of legal theory and may consequently relegate instruction in practical law to experience after law school and to on-the-job training. The amount and nature of clinical legal experiences vary from school to school.

The AIC has a number of resources to help you investigate the schools which might be of interest to you:

- Referral to Stanford graduates now attending law school (approximately 75 names at 25 different schools; updated every two years).
- Survey of Stanford Graduates in Law School. This survey, conducted every two years, is sent to Stanford graduates currently enrolled in law school. The questionnaire is designed to solicit "insiders" perspectives on pre-law preparation and on their respective schools.
- Catalogs and sample application materials.
- Pacific Pre-law Conference. Representatives from approximately 50 national law schools attend this annual conference. Held in November, the Conference is intended to provide pre-law students with the opportunity to talk informally with law school representatives.

Finally, if you happen to be near a law school to which you are applying, you might want to stop in to visit the school. While most law schools do not grant formal interviews (and in fact discourage applicants from requesting them), you could certainly talk with students and perhaps sit in on some classes.

THE LAW SCHOOL ADMISSION TEST (LSAT)

All accredited law schools in the United States require their applicants to submit scores from the LSAT. The test is usually offered in June, October, December, and February. It is strongly recommended that you take the exam no later than October of the year prior to the year in which you would like to enter law school.

The LSAT/LSAAS Registration Packet (available at the AIC) contains all the necessary information and forms for registering for the LSAT. Once you have decided upon the date when you would like to take the exam, you should try to submit the forms well in advance of the deadline. Early registration will also give you a better chance of being able to take the test at the test center of your choice. Walk-in registration is possible, but extremely rare and is not advised.

Also included in the Registration Packet are general information about the LSAT, how it is scored, types of questions asked and knowledge tested, as well as a complete sample exam. Although the LSAT does not test specific knowledge or measure achievement in certain areas, it is possible to prepare for the exam in the sense of knowing what to expect. Give yourself plenty of time to go over the preparation materials provided in the Packet and take the practice test.

Your scores for the LSAT will be based on the number of questions you answered correctly. Since there is no deduction for wrong answers, you may guess if you are not sure about a question. Be sure to take a watch, three or four sharpened soft-lead pencils, an eraser, and perhaps a candy bar to the testing center.

If you take the LSAT more than once (which is not generally recommended but may be advisable in some cases), the three most recent scores will be sent to the law schools to which you apply. All the scores and their average will be provided. What the schools do with the scores will vary -- some may use just the average, others may use just the most recent score, and still others may consider scores from a second (or third) exam only if your score improved enough to indicate that it represents more than just increased familiarity with the exam.

Your LSAT scores will normally be kept on file at the Law School Admission Service for five years. LSAS will send your scores only to the schools you designate. You may also choose to release your scores to your undergraduate degree-granting institution, i.e. Stanford. Releasing your scores to Stanford does not mean that your scores go to the Stanford Law School; it allows them to be released to the Academic Information Center. Since knowing the scores of Stanford's undergraduates helps us plan and advise more carefully and profitably, we would appreciate your agreeing to have your scores sent to Stanford. Students' identities and scores are kept strictly confidential.

THE LAW SCHOOL DATA ASSEMBLY SERVICE (LSDAS)

In addition to their own applications, most law schools require applicants to register with the Law School Data Assembly Service (LSDAS). The purpose of the Service is to reduce the enormous clerical task that law school admissions committees face each year when they analyze applications. The LSDAS provides participating schools with a report summarizing an applicant's academic record in a standardized form, copies of the applicant's college transcripts, and LSAT scores. Since a few schools don't utilize the Service, be sure to check the list of participants before you pay the required LSDAS fees. If you are absolutely unable to pay the LSDAS (and/or LSAT) fees, you will need to contact a law school admissions officer to apply for a fee waiver. All details and information are included in the LSAT/LSDAS Registration Packet.

Once you have submitted an LSDAS Registration Form (and have grades recorded for at least nine quarters of undergraduate work), you will need to have a transcript sent to LSDAS from every college you have attended. Another very important step in the process is to send, along with your completed application, a Law School Application Matching Form to every LSDAS-participating school to which you are applying. Once the law schools have received this form, they will send it to LSDAS, which will then produce an LSDAS report for you. You should receive an abbreviated copy of the report about the same time the law schools do. Don't be concerned by all these details -- complete instructions are provided in the LSDAS/LSAT Registration Packet.

When LSDAS is summarizing your transcript, your quarter units will be converted to semester units (multiply your units by 2/3 to get semester units) and all grades from A to D will be converted to a 4.0 scale (see the Appendix). If you've used the pass/no credit option, your pass grades won't be translated into the 4.0 scale. All your pass units will be totalled separately from the units you received for your courses that have letter grades. LSDAS then calculates cumulative and annual GPAs.

You must register for the LSDAS for the "processing year" during which you will be applying to law schools, and the registration is good only for that year. Registration years normally run from March 1 to June 30 of the following year.

Reports for the current "processing year" are produced between August 15 and July 15 of the following year. NOTE: Registering for the LSDAS at the same time you register for the LSAT will save you a processing fee, but you will not be able to do this if you take the LSAT before June of the year in which you apply to law school. Again, complete details can be found in the Registration Packet.

APPLICATIONS AND FINANCIAL AID

Admission and financial aid information and applications should be requested in September of the year preceding the year of your anticipated matriculation in law school. The schools ask that you use post cards rather than letters for this purpose (a small supply of cards is included in the LSAT/LSDAS Registration Packet). While most application deadlines fall in January, February, or March, because law schools use rolling admissions, the earlier your application file is complete, the better your chances of being accepted. Try to have all materials (application, fees, recommendations, LSDAS report, financial aid application, etc.) in the hands of the admissions committees by Thanksgiving at the latest. This will allow plenty of time to take care of any problems that might occur, such as loss or misfiling of your forms.

When you begin to fill out your applications, think about what you will say in each space and how the questions relate to each other. It is helpful to make a photocopy of the application to use for practice. Most applications will include an essay-type question, described in detail in the "Writing a Personal Statement" section below.

Many schools have a rolling admissions policy, meaning that they will start to consider applicants once their applications are received and their files are complete. Even though an admissions committee might make its decisions early in the year, applicants may not be notified of individual admissions decisions until all decisions have been made. In other cases, committees may select a top group of applicants for admission almost immediately, but may deliberate quite carefully over a group of "acceptable" applicants. For instance, to fill a class of 200, a law school might accept seventy-five outstanding applicants almost immediately. The remaining 125 places might be filled from a group of 500 highly qualified applicants. For these applicants, all factors of the application would be quite significant. That is why it is important for even an outstanding candidate to prepare all aspects of the application carefully. On the basis of LSAT scores and GPA, such an applicant might be considered a top candidate by many law schools, but might be in the middle group at other schools.

If you think you will be applying for aid, be sure to request information and financial aid applications at the same time that you request admissions applications. Most law schools make financial aid decisions soon after they admit a student, so you should apply for aid at the same time that you submit your admission application. Economically and educationally disadvantaged students may be interested in scholarships offered through the Council on Legal Education Opportunity (CLEO). Descriptive information about this program is available from law school admission offices, at the AIC, or directly from CLEO, 818 18th Street, N.W., Suite 940, Washington, D.C. 20006.

GAPSFAS -- This unpronounceable acronym stands for the Graduate and Professional School Financial Aid Service. If a law school requires a GAPSFAS application, you must submit a complete application to the service. The purpose of this

service is to collect information about the financial resources and liabilities of the families of applicants to law school. Financial aid decisions are not made by this service, but by the financial aids officers at individual law schools. Applications for GAPSFAS are available at the Graduate Awards Office, Bldg. 590, Old Union.

Many Stanford students would like to attend law school in California and take advantage of lower tuition rates for state residents. If you think this might be the case with you, be sure to investigate the laws regarding establishing residency before you begin to apply. In most states you will need to be a resident for at least one year, and physical presence within the state solely for educational purposes is not enough. The AIC has some information regarding residency requirements in California, and can help you determine where to write for information on other states.

LETTERS OF RECOMMENDATION

Although a student's performance on the LSAT and his or her GPA are the most important factors in an admission decision, for some applicants, letters of recommendation may separate them from an applicant with an equally impressive record of academic achievement. If your application should fall into an "acceptable" category, an actual offer of admission may be given on the basis of letters of recommendation. Consequently, good letters may strengthen your application just when you need it.

The primary concern of admissions committees is the applicant's potential for successful completion of the curriculum. Hence, good recommendations should contain factual information about your academic abilities. Personal characteristics, such as initiative, imagination, resourcefulness, etc., should be mentioned but not emphasized. The schools to which you are applying assume you are a person of good character, and they don't need letters that merely reiterate this assumption. Questions that admissions committees want answered are exemplified by the following: "How well have you done in a particular course? How do you compare with all other students who have taken the course? How long has the course been taught and how many students have taken it?"

Specific details are needed in recommendations, not vague generalizations. You should explain fully the significance of your extracurricular activities and personal awards (academic or non-academic) to your recommendation writers to insure the mentioning of this information in your letters. If you've received an award, be sure to explain the qualifications for receiving or qualifying for such an award, if it is not commonly known.

A rule of thumb is to obtain at least two recommendations from professors or instructors. Ideally, one of these should be from a professor familiar with your writing skills. Letters from employers can be helpful, especially if you have worked for substantial periods of time. Letters from friends and anyone else outside of the Stanford faculty, however, should be used only as supplementary recommendations. Some law schools request a "Dean's Letter." Usually this request calls for a routine certification of the fact that you are a student in good standing. You should take such requests to the Office of the Dean of Student Affairs, which routinely completes such forms for Stanford undergraduates. Law schools will certainly not expect you to know the Dean personally.

There are a couple of courtesies you should extend to those you ask for recommendations. One is to provide them with some written information about yourself -- perhaps a resume, a transcript, a copy of papers you may have written for their courses, a copy of your personal statement, and a list of the schools you are considering. You may also want to give them a copy of "Guidelines for Writing Recommendations," a handout available at the AIC. Most importantly, THANK YOUR RECOMMENDERS. Remember that these people are doing you a valuable favor. Certainly you will thank them in advance when you ask for the letter, but don't forget to follow up with a note of thanks once the recommendation has been written. Another courtesy is to let them know where you will be going to law school!

As a service to you and to your recommenders, you may establish a recommendation file at the Career Planning and Placement Center (CPPC). By registering for the service, you may ask the CPPC to file, duplicate, and mail your recommendations to the law schools of your choice. The service not only makes the application process easier for you, it also relieves the clerical burden placed on faculty who have many such letters to write. The recommender can provide the CPPC with one typed original of the recommendation, and at your request the CPPC will duplicate and mail this letter.

You should stop by the CPPC to pick up a complete set of instructions and information about the service before you begin to approach your recommenders. It also is very important for you to remember that the CPPC is responsible for the clerical functions of establishing a file and sending your letters only. All questions about what sorts of recommendations to obtain, how many to send, etc., should be directed to the AIC.

NOTE: You do not send letters of recommendation to LSDAS. Letters are sent directly to the law schools.

WRITING A PERSONAL STATEMENT

The "Personal Statement" is a blanket term used to connote the various essays required by most law schools. Some law schools request a personal statement concerning each applicant's background and/or interests in attending law school. Other law schools simply invite applicants to submit such a statement if they desire, while others may not mention a personal statement at all. Since the personal statement is a candidate's only chance to "sell" him or herself to the admissions committee, attaching a personal statement to an application is strongly recommended. Most students will apply to at least one school which requests a personal statement, and the essay can generally be adapted to work for other schools with few if any changes.

The weight given to the personal statement in the admissions process varies among law schools, but from the viewpoint of most admission committees, the personal statement has two important functions: first, it is a sample of the applicant's writing style and ability; second, it is a source of information about the applicant's background and objectives. You should draft your statement with both goals in mind. The final product should be carefully written, grammatically accurate, neatly typed, and concise. Where given, prescribed length limitations should be followed strictly. Where no length is suggested, the statement should be approximately two double-spaced typed pages, although in some cases shorter or longer essays may be appropriate.

Your statement should respond to any specific essay instructions which may be given on the application. To the extent that the content of the essay is left open-ended, your statement should be as concrete as possible, making reference to and explaining any significant (positive) factors in your background. If you have specific ideas about your future career in law, do not hesitate to discuss them. It is not necessary, however, to have a legal specialty in mind before you go to law school, and, in any event, it is most important to devote your available space to a coherent, convincing and interesting description of yourself and your past experiences.

Once you have written a first draft of your personal statement and have edited it yourself, ask a friend to look it over and criticize it. Because most people find it difficult to write about themselves without sounding either overly modest or self-important, an objective edit is almost essential. Production of a statement with which you are ultimately satisfied may take several drafts. Once you have written a polished and concise statement for one law school, though, the same statement can probably be used for the others with minor modifications. In this regard, if you have good reasons for, or a specific interest in, attending a particular law school, use the personal statement as an opportunity to explain this interest to the admissions committee.

Personal statements usually have the most favorable impact on the reader if they are organized around a particular theme and are logically constructed to emphasize the applicant's strengths. Ideally, the reader is left with no alternative but to draw the conclusion that the applicant is truly outstanding and would be a valuable addition to the law school. It is better not to arrive at such a conclusion explicitly in your statement, but to make it modestly implicit in all that you say. For this reason, it is often wise to save any apologies or explanations concerning your apparent weak spots for another place in the application, rather than letting them detract from the positive impact of your personal statement.

POSTPONING YOUR APPLICATION OR ENROLLMENT

You may want to consider delaying law school for a year or more after graduation. Such a delay may allow you to put your goals into perspective, to travel, to accomplish some project of personal value, or just to separate yourself from academic pressures for a while. The decision to postpone going to law school by taking a year or more "off" can have anywhere from a neutral to a slightly positive impact on the strength of a candidate's application.

If you decide to delay your legal studies, you should not make application to law school during your senior year. If you do apply and are accepted, and then seek to postpone your admission, law schools generally will not reserve a place for you in some future class. Of course, in the event of some unforeseeable occurrence, such as a death in your immediate family or serious illness, you should contact your law school and seek its counsel.

Even if you aren't going to law school the following year, you may wish to take the LSAT during your senior year. The score may give you an idea of the range of schools where you will be competitive. Your score normally will be kept on file at LSAS for five years. You may repeat the test if you wish, and both scores will be forwarded to law schools. In addition, it is a good idea to obtain recommendations from professors before you leave the Stanford area.

Remember that after your graduation, the services of the AIC and the pre-law advisor will continue to be at your disposal. Just write or call and we will try to help.

APPENDIX

COMPUTATION OF GRADE POINT AVERAGE (GPA)
and
CONVERSION OF STANFORD GRADING SYSTEM TO A 4.0 SCALE

The formula for computing your GPA is:

$$\text{GPA} = \frac{(\text{units of A} \times \text{points}) + (\text{units of A-} \times \text{points}) + (\text{same for all other grades})}{\text{total number of units}}$$

NOTE: Pass/No Credit grades, whether optional or mandatory, are not included when calculating your GPA.

The table below shows the scale by which LSDAS converts Stanford grades to a 4.0 scale:

<u>GRADES</u>	<u>4.0 SCALE</u>
A+	4.33
A	4.00
A-	3.67
B+	3.33
B	3.00
B-	2.67
C+	2.33
C	2.00
C-	1.67
D+	1.33
D	1.00
D-	0.67

STANFORD UNIVERSITY

ACADEMIC INFORMATION CENTER
Old Union 306, 497-1151

WRITING A PERSONAL STATEMENT FOR LAW SCHOOL

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As a writing sample, the final product should be carefully written, grammatically accurate, neatly typed, and concise. Where given, prescribed length limitations should be followed strictly. Where no length is suggested, the statement should be approximately two double-spaced typed pages, although in some cases shorter or longer essays may be appropriate.

Your statement should respond to any specific essay instructions which may be given on the application. If your choice of essay topics is left open, your statement should be written with a view toward being as concrete as possible, making reference to and explaining any significant (positive) factors in your background. If you have specific ideas about your future career in law, do not hesitate to discuss them. It is not necessary, however, to have a legal specialty in mind before you go to law school. The most important concern is to devote your available space to a coherent, convincing and interesting description of yourself and your past experiences. Remember that sincerity (or lack of it) will show through. If you do not have any particular thoughts on your own career as a lawyer or on lawyers and society in general, do not write about them.

Law schools use the personal statement as a proxy for an interview. To this extent, the essay is your chance to distinguish yourself. You want to give the school some reason why you should be admitted before other candidates with similar scores and academic backgrounds. This does not mean

rewriting your resume in prose. Pick your activities or awards that are truly significant and leave out the rest; others will show up elsewhere in the application and you won't have the pressure of trying to reduce twenty years to two pages.

Personal statements usually have the most favorable impact on the reader if they are organized around a particular theme and are logically constructed to emphasize the applicant's strengths. Ideally, the reader is left with no alternative but to draw the conclusion that the applicant is truly outstanding and would be a valuable addition to the law school. It is better not to arrive at such a conclusion explicitly in your statement, but to make it modestly implicit in all that you say. For this reason, it is often wise to save any apologies or explanations concerning your apparent weak spots for another place in the application, rather than letting them detract from the positive impact of your personal statement.

Once you have written a first draft of your personal statement and have edited it yourself, ask a friend to look it over and criticize it. Because most people find it difficult to write about themselves without sounding either overly modest or self-important, an objective edit is almost essential. Production of a statement with which you are ultimately satisfied may take several drafts. Once you have written a polished and concise statement for one law school, though, the same statement can probably be used for the others with minor modifications. In this regard, if you have good reasons for, or a specific interest in, attending a particular law school, use the personal statement as an opportunity to explain this interest to the admissions committee.

There are many "right" ways to do a personal statement. The approach you take will be largely determined by what you have to say. Most importantly, a good statement will reflect your natural character.

STANFORD UNIVERSITY
ACADEMIC INFORMATION CENTER

November 14, 1984

PACIFIC PRE-LAW CONFERENCE 1984

Representatives of the law schools listed below will be attending the Stanford University segment of the Pacific Pre-law Conference on November 14, 1984. Many of the participating schools have supplied information from their admissions offices indicating the median LSAT scores and Grade Point Averages of those students accepted into the first year class at their respective law schools. If you have questions, please direct them to the appropriate representatives. Thank you.

<u>PARTICIPANTS</u>	<u>MEDIAN LSAT SCORE</u>	<u>MEDIAN GPA</u>
Albany	35	3.19
American	37	3.28
Antioch	-	-
Arizona State	35	3.30
University of Arizona	-	-
Boston College	39	3.40
Boston University	39	3.21
University of Bridgeport (Conn.)	33	3.0
Brooklyn Law School	35	3.14
Univ. of California, Berkeley (Boalt Hall)	42	3.60
Univ. of California, Davis	39	3.47
Univ. of California, Hastings	40	3.44
Univ. of California, Los Angeles	39	3.52
Cardoza (Yeshiva Univ.)	36-37	3.10
University of Chicago	43-44	3.75
University of Colorado	38	3.40
Columbia University	42	3.64
Cornell University	41	3.50
Drake	34	3.24
DePaul	-	-
Duke	42	3.57
Franklin Pierce (N.H.)	60%	3.0
Georgetown	42	3.60
George Washington	39	3.46
Golden Gate	34	3.01
Gonzaga University	31-32	3.05
Harvard	-	-
Hofstra	36	3.3

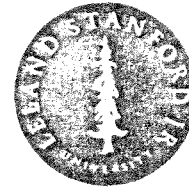
<u>PARTICIPANTS</u>	<u>MEDIAN LSAT SCORE</u>	<u>MEDIAN GPA</u>
Indiana University	37	3.4
University of Iowa	36	3.46
IIT (Chicago)	35	3.10
Lewis and Clark	34	3.08
Loyola University (CA)	36	3.40
Loyola University (LA)	-	-
Marquette	34.5	3.30
McGeorge School of Law (UOP)	-	-
University of Michigan	-	-
University of Minnesota	40	3.59
New England	33	3.0
New York Law School	-	-
New York University	41-42	3.65
Northwestern	-	-
Notre Dame	38	3.5
University of Oregon	-	-
University of Pennsylvania	41	3.62
Pepperdine	33	3.03
Rutgers	-	-
University of Puget Sound	34	3.21
Saint Louis University	-	-
San Fernando	28	2.82
University of San Francisco	35	3.2
San Francisco Law School	31	-
University of Santa Clara	35	3.1
St. Mary's (Para-legal)	-	-
University of Southern California	40	3.5
Southern Methodist University	38	3.40
Stanford	-	-
Suffolk	35	3.25
Syracuse	38	3.4
Tulane	38	3.4
University of Utah	37	3.49
Vanderbilt	39	3.50
University of Washington	41	3.55
Washington University (St. Louis)	36	3.2
Western State Univ. School of Law	-	-
Whittier	33	3.0
William Mitchell	35	3.21
Yale	-	-
Southwestern	33	3.1

STANFORD UNIVERSITY

PERSONNEL DEPARTMENT
 OLD PAVILION
 STANFORD, CALIFORNIA 94305

EMPLOYMENT APPLICATION

FEB 08 1985



Equal opportunity through affirmative action

APPLICANT

- Complete this section. Then complete pages 1, 2 and 3.
- Type or print clearly in black ink.
- If you have a resume, insert it (loose) between pages 2 and 3.
- If you need more space, enclose a supplemental page.
- Send this original application to the Personnel Department, at above address.

GENERAL

NAME (LAST)	(FIRST)	(MIDDLE)	SOCIAL SECURITY NO.	DATE OF APPLICATION
COX-WHITE	ROSA	MARIE	486-70-7151	1-23-85
PRESENT ADDRESS (STREET & APARTMENT NO.)			PHONE NUMBERS WE CAN USE TO CALL YOU	
1116 VASQUEZ AVENUE			DURING DAY AREA C	IN EVENING AREA C
CITY	STATE	ZIP	408-746-2924	same
SUNNYVALE, CA	CA	94086	<input type="checkbox"/> X IF WORK PHONE	<input type="checkbox"/> X IF WORK PHONE
ADDRESS WHERE YOU MAY BE CONTACTED IF DIFFERENT FROM PRESENT ADDRESS			ALTERNATE PHONE NO. AREA C	BIRTHDATE IF UNDER 18
CITY	STATE	ZIP	415-326-9459	n/a
same	---	-----		
DO YOU HAVE THE LEGAL RIGHT TO REMAIN AND WORK PERMANENTLY IN THE U.S.?			INDICATE TYPE & EXPIRATION DATE OF VISA, IF APPLICABLE	
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO			none applicable	

HAVE YOU WORKED FOR STANFORD UNIVERSITY OR STANFORD HOSPITAL?	IF YES, INDICATE DATES OF EMPLOYMENT	DEPARTMENT	POSITION
<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES	n/a		

POSITION

TYPES OF POSITIONS DESIRED
office asst. IV 43859 - p.m. (1572-1654)

EARLIEST DATE AVAILABLE FOR WORK	ARE YOU SEEKING	PREFERRED HOURS	WILL YOU WORK HOURS OTHER THAN 8 TO 5?	WILL YOU WORK WEEKENDS?
Feb. 11, 1985	<input checked="" type="checkbox"/> FULL-TIME PERMANENT EMPLOYMENT	DAYS 7:30-4:30/8:00-5:00	yes	yes
	<input checked="" type="checkbox"/> PART-TIME PERMANENT EMPLOYMENT	days 1:00-5:00/8:00-1:00	YES NO	YES NO
			<input checked="" type="checkbox"/> <input type="checkbox"/>	<input checked="" type="checkbox"/> <input type="checkbox"/>

SOURCE OF REFERRAL CHECK ALL THAT APPLY):

SELF	NEWSPAPER	SCHOOL	STATE	COMMUNITY	RECRUITED BY STANFORD	BY WHOM?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	EMPL OFF.	AGENCY	<input type="checkbox"/> EMPLOYEE REFERRAL	

INTERNAL APPLICANT OTHER (SPECIFY) I AM PRESENTLY WORKING AT THE OLD PAVILION IN PROJ. MNGT. FOR BETTY TYSON.

SOCIAL SECURITY NO. 486 70 7151
 MIDDLE MARIE
 FIRST ROSA COX-WHITE

EMPLOYMENT RECORD

Items marked with an asterisk need not be included if you are currently unemployed.

PRESENT OR MOST RECENT EMPLOYMENT

EMPLOYER	POSITION TITLES (LIST EARLIEST FIRST)	START DATE	END DATE	STARTING MONTHLY SALARY	HOURS PER WEEK
EATON MICROLITHOGRAPHY SYSTEMS	receptionist	5/05	10/29	\$ 1560.00	same
STREET ADDRESS				FINAL MONTHLY SALARY	HOURS PER WEEK
NORTH 1st STREET SAN JOSE, CALIFORNIA				\$	
CITY, STATE, ZIP		LAST SUPERVISOR'S NAME		PHONE	
SAN JOSE		SHIRLEY WOODS		408-7303200	
DESCRIBE POSITION*				REASON FOR LEAVING	
answering phone(dimension phone system console.Routing and distributing mail;litétyping;greeting clients;taking applications and reviewing for proper information. reason con't I WAS SUPPOSED TO BE IN A TEMPORARY POS. AS A RECEPT. AND GO INTO PERSONNEL.				OUTSIDE THE FACT IT WAS VERY BORING. NEVER HAPPENED!	

PRIOR EMPLOYMENT, MILITARY SERVICE, SIGNIFICANT VOLUNTEER WORK OR UNEMPLOYMENT

EMPLOYER	INITIAL POSITION TITLE	START DATE	STARTING MONTHLY SALARY	HOURS PER WEEK
M.B.A. PERSONNEL AGENCY	CLERICAL RECRUITER	05/81	900.00	40t
STREET ADDRESS		FINAL POSITION TITLE	END DATE	FINAL MONTHLY SALARY
SANTA CLARA STREET		SAME	04/1983	(mo. \$1600.00 AVERAGE
CITY, STATE, ZIP		LAST SUPERVISOR'S NAME		PHONE
SAN JOSE, CA 95116		PAT GALLEGER		NONE/UNKNOWN
DESCRIBE POSITION*				REASON FOR LEAVING
AS A RECRUITER(CLERICAL):I interviewed applicants for permanent clerical jobs.SEEKED EMPLOYERS IN NEED OF EMPLOYEES. FOR THE VARIOUS INDUSTRIES.				CO.CLOSED MOVED TO EAST COAST.

EMPLOYER	INITIAL POSITION TITLE	START DATE	STARTING MONTHLY SALARY	HOURS PER WEEK
FOR YOU, INC.	ASST. OFFICE MNGR.	11/79	900.00	40t
STREET ADDRESS		FINAL POSITION TITLE	END DATE	FINAL MONTHLY SALARY
TOWN & COUNTRY VILLAGE		SAME	04/81	1200.00
CITY, STATE, ZIP		LAST SUPERVISOR'S NAME		PHONE
PALO ALTO, CA 94303		LELI PETTINNOULAI		UNKNOWN
DESCRIBE POSITION*				REASON FOR LEAVING
CUSTOMER SERVICE REP.;bkpg.;banking;counseling instructors on customer relations.				CO. MOVED TO SO. CALIF.

EMPLOYER	INITIAL POSITION TITLE	START DATE	STARTING MONTHLY SALARY	HOURS PER WEEK
DATIQUE, INCORPORATED	RECEPT./ ASST. OFFICE MNGR.	02/75	750.00	40t
STREET ADDRESS		FINAL POSITION TITLE	END DATE	FINAL MONTHLY SALARY
MAIN STREET		ASST OFFICE MNGR	01/78	1200.00
CITY, STATE, ZIP		LAST SUPERVISOR'S NAME		PHONE
KANSAS CITY, MO		PEGGY MILLER		UNKNOWN
DESCRIBE POSITION*				REASON FOR LEAVING
typing;errands;banking deposits;interviewing. I also did some of the bookeeping. It was a job I really enjoyed and the people were very enjoyable to work with.				moved to Ca.

If more than four employers, attach a supplemental page

EDUCATION & TRAINING		DATES ATTENDED		GRADUATED?		TYPE OF DEGREE OR DIPLOMA	MAJOR SUBJECT
HIGH SCHOOL LAST ATTENDED	NAME OF SCHOOL CITY & STATE	FROM	TO	YES	NO		
		MO. & YR.	MO. & YR.				
	RIDER HIGH SCHOOL CITY & STATE WICHITA FALLS, TEXAS			X		H.S.G.	
COLLEGE UNIVERSITY OR TECHNICAL SCHOOL	FOOTHILL COLLEGE CITY & STATE LOS ALTOSHILLS, CA	SUMMER 1979	FALL 1979		X	NONE	ALGEBRA & ENGLISH ALSO. BUSINESS ADMINISTRATION
COLLEGE UNIVERSITY OR TECHNICAL SCHOOL	MAYFIELD BUSINESS SCHOOL CITY & STATE PALO ALTO, CA	1978 SUMMER	1978 FALL	X		CERTIFIED CLERICAL!	TYPING; FILING; BUS. ENG. 10-key(touch); Employment.
COLLEGE UNIVERSITY OR TECHNICAL SCHOOL	NAME OF SCHOOL CITY & STATE						
OTHER (e.g., business, etc.)	NAME OF SCHOOL CITY & STATE						

Academic honors, awards, scholarships, professional organizations, volunteer activities, certificates, publications, licenses, or any other information you consider significant and relevant to employment at Stanford:

I belong to a professional organization called N.A.F.E.
(NATIONAL ASSOC. for FEMALE EXECUTIVES)

I am currently working as Free Lance Receptionist. My office is in my home. I do all my public relations; bookkeeping; customer service and everything else that goes along with having a business. I enjoy helping others to make their own accomplishments for them selves. I worked for the school district in East Palo Alto in 1979 and 1980. I tested students on their skills and gave them some guidance in seeking employment, a job I truly enjoyed!

LANGUAGE ABILITY - LIST THOSE YOU COULD USE IN YOUR WORK				TYPING SPEED	SHORTHAND SPEED
LANGUAGE	SPEAK	READ	WRITE		
ENGLISH	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	30 WPM	none WPM

REFERENCES List three persons other than relatives or personal friends who have knowledge of your work experience and/or education.

NAME	MAILING ADDRESS	PHONE NO. (DAY)
BILL HEATON	EATON CORP. 4001 N. STREET SAN JOSE, CA 95134	408-943-6169
JOANNIE MILLS	PROJECT MANAGEMENT OLD PAVILION STANFORD, CA <i>see letter</i>	415-497-2526

PLEASE SEE LETTERS PROVIDED: *Letters of recommendation is needed*

I hereby consent to the duly authorized representatives of Stanford University contacting any of my former employers, any of the educational institutions that I have attended, and any other persons or organizations whom it determines might have information relevant to my application for employment here. I further consent to those persons or organizations divulging relevant information to Stanford, notwithstanding that it might otherwise be confidential, such as records of disciplinary proceedings. I understand that any information obtained by Stanford University in the course of those contacts will be treated in the strictest of confidence.

CHECK IF YOU ARE ENCLOSED A RESUME

APPLICANT'S SIGNATURE

Yvonne B. Cox-Knutson DATE 1/29/85
834

PLEASE CHECK EACH AREA IN WHICH YOU HAVE HAD FIRST-HAND EXPERIENCE OF SUBSTANCE
 THIS IS NOT A SUBSTITUTE FOR YOUR APPLICATION, PLEASE BE SURE ITEMS CHECKED OFF
 ARE EXPLAINED IN DETAIL ON APPLICATION

<p>FOR OFFICE USE ONLY</p> <p>GA# _____</p> <p>TS# _____</p> <p>GZ# _____</p> <p>GB _____</p> <p>GT _____</p> <p>GL _____</p> <p>GD _____</p> <p>DT _____</p> <p>EG# _____</p> <p>SP# _____</p> <p>RF _____</p> <p>PP _____</p> <p>RP _____</p> <p>BP _____</p> <p>BM _____</p> <p>CP _____</p> <p>CM _____</p>	<p><u>SECRETARIAL EXPERIENCE</u></p> <p>Estimated Years of Experience _____</p> <p><input type="checkbox"/> Secretary/General</p> <p><input type="checkbox"/> Executive Secretary</p> <p><input checked="" type="checkbox"/> Typing Speed <u>35-40</u></p> <p><input type="checkbox"/> Shorthand/Speedwriting Speed _____</p> <p><input type="checkbox"/> Statistical typing</p> <p><input type="checkbox"/> Technical typing</p> <p><input type="checkbox"/> Legal typing</p> <p><input type="checkbox"/> Medical typing</p> <p><input type="checkbox"/> Dictaphone (or other dictating equipment)</p> <p><input checked="" type="checkbox"/> Scheduling (meetings, calendars, etc.)</p> <p><input checked="" type="checkbox"/> Filing</p> <p><input checked="" type="checkbox"/> Reception</p> <p><input checked="" type="checkbox"/> Copy machine operation</p> <p><u>TELEPHONE EXPERIENCE</u></p> <p>Estimated Years of Experience <u>10 yrs.</u></p> <p><input checked="" type="checkbox"/> Two-six lines</p> <p><input checked="" type="checkbox"/> Call director</p> <p><input checked="" type="checkbox"/> Intercom</p> <p><u>ADMINISTRATIVE EXPERIENCE</u></p> <p>Estimated Years of Experience _____</p> <p><input checked="" type="checkbox"/> Supervisory experience</p> <p>Circle # of people supervised</p> <p>1 2 3 4 <u>5</u> 6+</p> <p><input type="checkbox"/> Training of own staff</p> <p><input checked="" type="checkbox"/> Responsibility for hiring decisions, disciplinary actions, terminations, performance evaluations</p> <p><input type="checkbox"/> Policy, procedures interpretation</p> <p><input type="checkbox"/> Report preparation (gathering and analyzing information, etc.)</p> <p><input type="checkbox"/> Budget preparation</p> <p><input type="checkbox"/> Budget monitoring</p> <p><input type="checkbox"/> Contract/Grant proposal preparation</p> <p><input type="checkbox"/> Contract/Grant monitoring</p> <p><input checked="" type="checkbox"/> Personnel record keeping (timesheets, etc.)</p>	<p>FOR OFFICE USE ONLY</p> <p>WP# _____</p> <p>GF _____</p> <p>CL _____</p> <p>CW _____</p> <p>CS _____</p> <p>GX _____</p> <p>FB# _____</p> <p>CB _____</p> <p>AP _____</p> <p>AR _____</p> <p>YL _____</p> <p>CT _____</p> <p>CA _____</p> <p>BK _____</p> <p>ER _____</p>	<p><u>DATA/WORD PROCESSING EXPERIENCE</u></p> <p>Estimated Years of Experience _____</p> <p><input type="checkbox"/> Computer Information Retrieval Systems</p> <p><input type="checkbox"/> Computer Language</p> <p><input type="checkbox"/> WYLBUR</p> <p><input type="checkbox"/> SPIRES</p> <p><input type="checkbox"/> SPSS</p> <p><input type="checkbox"/> COBOL</p> <p><input type="checkbox"/> FORTRAN</p> <p><input type="checkbox"/> BASIC</p> <p><input type="checkbox"/> PASCAL</p> <p><input type="checkbox"/> PLI</p> <p><input type="checkbox"/> Word Processing Equipment</p> <p><input type="checkbox"/> Artec</p> <p><input type="checkbox"/> Datapoint</p> <p><input type="checkbox"/> DEC</p> <p><input type="checkbox"/> IBM</p> <p><input type="checkbox"/> Lanier</p> <p><input type="checkbox"/> Lexitron</p> <p><input type="checkbox"/> NBI</p> <p><input type="checkbox"/> Rothenberg</p> <p><input type="checkbox"/> Vydec</p> <p><input type="checkbox"/> Wang</p> <p><input type="checkbox"/> Xerox 850</p> <p><input type="checkbox"/> Other, please specify _____</p> <p>_____</p> <p><input type="checkbox"/> Keypunch</p> <p><input type="checkbox"/> Strokes per hour _____</p> <p><u>ACCOUNTING EXPERIENCE</u></p> <p>Estimated Years of Experience <u>6</u></p> <p><input type="checkbox"/> Basic accounting procedures</p> <p><input type="checkbox"/> Course work in accounting</p> <p><input type="checkbox"/> Computer based billing systems</p> <p><input type="checkbox"/> Accounts payable</p> <p><input type="checkbox"/> Accounts receivable</p> <p><input type="checkbox"/> Payroll</p> <p><input checked="" type="checkbox"/> Calculator or Adding Machine</p> <p><input checked="" type="checkbox"/> Touch <input type="checkbox"/> Sight</p> <p><input checked="" type="checkbox"/> Bookkeeping</p> <p><input type="checkbox"/> Invoice preparation</p> <p><input type="checkbox"/> Expense reports (paperwork and backup for travel, etc.)</p>
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OR
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FOR
OFFICE
USE
ONLY

MEDICAL OFFICE EXPERIENCE

LIBRARY EXPERIENCE

GG# Estimated Years of Experience _____

DK# Estimated Years of Experience _____

MT () Medical terminology
() General
() Specialized (e.g., Pathology,
Oncology)

RL () RLIN
CG () Catalogue
BY () Bibliography
RE () Reference
SE () Serials
CI () Circulation
AQ () Acquisition

SC () Scheduling (Appointments, tests, etc.)
() Doctor's office
() Clinic
() Hospital

BI () Bindery
SH () Shelving
CN () Collection
AC () Archive
RS () Reserve
DO () Document
OT () Other, please specify

DB () Medical Billing
() Medicare
() Medi-Cal
() Pre-paid medical plans
() Other group medical plans
Please specify

FOREIGN LANGUAGE EXPERIENCE

Estimated Years of Experience _____

DATA AIDE EXPERIENCE

NB# Estimated Years of Experience _____

LS () SPANISH
() Speak () Read () Write

ST () General knowledge of statistical
techniques
() Course work in statistics
() Compilation of statistics
() Analysis of statistics
DA () Collection of data
() Extraction of data
() Analysis of data

IF () FRENCH
() Speak () Read () Write

LI () ITALIAN
() Speak () Read () Write

LG () GERMAN
() Speak () Read () Write

LC () CHINESE
() Speak () Read () Write

LJ () JAPANESE
() Speak () Read () Write

LR () RUSSIAN
() Speak () Read () Write

LP () POLISH
() Speak () Read () Write

LO () Other, please specify

NAME _____

DATE _____

STANFORD UNIVERSITY

STANFORD, CALIFORNIA 94305

HUMANITIES AND SCIENCES
Office of the Dean
(415) 497-2275

February 21, 1985

Elihu M. Harris
Chairman
Assembly Committee on Judiciary
California Legislature
State Capitol
Sacramento, California 95814

Dear Mr. Harris:

Enclosed please find the Stanford University answers to your recent questionnaire as well as copies of the materials we disseminate to our undergraduates interested in a legal career.

Although I will not be available as a witness in your hearings, I hope they yield useful information on the state of legal education in California.

Yours sincerely,



Carolyn C. Lougee
Undergraduate Dean

UNDERGRADUATE DEANS QUESTIONS

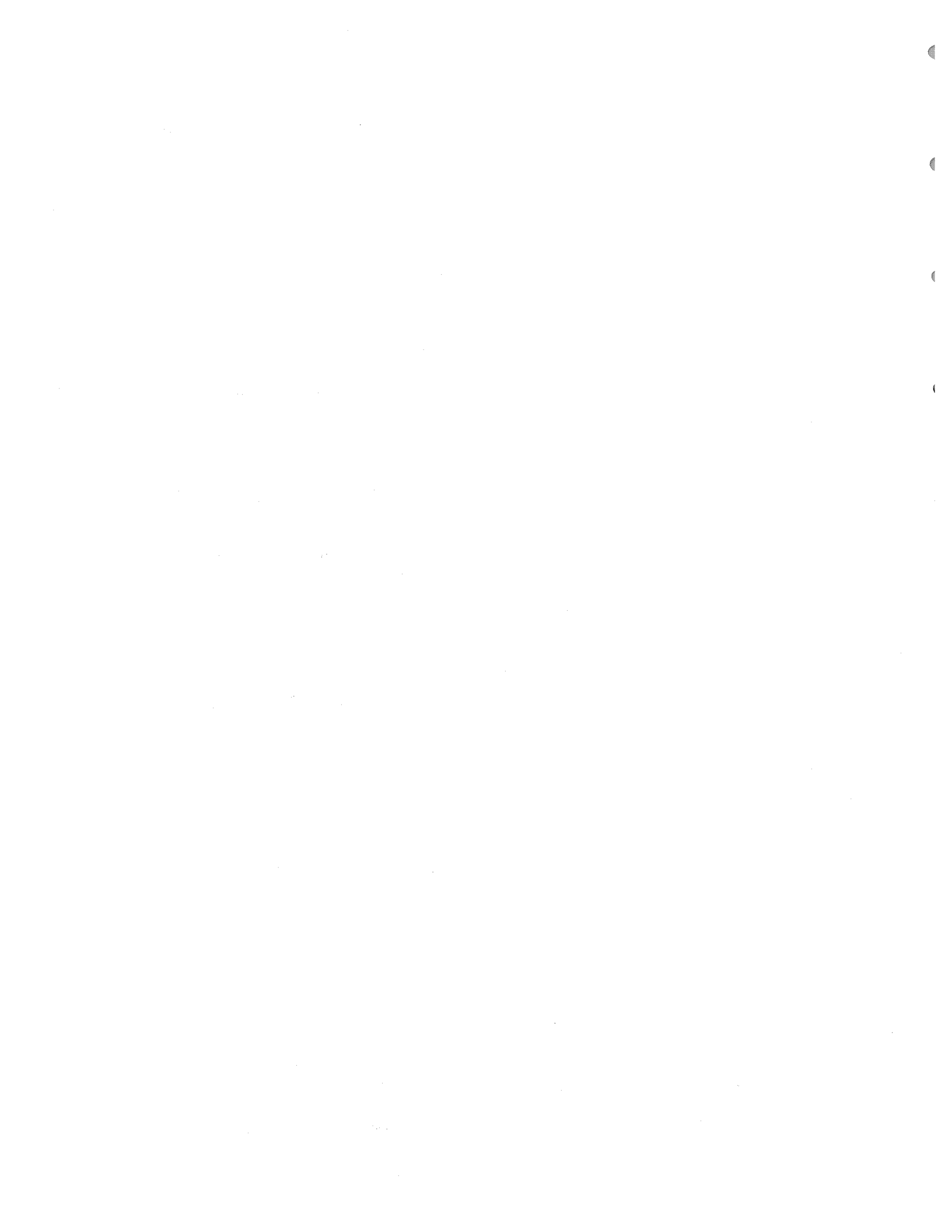
1. Students aren't identified per se - but all "pre-law" activities (seminars, talks, etc.) are advertised in the student newspapers, fliers, etc. so any interested students can come to any or all activities of interest.
2. A number of freshmen do enter college with the specific intent of going on to law school. No exact numbers - but we do have many freshmen who come to the office with questions about "what does it take to get into law school?" For that reason we publish the enclosed booklet - "Pre-Law Information" which is designed for freshmen and sophomores.

There is lots of change in the "pre-law" population during all four years - with students considering law school as freshmen, sophomores, juniors and seniors. A disturbing number of students probably "float" into law school without a clear sense of what they're getting into but rather a desire to go to graduate school (on a misconception that graduate school of some sort is "necessary" to land a "good" job).

Our office has a Stanford law student who is available 5-10 hours per week to talk to any students about law school. He gives group presentations for freshmen and sophomores, plus reviews application procedures for juniors and seniors. Do we effect decision on whether to apply or not - hard to measure?

3. No sense of "different" attitude towards a career in law among minority or women's populations except in terms of motivation. Minority might be slightly more interested in law as agent for social change than non-minority student.

4. No pre-law curriculum at all. Students are encouraged to hone their writing and analytical skills - plus courses in economics and logic might be beneficial.
5. We accommodate their requests to visit the campus, do not seek them out.
6. Yes - undergraduates may take a few courses that are cross-listed in the law school and an undergraduate department; (eg, Law in Radically Different Countries, Communication Law); however, none of these courses are really representative of formal legal education.
7. No LSAT preparation courses on campus.
8. Career Planning and Placement Center has some internships and part-time summer jobs in law firms; plus Bowman Alumni House has listings of alums (some lawyers) who welcome visits of undergraduates to explore their particular professions.
9. NO! All undergraduates (pre-med, pre-law, pre...anything) are encouraged to pursue a broad liberal education that ensures their ability to reason, analyze, communicate orally and in writing - and to make their decision on a major based on love of subject matter, NOT that it will please a certain professional school.



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CALIFORNIA LEGISLATURE

Assembly Committee

on

Judiciary

ELIHU M. HARRIS

CHAIRMAN

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TELEPHONE: (916) 445-451

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COUNSEL

RAY LEBOV
COUNSEL

MYRTIS BROWN
COMMITTEE SECRETARY

March 7, 1985

Carolyn C. Lougee
Undergraduate Dean
Humanities and Sciences
Stanford University
Stanford, California 94305

Dear Dean Lougee:

First, I would like to thank you for providing the Assembly Judiciary Committee with your responses to the questionnaire that was sent to you last month.

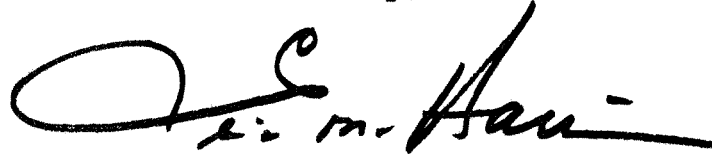
Second, I would like to extend to you a formal invitation to testify before the Committee during a hearing that will address the issue of the state of legal and pre-legal education. The hearing will be held on March 26th in Room 126 of the State Capitol. The hearing will commence upon the completion of the Judiciary Committee's normal business (approximately 10:30 a.m.) for that day.

Please be prepared to testify on the subject matters that were directed to you on the questionnaire that you returned to the Committee. Additionally, please be prepared to address questions which may arise as a result of the testimony of one, or several, of the witnesses during the hearing. With your permission, the answers that you provided to the questionnaire will be made part of the record of the hearing. Due to the severe time constraints imposed on the Committee, I am requesting that you limit your oral testimony before the Committee to no more than 10 minutes during the hearing.

Carolyn C. Lougee
March 7, 1985
Page 2

If you have any questions regarding the hearing, or if you wish to confirm your participation, please contact Mark T. Harris, of my staff.

Sincerely,

A handwritten signature in black ink, appearing to read "E. M. Harris". The signature is fluid and cursive, with a large initial "E" and a long horizontal stroke at the end.

ELIHU M. HARRIS

EMH:MTH:mea



COUNSELING AND PSYCHOLOGICAL SERVICES:
STUDENT ADVISING—PRE PROFESSIONAL & PRE GRADUATE
(415) 642-5207

2224 PIEDMONT AVENUE
BERKELEY, CALIFORNIA 94720

February 14, 1985

Mr. Mark T. Harris
Office of Assemblyman Elihu M. Harris
California Legislature
Sacramento, Ca. 95814

Dear Mr. Harris:

At the University of California, Berkeley, there is an office that specializes in the advising of Pre-Law, Pre-Medical, Pre-Business and Pre-Graduate students. Hence, the Office of Student Advising, Pre-Professional/Pre-Graduate has been asked to reply to the Questionnaire for Undergraduate Deans which was sent to Dean Leonard Kuhi. For some reason, the Questionnaire did not arrive at Dean Kuhi's office until Feb. 12 and I received it late yesterday afternoon.

1) What steps, if any, does your office make to identify those students interested in a legal career?

At present, there is no agency on the Berkeley campus that knows the future plans of entering students. However, during orientation programs for these students, the Office of Student Advising tries to notify all students of the advising services available to them. During the first weeks of school there is a special advertized program for Pre-Law students at the beginning of the semester.

2) Have you found that many students arrive at college with the specific intent to go on to law school?

In over eleven years of advising, we have learned that many of the entering students do have plans to go to law school. However, equally as many decide on it during their school years or after. It is difficult to determine how many plan to go to law school as a result of the annual Pre-Law Conference on campus or other meetings. Usually, there are about 1000 students who attend the conference. Recently, this office was notified that U. C. Berkeley is one of the top five feeder schools to law schools in the nation.

3) Have you noticed a "different" attitude towards a career in the law among your school's minority or women populations?

When the office of Student Advising was created in 1973, fewer than a quarter of the pre-law advisees were women. Now nearly fifty percent are women. Although it has not been nearly as large, there has been a significant increase in the numbers of minorities both interested in and applying to law school over the last eleven years. Student Advising has a part-time employee--a lawyer who works for the United States Labor Relations Board--who works specifically with Minority Pre-Law Coalition to increase interest and development of pre-law students among minorities on campus.

4) Are there pre-law courses available to undergraduates at your institution?

Since the law schools themselves do not prescribe a set pre-law curriculum, there are no "Pre-Law" courses per se on the campus. The Office of Student Advising does provide information to students about courses that other students have found to be beneficial in developing analytical and writing skills.

5) Does your institution encourage law school recruiters to come to your campus?

For fifteen years, first the Dean of Students Office and for the last twelve years the Office of Student Advising, has coordinated a Pre-Law Conference for California Schools. More recently they have been U. C. Berkeley, Stanford, UCLA and U. C. San Diego. During that time, the number of recruiters has grown from about 35 to over 70 on the Berkeley campus last November. The recruiters are here for a whole day and usually see 1000 or more students. In addition, other recruiters come to the office of Student Advising throughout the year. They are actively encouraged to do so.

6) Are there law school courses available to undergraduate students on your campus?

Since law schools require admission prior to attendance, there are no undergraduate law courses on any campus. However, students are welcome to attend individual classes, occasionally, to see what a law course might be like.

7) How available are Law School Admission Test preparation course offerings on your campus?

Until this semester, there was at least one course offered per semester by the Student Learning Center of campus. However, because of budget cuts that have occurred over the last three years, those courses were eliminated. We have been told that the budget cuts have been necessitated because of the loss of flexibility to increase student fees. This makes sense because all salary increases have had to come from the same static pool of money.

8) Does your office provide assistance for pre-law students who want to find legal work while contemplating or preparing for law school?

Student Advising works with the Office of Career Planning and their internship programs in assisting students to find legal work.

9) Should undergraduate schools offer a specified curriculum for pre-law majors analogous to pre-med course offerings?

The law schools do not believe that there is one set of courses that can develop the necessary reading, writing and analytical skills required to do well in law school and law. After over eleven years of pre-law advising, the office of Student Advising agrees. Students have been successful in law schools with majors ranging from archeology and art history to mathematics, paleontology and chemical engineering. Law professors say that success in law school depends on the skills students develop and not on the courses they take.

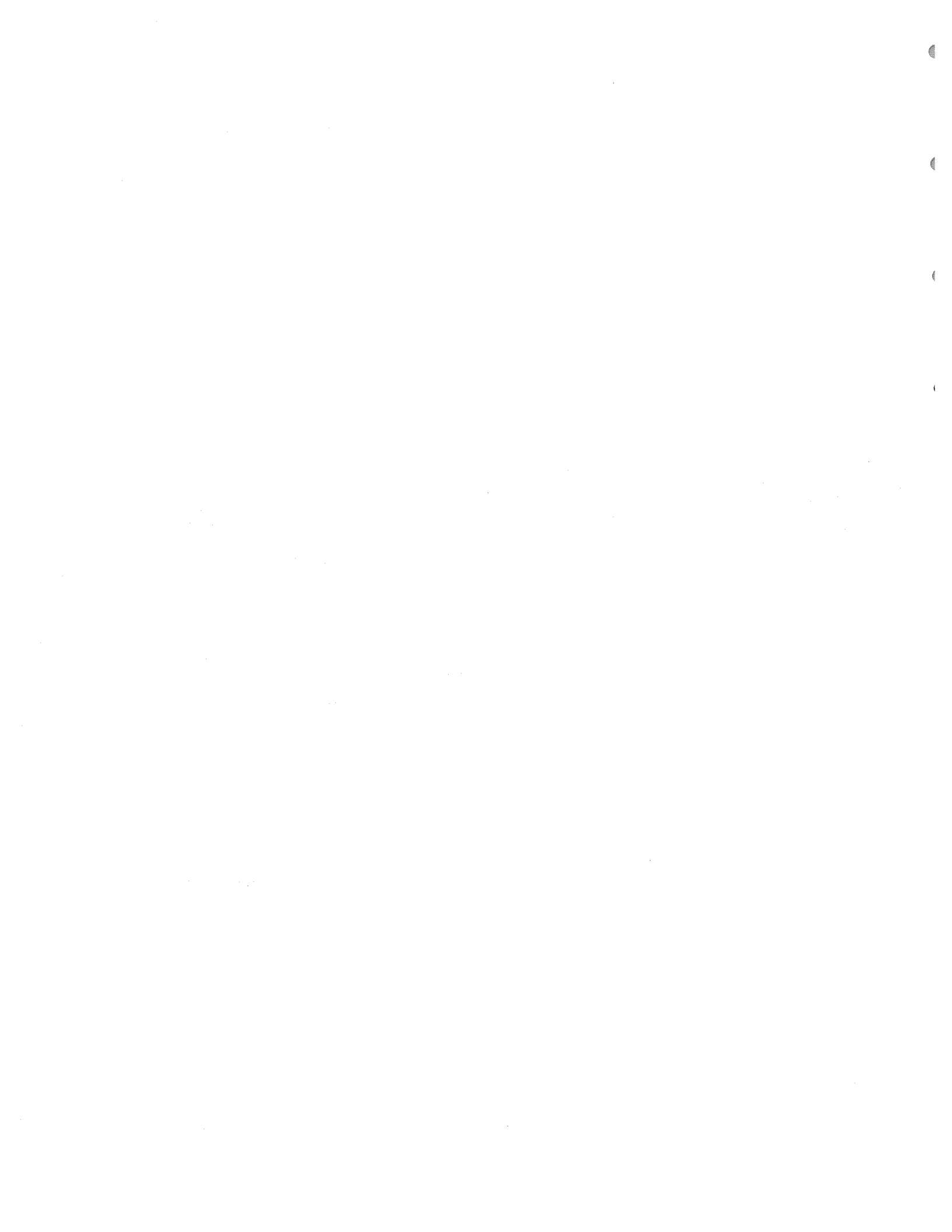
Hopefully these answers to the questionnaire will be of value to the Committee. If there is any further information that we can provide, we will be delighted to do so. Our address is:

University of California, Berkeley
Student Advising, Pre-Professional/Pre -Graduate
2224 Piedmont Avenue
Berkeley, Ca. 94720

Sincerely yours,

Willis A. Shotwell

Willis A. Shotwell
Assistant Director



UNIVERSITY OF CALIFORNIA, SANTA BARBARA

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OFFICE OF THE PROVOST
COLLEGE OF LETTERS AND SCIENCE

SANTA BARBARA, CALIFORNIA 93106
(805) 961-3506

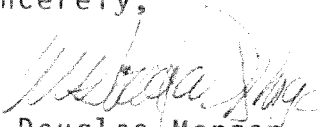
February 19, 1985

Elihu M. Harris, Chairman
Assembly Committee on Judiciary
California Legislature
State Capitol
Sacramento, CA 95814

Dear Assemblyman Harris:

In accordance with your letter of February 1, 1985, I am enclosing my answers to your questions. I hope these answers prove useful for your deliberation. If I can provide additional information please feel to call.

Sincerely,


W. Douglas Morgan
Associate Dean

WDM:lp

ANSWERS TO QUESTIONNAIRE

1. The College of Letters and Science is able to identify most prelaw students through a self-identification process which takes place at the beginning of each quarter. Students with an interest in a preprofessional field are directed to mark designated boxes on their registration documents. We can then obtain a list sorted against such fields as class standing, major, gpa, as well as local resident information such as address and telephone number. The College also conducts a Prelaw Orientation meeting at the beginning of each academic year.
2. We have surveyed our group over the course of the last two academic years and discovered that of the four classes (Sr., Jr., Soph., Fr.), the entering freshmen have the lowest prelegal interest level (about 4.7% in Fall 1984). By the time students become seniors, close to six percent express interest in the law. We speculate that fewer freshmen enter UCSB with the career goal of Law than the number of upperclass persons who embrace the idea later. Apart from the Prelaw Orientation mentioned above, the College makes available a Prelaw Information handout and, in conjunction with the campus Prelaw Students Association, sponsors a yearly Prelaw Conference, to which practitioners and law school representatives are invited.
3. The minority prelaw students on campus seem to be generally well informed about prelaw issues. Interest level appears to vary rather substantially according to ethnic group. The Chicano and Asian American students seem to be more interested in a legal career as an option than do Black students, and among Black students, females far out-number their male counter-parts. All groups participate in the Prelaw Conference.
4. Yes, our Department of Political Science and a program under the aegis of Political Science; Law and Society, offer a number of courses which could be said to introduce the student to the many facets of law and the American Justice System. In addition, the Economics department has a series of law courses covering selected topics in Business law.
5. Yes, UCSB hosts representatives from about 15 law schools each year.
6. No, there is no law school at UCSB.
7. The campus Center for Academic Skills Enrichment offers an orientation to the LSAT in advance of the exam. In addition, the Stanley Kaplan Course lectures are presented on campus.
8. Students interested in gaining experience are referred to the campus part-time employment office, the Internship Office and the Community Affairs Board; all of which offer opportunities for legally related work.
9. No. The course preparation for medicine can be done in conjunction with any major on campus. So too should course preparation for the law. The College recommends prelaw students acquire the analytical and writing skills which are fostered in the majority of our college courses. It would be difficult to find a core of common courses that all of our most outstanding prelaw students have taken. Each one finds his or her own path, continually encouraged by the University. I would be against a specified curriculum for prelaw.



VICE PRESIDENT
LETTERS, ARTS AND SCIENCES

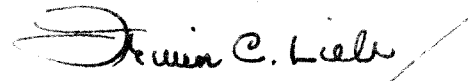
February 14, 1985

Mr. Mark T. Harris
California Legislature
Assembly Committee on Judiciary
State Capitol
Sacramento, California 95814

Dear Mr. Harris:

Here are our answers to the
questionnaire which we received from
Mr. Elihu M. Harris early in February.

Yours sincerely,


Irwin C. Lieb
Vice President

enc.
ICL:an



QUESTIONNAIRE FOR UNDERGRADUATE DEANS

- 1) At the University of Southern California, students who are interested in a legal career identify themselves. They identify themselves to advisors and consult with them about their coursework and their plans. Undergraduate organizations who are seeking prospective students of the law as members announce meetings at which students also declare themselves and are then directed to suitable advisors. The Letters, Arts and Sciences Advisement Office also has pre-professional advisement; it regularly issues calls to students to register at the Office for advice.
- 2) Many students do indeed arrive at the University with the specific intent to go to law school. Our impression is that the largest number of our students who finally apply to schools of law were intent on making their applications when they arrive.
- 3) The "different" attitude is different only in a modest way -- it is only that there is some tentativeness about undertaking careers in law among some minority students and women. Normally we respond to this tentativeness through guidance, advisement, and discussions with persons who might be thought to be suitable role models.
- 4) There are no pre-law courses as such in the University of Southern California. Our advisors suggest now one and now another course as being perhaps especially appropriate for persons who want to go on to law. We make our recommendations in part after our consultation with the offices of our own School of Law.
- 5) Indeed, we do encourage law school recruiters to visit our campus.
- 6) Our own Law School courses are not normally available to our undergraduates. Occasionally, special arrangements have been made.
- 7) Law School Admissions Test preparations are indeed regularly and easily available on our campus.
- 8) Yes, the LAS Advisement Office and our Student Placement Office provide assistance for pre-law students who want to find legal work while they are contemplating or preparing for law school. A number of our students work in law offices.
- 9) The College of Letters, Arts and Sciences, in consultation with our School of Law, are emphatically opposed to a specified curriculum for pre-law majors, analogous to pre-medical course offerings. Our experience is that law is a large and comprehensive enterprise and that appropriate access to it may come with preparations of different accents. For some students, preparations in history or political science or economics are a fine, prominent access. For others, studies in philosophy and sociology seem more suitable. Given the enormous range of the law, and indeed the study of the law, we prefer to allow our students, with advice, to choose one or another of several routes to their preparation for law.

Questionnaire for Undergraduate Deans

- 1) What steps, if any, does your office make to identify those students interested in a legal career?
- 2) Have you found that many students arrive at college with the specific intent to go on to law school?
 - If not, on average, how soon after their arrival do they make that decision?
 - Does your office have any effect on that decision through meetings, lectures, or seminars?
- 3) Have you noticed a "different" attitude towards a career in the law among your school's minority or women populations?"
 - What measures have you undertaken to address that difference, if one exists?
- 4) Are there pre-law courses available to undergraduates at your institution?
- 5) Does your institution encourage law school recruiters to come to your campus?
- 6) Are there law school courses available to undergraduate students on your campus?
- 7) How available are Law School Admissions Test preparation course offerings on your campus?
- 8) Does your office provide assistance for pre-law students who want to find legal work while contemplating or preparing for law school?
- 9) Should undergraduate schools offer a specified curriculum for pre-law majors analogous to pre-med course offerings?