



The State Bar of California

Attorney Practice Analysis for the California Bar Exam

The first California-specific analysis of the knowledge and skills needed by entry-level attorneys

Findings and Recommendations

The [Final Report of the California Attorney Practice Analysis \(CAPA\) Working Group](#) contains three broad recommendations, drawn from a detailed study of the knowledge, skills, and abilities required of entry-level attorneys in California. These recommendations are designed to bring the California Bar Exam into closer alignment with the current practice of law for entry-level attorneys in California:

1. Focus the bar exam's scope on the practice experience of entry-level attorneys, defined as attorneys in their first three years of practice.
2. Focus exam content on the legal topics that are most important and most frequently used by entry-level attorneys, reducing the number of legal topics from 13 to eight.

The recommended topics include:

- Administrative Law and Procedure
- Civil Procedure
- Constitutional Law
- Contracts
- Criminal Law and Procedure
- Evidence
- Real Property
- Torts

To ensure competence in other areas beyond these eight topics, which rated high in importance and frequency in the practice analysis, the working group urged consideration of additional training or testing requirements outside the context of the bar exam. For example, the working group recommended establishing requirements for training in professional ethics for first-year attorneys as opposed to testing this topic on the bar exam.

3. Assess bar exam content against the six key competencies identified by the data as the most relevant to the work of entry-level attorneys:

- Drafting and Writing
- Research and Investigation
- Issue-spotting and Fact-gathering
- Counsel/Advice
- Litigation
- Communication and Client Relationship

The project's findings and recommendations will serve as a foundation for the work of the joint Blue Ribbon Commission on the Future of the Bar Exam—a partnership between the California Supreme Court and the State Bar launching in the latter part of 2020.

Background: Why an Attorney Practice Analysis Was Needed

- California's current pass line was established over three decades ago.
- Critics note that California's pass line is higher than every state except Delaware and argue that the high pass line creates an unrealistic barrier to entry.
- Passage rates for the California bar exam have generally been declining for years, a decline that mirrors a national trend. In February 2020 for example, when the pass rate for the California bar exam hit a record low, the National Conference of Bar Examiners also reported that the Multistate Bar Examination pass rate fell to an all-time low.
- The California Supreme Court has ultimate authority over the pass line. In 2017, the State Bar reported to the Court on its [initial bar exam studies](#) and presented options that included maintaining the current pass line or lowering it. The Court determined that there was insufficient evidence to justify a change in the pass line at that time and directed the State Bar to conduct further analysis on issues affecting bar exam pass rates.
- The State Bar's initial studies brought to light the lack of current and California-specific data about the knowledge, skills, and abilities needed by entry-level attorneys in California.
- To remedy this, the CAPA study was launched in 2018 to provide an updated assessment of legal practice in California.

An Empirical Study Using Innovative Survey Methods

Funded by a grant from the AccessLex Institute, the CAPA study collected detailed, empirical data about the legal topics most commonly used by attorneys, and about the essential knowledge and skills attorneys use to perform their work. The project, which began in December 2018, included two major components:

1. A panel of practicing attorneys constructed a classification of knowledge domains and skills as the basis for creating a practice analysis survey.
2. A survey was disseminated to a sample of all California licensed attorneys using two survey methods: (1) a traditional survey method collecting one-time survey responses; and (2) a relatively new approach, called the Experience Sampling Method (ESM), in which participants provided multiple responses at randomly selected moments during the work day. More than 25,000 attorneys participated in the surveys, and the ESM survey yielded nearly 74,000 responses.

Taking advantage of the strengths of both survey methods to cross-validate the results, the resulting rich dataset provided a strong empirical foundation upon which the CAPA Working Group based its recommendations.