



**THE STATE BAR
OF CALIFORNIA
& Fairness**

Council on Access

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TO: Members, Board Committee on Stakeholder Relations

**FROM: Craig Holden, Chair, Council on Access & Fairness (COAF)
Teri Cannon, Vice Chair, COAF
Patricia Lee, Special Assistant for Diversity and Bar Relations**

DATE: April 8, 2011

**RE: Summary of Comments and Discussion from Bar Exam
Preparation Experts Focus Group**

Overview:

As part of its strategic planning activities, the Council on Access & Fairness convenes focus groups among various diversity stakeholders to determine key issues along the diversity pipeline and ways for the COAF to address those issues. One set of such focus groups was convened to determine challenges to bar exam passage for students from diverse backgrounds. To provide comments and insight into this area, the COAF invited law school academic support, bar preparation, and student affairs professionals, as well as representatives from bar review companies. The attached summary represents the discussion that took place during that focus group. The Council recognizes that the following feedback is limited to the specific experience and viewpoints of the individuals participating in the discussion and that the comments do not necessarily represent the opinions of all bar review and academic support representatives throughout the state, nor do they necessarily reflect actual State Bar practices, policies and procedures. The COAF will be reviewing this summary to determine what, if any, follow up will be incorporated into future priorities and work plans.

**The State Bar of California
Council on Access & Fairness Programs
BAR EXAM PREPARATION EXPERTS FOCUS GROUP
March 21, 2008
SUMMARY OF COMMENTS AND DISCUSSION**

BACKGROUND:

On March 21, 2008 at the State Bar of California offices in San Francisco, members of the Council on Access & Fairness' College/Law School Committee convened a focus group including law school academic support, bar preparation, and student affairs professionals, as well as representatives from bar review companies. Participants were from (number) law schools and (number) bar review companies. Attendance lists were compiled but participants were provided anonymity to help generate candid discussion.

The purpose of the meeting was to take advantage of the professional experience of the participants and to gather their feedback to identify factors affecting the bar exam performance of students from diverse backgrounds and to develop ways to address those factors. Specifically, the Council was concerned about the lower performance of minority students on the bar exam compared with non-minority students as shown in aggregate bar exam data appearing on the State Bar website. In addition, the Council was interested in the experience of students with disabilities and their requests for accommodation on the bar exam.

The Council asked participants questions about the factors that affect bar performance as follows:

- What factors adversely affect the ability of first time minority exam takers to pass the bar exam?
- What factors adversely affect the ability of minority repeat takers to pass the bar exam?

The participants were asked to identify the factors in the following categories:

- academic (e.g. critical and analytical thinking, test-taking skills, and learning legal concepts) and
- non-academic (e.g. self-awareness, knowledge of the bar exam requirements, confidence, and financial resources).

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PARTICIPANT COMMENTS RE: ACADEMIC FACTORS:

- **Proper Preparation for Bar Exam:** Students are often unaware of the nature and scope of what is tested on the bar exam. Without knowing what is tested on the bar exam, students are unable to prepare properly during their law school careers. The following factors were raised for further discussion and follow up with law schools, academic support programs, bar exam prep and the State Bar:
 - **Need to focus on basic analytical and critical thinking skills:** Participants noted that students place a great deal of emphasis on learning the rules of law, but tend to ignore the basic analytical and critical thinking skills that are introduced in the first year and practiced through law school that are equally tested on the bar exam. Some students graduate from law school without mastering these analytical and critical thinking skills and find it difficult to pass the bar exam.
 - **Students need to focus on preparing for bar formatted exams:** Many students do not know the differences between what is tested in law school compared with what is tested on the bar exam and do not make the appropriate adjustments. These students are unaware that their professors in law school are often evaluating different factors from the bar graders on the bar exams. Students must be refocused from law school exams to prepare for bar formatted exams
 - **Ensuring Law School education tracks subjects tested on the Bar Exam:** It was noted that many students also graduate with major gaps in their knowledge of the legal concepts. Some students do not enroll in all the bar-tested subjects, either because they did not know the subject was tested on the bar exam, their professor did not cover the specific topics within the course, or the student planned to learn the subject during the bar review course. Learning the subject during a bar review course is difficult for students with low grades. Students need to be informed of the subjects tested on the bar exam, so that they can plan out what courses they need to take during their law school career.
 - **Need for increased preparation for bar exam depending on law school grades:** Participants noted that there is a strong correlation between law school grades and bar passage. Students need to be informed of this correlation so that they have adequate time to prepare for the bar exam. Students in the lowest quartile need more time to master the subject matter and more time to practice their analytical and critical thinking and test-taking skills. Some students must be advised to start preparing earlier, to take advantage of

academic support programs, and some may need to take an extra semester to complete law school.

- **Ensuring relevant information re the bar exam is easily accessed on the State Bar website:** The comments from participants indicated that the State Bar’s website is difficult for students to navigate and to locate all the information related to the bar exam. (Note: the State Bar is in the process of redesigning its website which now includes a separate site for law students. We do not have feedback at this time re the ease of navigation and location of available information.)
- **Addressing incorrect rumors and “myths” about the bar exam:** It was noted that many students have misunderstandings and erroneous information about the bar exam based on rumors and myths circulating among students and previous bar takers.
 - Common rumors need to be addressed. The State Bar should continue with its informational visits to law schools and publish materials that will help to demystify the bar exam. Suggested topics that would help students included: coverage outlines of the areas tested in each of the subjects; description of the creation and grading of questions; publishing the rubric for grading the answers; publishing “model” answers, not just actual answers written by bar takers; and advising exam takers of the total costs associated with the bar exam, e.g. registration fee, laptop fee, moral character clearance fee, bar course tuition. These suggestions would have to be reviewed by the State Bar to determine if the materials already exist and are made available, as well as to determine if the remaining information can be distributed without compromising the integrity of the bar exam.
- **Responding to different learning and study styles:** Participants were aware that all students learn and study differently. Students have different learning styles, study methods, and study habits. Students also have different learning curves causing them to learn at different rates. Students who are unaware of their traits struggle to learn the materials both in law school and during the bar review course. Students must be taught to learn efficiently and effectively within their personal traits. They must also adjust their study habits for the amount of work and intensity required for bar preparation.
- **Financial requirements for taking the bar exam:** Students are under great pressure to address financial obligations related to the bar exam. In a very short time, students are required to pay for the registration fee, laptop fee, moral character clearance fee, and bar course tuition, potentially adding up to over \$5,000 in fees to take the bar exam. Law school financial aid

offices should include bar preparation courses in the total cost package for student loans. The State Bar could also publish a database of available scholarships, grants, and resources for bar preparation expenses.

- **Encourage students to review practice test comments:** When receiving practice tests reviewed by the bar review courses, students often read just the score and ignore the reviewers' comments. By focusing on the scores, students receiving low scores often get discouraged and miss the opportunity to learn from their mistakes.
- **Petitioning for accommodations:** At times, students with disabilities find it a challenge to petition for accommodations during the bar exam. Some students are not aware that they must file their petitions early enough in order to receive a timely decision from the State Bar. In addition, the standards for law school accommodations are often different from the standards for accommodation during the bar exam. Students who do not file their petitions early experience high anxiety waiting for a decision while simultaneously trying to prepare for the bar exam. The State Bar should continue with outreach and circulation of information on the bar website re the accommodations process, the type of documentation to be submitted with requests for accommodations and encourage students requiring accommodations to plan ahead. Also, the State Bar should continue to dialogue with law school administrators responsible for assisting students with disabilities and their requests for accommodations on the bar exam to ensure that these individuals fully understand the process and how they can best assist students with their requests.

COMMENTS RE: NON ACADEMIC FACTORS:

Focus group participants commented on internal, non-academic barriers that prevent students from passing the bar exam. It was evident that there is no "cookie cutter" approach to addressing these factors. Each school must address the issues affecting their students. Comments included the following:

- **The presence of "stereotype threat" hinders bar passage.** The students' self-perception about expectations re: bar passage leads to lower confidence levels and higher levels of anxiety. Students must be informed about the documented phenomenon identified as "stereotype threat" and work towards minimizing the effect.
- **Fear of failure** is prevalent among minority students. Adequate preparation and confidence-building should be provided through academic support and bar preparation courses.

- **Stress and anxiety are high among minority students.** They must be made aware of and taught how to develop cognitive stress management skills.
- **Family and cultural issues negatively impact students' ability to pass the bar exam.** Students must identify and address family obligations and be provided with the tools to educate and navigate their families. Law schools could address these issues during orientation for family members, parents and partners and could organize "Parents and Partners" panels describing the time commitments and family support involved in obtaining a law degree and passing the bar exam.
- **Minority students respond well to mentoring.** Mentors must have a real commitment to students. Mentors need training sessions and mentoring materials to ensure a positive and effective mentoring experience.
- **Retaking the bar exam:** Some students will have to take the bar exam several times. They should be made aware of this fact and not be discouraged.
 - Law school grades are a major factor.
 - Participants suggested that the State Bar consider redrafting the "fail" letter to provide helpful suggestions for repeat takers and to shorten the time between sending the "fail" letters and the distribution of blue books -- perhaps sending the blue books with the letter, thus allowing for increased time to prepare for the next bar exam.

DISCUSSION:

Discussion of the above comments resulted in the following suggestions by focus group participants for consideration and follow up by the Council on Access & Fairness:

Collaborate with the Committee of Bar Examiners to:

- facilitate ongoing and additional Office of Admissions presentations, disseminate materials re the bar examination requirements and process, and information correcting rumors and myths about the exam.
- conduct training sessions for faculty on drafting and grading essay and performance tests questions.
- publish a database of available scholarships, grants, and resources for bar preparation expenses.

Collaborate with key stakeholders, such as deans, professors, academic support professionals, alumni, and students, to:

- prioritize bar passage as a responsibility of the entire academic institution
 - incorporate skills tested on the bar exam into student learning outcomes and ensure that the skills are introduced, practiced and mastered in courses throughout the student's years of study.
 - acknowledge the high correlation of law school grades with bar passage and identify and counsel lower performing students who are more at risk of not passing the bar exam the first time.
 - provide opportunities for students to take inventory of their strengths and weaknesses by implementing formative assessments and providing meaningful feedback on all assessments.
 - offer workshops that address preparation for the bar exam and alert students to the non-academic barriers.
 - provide bar exam counseling sessions to students to discuss academic and non-academic factors during law school and continuing through the bar exam.
 - develop mentoring programs that include mentoring and bar exam training.
 - provide students with information and resources on the expenses associated with the bar exam, including registration fees, moral character processing fees, bar review courses, living expenses, and hotel, transportation, and meals during the bar exam.
- describe the process for seeking accommodations and encourage students with disabilities to apply early for accommodations
- inform family and friends of the time commitment post-graduation to prepare for the bar exam.
 - provide repeat takers with bar counseling sessions and other resources.