



# A Five-Year Retroactive Analysis of Cut Score Impact: California's Proposed Supervised Provisional License Program

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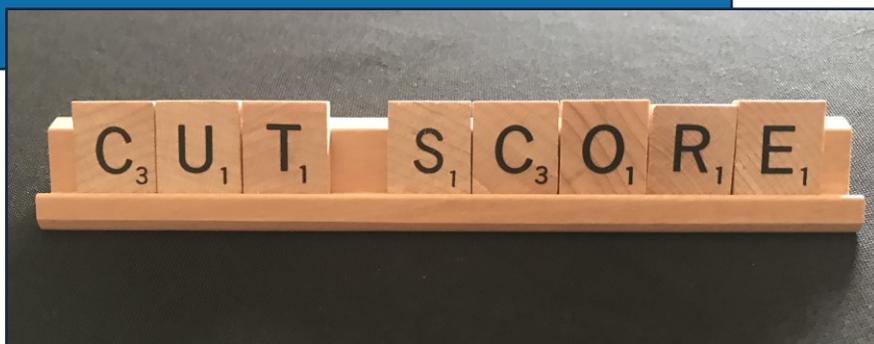
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## I. Executive Summary

The State Bar of California Provisional License Working Group<sup>2</sup> (“Working Group”) was formed to evaluate a proposal under rule 4.17 of the State Bar Rules<sup>3</sup> that would provide prior California bar examinees “a five-year [retroactive] window to meet all requirements for admission and be certified to the California Supreme Court (“Court”) for admission.”<sup>4</sup> A group of law school deans and bar applicants has proposed that upon any change to the current minimum passing score (“cut score”)<sup>5</sup> of the California Bar Exam (“CBX”), a five-year retroactive window should apply in which the Court would grant California licensure to any examinee within that time window who scored at or above the newly adjusted cut score without reexamination.<sup>6</sup>

On August 10, 2020, the Court rejected such broad retroactivity.<sup>7</sup> However, the Working Group evolved the proposal for the Court’s reconsideration - a provisional license requiring that in addition to having scored at or above the adjusted cut score, examinees must complete a period of supervised practicing under a qualified attorney before receiving an unrestricted license to practice.<sup>8</sup> Under this proposal, upon successful completion of the

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<sup>2</sup> *Proposed Provisional Licensing Program FAQs*, The State Bar of California, Office of Admissions, <https://www.calbar.ca.gov/Portals/0/documents/admissions/Provisional-License-FAQs.pdf> (last visited Oct. 19, 2020).

<sup>3</sup> Rules of the State Bar, Title 4 Div. 1, Rule 4.17 (2007) at p.6 [https://www.calbar.ca.gov/Portals/0/documents/rules/Rules\\_Title4\\_Div1-Adm-Prac-Law.pdf](https://www.calbar.ca.gov/Portals/0/documents/rules/Rules_Title4_Div1-Adm-Prac-Law.pdf) (last visited Oct. 19, 2020).

<sup>4</sup> Staff Memo, Donna Hershkovitz, *Discussion of Expansion of the Provisional Licensure Program to Previous California Bar Exam Takers Scoring 1390 or above with a Pathway to Licensure*, October 14, 2020, <https://board.calbar.ca.gov/docs/agendaltem/Public/agendaitem1000026608.pdf> (last visited Oct. 19, 2020).

<sup>5</sup> This study’s use of the term “cut score” is equivalent to the California Supreme Court’s use of the term “pass score.” Both terms represent the minimum bar exam passing score an examinee must achieve to pass the CBX.

<sup>6</sup> Letter from ABA Law Deans to California Supreme Court, “Re: Retroactive Application of 139 Cut Score”, July 23, 2020, <https://www.uchastings.edu/wp-content/uploads/2020/07/Letter-to-California-Supreme-Court-re-Retroactive-Application-of-139-Cut-Score-July-23-2020.pdf> (last visited Oct. 21, 2020).

<sup>7</sup> *California Supreme Court Issues Order Finalizing Lower Passing Score for Future Bar Exam Takers*, California Courts: The Judicial Branch of California, California Courts Newsroom, October 18, 2017, <https://newsroom.courts.ca.gov/news/california-supreme-court-issues-order-finalizing-lower-passing-score-future-bar-exam-takers> (last visited Oct. 20, 2020). See also *Order Concerning Modifications to the California Bar Examination*, Supreme Court of California, Admin. Order 2020-08-10 (August 10, 2020), <https://newsroom.courts.ca.gov/sites/default/files/newsroom/document/20200810121225776.pdf> (last visited Oct. 19, 2020).

<sup>8</sup> Hershkovitz, *Discussion of Expansion of the Provisional Licensure Program to Previous California Bar Exam Takers Scoring 1390 or above with a Pathway to Licensure*, October 14, 2020, *supra* note 5. According to the draft proposal, a

period of supervised practice, the examinee would be eligible for an unrestricted license, subject to also meeting the moral character and legal education requirements under Business and Professions Code 6060.<sup>9</sup>

In June 2020, the Court lowered California’s cut score from 1440 to 1390.<sup>10 11</sup> The Court’s July 16, 2020 letter to the State Bar of California (“State Bar”) explained that the decision to reduce the cut score was based on “the changing circumstances surrounding the ongoing COVID-19 pandemic in California”<sup>12</sup> and that the selection of 1390 was based on findings from previously completed bar examination studies as well as data from ongoing studies.<sup>13</sup>

On October 14, 2020, the Working Group reported its provisional licensing proposal and indicated that it anticipated submitting a revised proposal that requires supervised practice in addition to having achieved a minimum cut score to the Committee of Bar Examiners, the

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provisionally licensed lawyer would be allowed to provide a broad array of legal services for clients under the supervision of a qualifying supervising lawyer, including appearing before a court; drafting legal documents, contracts or transactional documents, and pleadings; engaging in negotiations and settlement discussions; and providing other legal advice, provided that the work is performed . Unlike other states that adopted provisional licensure programs, the limits on what a provisionally licensed lawyer can do, or what needs to be done under direct versus general supervision, are largely left to the supervising attorney to determine the readiness of the provisionally licensed lawyer.

<sup>9</sup> California Code, Business and Professions Code - BPC § 6060, <https://codes.findlaw.com/ca/business-and-professions-code/bpc-sect-6060.html> (2019) (last visited Oct. 19, 2020).

<sup>10</sup> *California Supreme Court Issues Order Finalizing Lower Passing Score for Future Bar Exam Takers*, California Courts: The Judicial Branch of California, California Courts Newsroom, *supra* note 8.

<sup>11</sup> Hershkowitz, *Discussion of Expansion of the Provisional Licensure Program to Previous California Bar Exam Takers Scoring 1390 or above with a Pathway to Licensure, October 14, 2020*, *supra* note 5. In its July 16 letter, the Supreme Court commented that “the changing circumstances surrounding the ongoing COVID-19 pandemic in California, and throughout the country, have had an unprecedented impact on professional licensure testing for graduates seeking admission to many professions, including not only law, but medicine, nursing, architecture, and engineering. The Court understands that many law school graduates are being substantially affected by the resulting disruption. Some graduates have lost job offers. Many are about to lose health insurance, cannot find a job to pay bills, or are in fear of deportation if they cannot enter the State Bar in time to retain job offers. Many more have student loan payments that become due in mid-November, but without a law license and the ability to work, they fear going into default.” To the extent the reduction in the pass line from 1440 to 1390 is attributable to this rationale, the provisional licensure working group notes that those who took the February 2020 exam are dealing with the same circumstances because the threat of COVID-19 was already present by the end of February 2020. Thus, if the Court will not apply the change to the passing score retroactively, these graduates should have the benefit of the provisional licensure program.

<sup>12</sup> *Id.*

<sup>13</sup> Supreme Court of California, Letter to the State Bar of California, “RE: California Bar Exam,” July 16, 2020, [https://newsroom.courts.ca.gov/internal\\_redirect/cms.ipressroom.com.s3.amazonaws.com/262/files/20206/SB\\_BOT\\_7162020\\_FINAL.pdf](https://newsroom.courts.ca.gov/internal_redirect/cms.ipressroom.com.s3.amazonaws.com/262/files/20206/SB_BOT_7162020_FINAL.pdf) (last visited Aug. 16, 2020).

State Bar Board of Trustees, and the Court in November 2020.<sup>14</sup>

In response to the Working Group proposal, this study analyzed the deidentified scores of 39,737 CBX examinees<sup>15</sup> from 2014-18 using a simulated model of qualifying scores of 1440, 1390, 1350, 1330, and 1300 and the race and ethnicity of the examinees.<sup>16</sup> The model provided a retroactive analysis of how each of these qualifying scores would affect the number of examinees, by race and ethnicity, who would qualify for the proposed provisional licensing program.<sup>17</sup>

In summary, the overall result of the simulation models indicated that selecting a qualifying score lower than the current 1390 score will significantly increase both *the overall number of eligible participants* and *the diversity of the group eligible to participate* in the proposed alternate licensing program.

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<sup>14</sup> *Discussion of Expansion of the Provisional Licensure Program to Previous California Bar Exam Takers Scoring 1390 or above with a Pathway to Licensure*, October 14, 2020, supra note 5.

<sup>15</sup> *Simulation of the Impact of Different Bar Exam Cut Scores on Bar Passage, by Gender, Race/Ethnicity, and Law School Type*, Office of Research and Institutional Accountability, State Bar of California, March 18, 2020, <http://www.calbar.ca.gov/Portals/0/documents/reports/CA-State-Bar-Exam-Cut-Score-Simulations-Analysis.pdf> (last visited September 2, 2020). The study team wishes to acknowledge the assistance of Ron Pi, Principal Analyst with the State Bar Office of Research and Institutional Accountability, for compiling and formatting the California Bar Exam data set used in this study.

<sup>16</sup> The five cut scores used in this study were selected based on the following criteria: 1440 was California's previous cut score; 1390 is California's current cut score; 1350 is the median cut score used in the United States; 1330 is New York's current cut score, which is a jurisdiction that is similar to California; and 1300 is the lowest cut score used by multiple jurisdictions (Alabama, Minnesota, Missouri, New Mexico, North Dakota) in the United States.

<sup>17</sup> This study used the racial and ethnicity categories in the State Bar of California's *Simulation of the Impact of Different Bar Exam Cut Scores on Bar Passage, by Gender, Race/Ethnicity, and Law School Type*, Office of Research and Institutional Accountability, March 18, 2020, <http://www.calbar.ca.gov/Portals/0/documents/reports/CA-State-Bar-Exam-Cut-Score-Simulations-Analysis.pdf> (last visited Sept. 2, 2020). In the State Bar's simulation report, the terms Hispanic and Latino were used interchangeably. Thus, this study used the term Hispanic/Latinx, which was identical to the terms used in the State Bar of California's *Report Card on the Diversity of California's Legal Profession*, State Bar of California, <http://www.calbar.ca.gov/Portals/0/documents/reports/State-Bar-Annual-Diversity-Report.pdf> (last visited Sept. 2, 2020). This study defined Black to include African Americans and Blacks and Asians to include Asians, Native Hawaiians, and Other Pacific Islanders.

California’s cut score of 1440 was the second highest in the nation until the Court’s August 10, 2020 order<sup>18</sup> adjusted it to 1390. Although there are no clear records, the previous cut score of 1440 was apparently established by the State Bar in 1987 or earlier without any standard setting or validity study being conducted.<sup>19</sup> In February 2017, responding to briefs filed by the deans of American Bar Association (“ABA”),<sup>20</sup> California Accredited (“CALs”), and California Registered law schools,<sup>21</sup> the Court directed the State Bar to conduct a “thorough and expedited study of the exam that would include . . . a meaningful analysis to determine whether protection of potential clients and the public is served by maintaining 1440 as the pass score.”<sup>22</sup>

On September 13, 2017, the Court received the first of seven separate reports related to the CBX, *Final Report on the 2017 California Bar Exam Standard Setting Study*.<sup>23</sup> Following the

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<sup>18</sup> *Order Concerning Modification to the California Bar Examination*, Supreme Court of California, August 10, 2020, [https://newsroom.courts.ca.gov/internal\\_redirect/cms.ipressroom.com.s3.amazonaws.com/262/files/20207/20200810121225776.pdf](https://newsroom.courts.ca.gov/internal_redirect/cms.ipressroom.com.s3.amazonaws.com/262/files/20207/20200810121225776.pdf) (last visited Sept. 2, 2020).

<sup>19</sup> *Supreme Court issues letter relating to In re California Bar Exam*, California Courts: The Judicial Branch of California, California Courts Newsroom, October 18, 2017, <https://newsroom.courts.ca.gov/news/supreme-court-issues-letter-relating-to-in-re-california-bar-exam> (last visited Aug. 16, 2020). See also Case, Susan M., *The Bar Examiner*, Volume 81 (June 2012) at p. 30. “Validity in testing refers to the extent to which the test score reflects the attribute you are intending to measure. In the bar exam, validity means ensuring that you are testing what a newly licensed lawyer needs to know. Multiple testing methods are used because each method has strengths and weaknesses, and each is designed to test somewhat different skills, each of which is believed to be important for the practice of law. The pass/fail standard is set at a level that is believed to protect the public from applicants who lack the requisite knowledge and skills to be licensed to practice. Scores that are unreliable cannot be valid. However, validity requires more than just reliability; it is not enough to be consistent if you are consistently measuring the wrong thing.”

<sup>20</sup> Deans from ABA Accredited Law Schools, Letter to the Supreme Court of California, “RE: The California Bar Exam,” February 1, 2017, <https://www-cdn.law.stanford.edu/wp-content/uploads/2017/02/2.1.17.LTRtoCalSupCt.pdf> (last visited Sept. 2, 2020).

<sup>21</sup> Deans from CA Accredited and CA Registered Law Schools, Letter to the Supreme Court of California, “RE: The California Bar Exam—Adjustment to the Minimum Passing Score,” September 11, 2017, <http://montereylaw.edu/wp-content/uploads/2017/09/CALS-2nd-Letter-Brief-to-Supreme-Court-FINAL-2.pdf> (last visited Sept. 2, 2020).

<sup>22</sup> *Supreme Court issues letter relating to In re California Bar Exam*, *supra* note 19.

<sup>23</sup> State Bar of California, Letter to the Supreme Court of California, “RE: Final Report on the 2017 California Bar Exam Studies,” September 12, 2017, <https://www.calbar.ca.gov/Portals/0/documents/communications/CA-State-Bar-Bar-Exam09122017.pdf>. (last visited Aug. 16, 2020). The study “utilized a modified version of the Analytic Judgment Method, a method used in the field of licensure, and involved the participation of twenty court-selected subject matter experts (SMEs). The study required the panel of SMEs to evaluate and rate a collection of bar exam essay and performance test answers from the July 2016 exam using a baseline definition of minimum competence. After the SMEs analyzed bar exam written responses and were trained to sort them by distinguishing those reflecting at least minimal competence from those that did not reflect minimal competence, Dr. [Chad] Buckendahl separately analyzed the actual scores given to such responses during the July 2016 exam scoring process to assess exam responses that were deemed minimally

release of this report, the Court responded to the requests filed by the law school deans and other public interest groups with a decision not to lower the cut score of 1440 at that time, but to await the completion of the other studies. However, upon completion of these studies, the Court stated that it would “consider any appropriate recommendation to revisit the pass score.”<sup>24</sup>

In March 2020, responding to a request from the CALS, the State Bar’s Office of Research and Institutional Accountability released 11 years of bar administration data to this study team to conduct an empirical analysis of whether higher cut scores: (1) have a disparate impact on diversity in the legal profession and (2) better protect the public from attorneys who do not have the minimum competence to practice law.<sup>25</sup>

In June 2020, the Court lowered California’s cut score to 1390.<sup>26</sup> The Court’s July 16, 2020 letter to the State Bar explained that its decision was “based on findings from recently completed bar examination studies as well as data from ongoing studies,” and that it would “consider any further changes pending recommendations offered by the forthcoming Blue-Ribbon Commission on the Future of the California Bar Examination.”<sup>27</sup>

On October 14, 2020, the Working Group reported its provisional licensing proposal and indicated that it anticipated submitting a revised proposal that requires supervised practice in addition to having achieved a minimum cut score to the Committee of Bar Examiners, the

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competent. Dr. Buckendahl then derived estimated overall bar exam scores based on the actual scores associated with written responses deemed minimally competent and concluded that the median score associated with the SMEs’ determination of minimal competence was 1439.” The study was widely criticized for ignoring the Multistate Bar Exam (MBE), providing confusing instructions to the panel, and reporting recommendations which did not match the panelists’ understanding of their work. The Department of Consumer Affairs critique of the study described several observed abnormalities in the process of assuring the SMEs understood the meaning of “minimum competence for the first-year practice of law”—the standard they were supposed to be applying—before evaluating papers. The completion of a job analysis, specific to California attorneys, on which to base the definition of minimum competence, was also strongly recommended. See Montez, T., *Observation of the Standard Setting Study for the California Bar Exam*, <https://www.calbar.ca.gov/Portals/0/documents/admissions/Examinations/Tracy-Montez-ReviewBarExamstudy.pdf>. (last visited Aug. 31, 2020) (See Table 1’s Comments/Feedback on items 10 through 16 and Chapter 2).

<sup>24</sup> *Supreme Court issues letter relating to In re California Bar Exam*, supra note 19.

<sup>25</sup> *Simulation of the Impact of Different Bar Exam Cut Scores on Bar Passage, by Gender, Race/Ethnicity, and Law School Type*, supra note 15. The report compiled archival data from 21 bar exams administered over a span of 11 years, from 2009 to 2019 and conducted a simulation analysis of test-takers’ pass rates by gender, race/ethnicity, and law school type for the simulated cut scores 1300, 1330, 1350, 1390 and the actual cut score of 1440.

<sup>26</sup> *California Supreme Court Issues Order Finalizing Lower Passing Score for Future Bar Exam Takers*, supra note 8.

<sup>27</sup> *Supreme Court of California, Letter to the State Bar of California*, supra note 14.

State Bar Board of Trustees, and the Court in November 2020.<sup>28</sup>

On October 15, 2020, the seventh study related to the CBX, *Examining the California Cut Score: An Empirical Analysis of Minimum Competency, Public Protection, Disparate Impact, and National Standards*,<sup>29</sup> funded by AccessLex Institute was published and presented to the Court. The study found that high cut scores offer no additional public protection compared to low cut scores when measured by the number of attorney disciplinary complaints and actions. In fact, several states using higher cut scores, such as California, reported a slightly *higher* number of complaints and disciplinary actions per (attorney) capita than states with lower cut scores. The finding was based on an analysis of six years of detailed national disciplinary data from as many as 48 states (not all states reported every year). The study also included a simulation analysis of 11 years of actual examinee scores on the CBX that confirmed using a lower cut score in California would have significantly narrowed the achievement gap between Whites and racial and ethnic minorities and would have significantly increased the number of newly admitted minority attorneys in the state.<sup>30</sup>

It is anticipated that the previous studies, this current study, and the Working Group provisional licensing proposal, will be considered by the Court during October - November 2020 as part of its ongoing response to the recent disruption of the CBX by the COVID-19 pandemic.

This study simulated the number of examinees, by race and ethnicity, who would retroactively qualify to participate in a provisional licensing program if qualifying scores of 1440, 1390, 1350, 1330, and 1300 were used. The study examined data from 10 administrations of the CBX during the five years between 2014 and 2018. This data set included a total of  $n = 39,737$  unique examinees. Because the data set included each applicant's complete

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<sup>28</sup> *Discussion of Expansion of the Provisional Licensure Program to Previous California Bar Exam Takers Scoring 1390 or above with a Pathway to Licensure*, October 14, 2020, *supra* note 5.

<sup>29</sup> *Examining the California Cut Score: An Empirical Analysis of Minimum Competency, Public Protection, Disparate Impact, and National Standards*, *supra* note 2.

<sup>30</sup> *Id.*

examination history, including the applicant's performance data for any subsequent attempts to pass the CBX across the five-year period, the study team focused the unit of analysis on examinees, not exams. This meant that when conducting analyses using the data set, the study team counted each examinee only once, even if the examinee took the CBX multiple times, using each examinee's best performance during the respective time window. This change was important because by restructuring the data this way, the study team was able to avoid any artificial inflation in the total number of examinees who sat for the CBX across the period studied.<sup>31</sup>

The study focused on the selection and impact of the following qualifying scores: 1300, 1330, 1350, 1390, and 1440. The study determined whether each examinee in the data set would have qualified on any given attempt at these five different qualifying scores as part of retroactive groupings of five-year, four-year, three-year, two-year, and one-year examinee cohorts.

Similar to the previous AccessLex Institute study, the simulations in this study were applied to the data set of deidentified actual scores of previous examinees. To determine how the selection of a qualifying score impacted the eligibility to participate in the provisional licensing program, the study simulated five scores-1300, 1330, 1350, 1390, 1440-within retroactive groupings of five-year, four-year, three-year, two-year, and one-year cohorts during the 2014-18 time period.<sup>32</sup>

### **Simulation 1: The Effect of Qualifying Scores on Eligibility for Provisional Licensing by Race and Ethnicity in the Five-Year Model**

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<sup>31</sup> The data revealed that minorities were more likely to fail the exam on their first attempt, which meant they often took the CBX multiple times. Thus, to get an accurate picture of the racial and ethnic background of all examinees who sat for the exam across the 11 years, the study team counted each examinee only once. By viewing data restructured this way, the study team was able to avoid any artificial inflation in the total number of examinees who sat for the CBX across the 11 years. This is the first known study of its type to evaluate the characteristics of discrete exam takers, rather than groupings of examinees that include repeat takers counted multiple times in the data sets.

<sup>32</sup> See Appendices A and B of this report for detailed simulations.

The study first analyzed whether each examinee qualified as eligible for the proposed provisional licensing program by scoring at or above each of the five different qualifying scores across the five-year period of 2014-18.

**Chart 1. Eligible Examinees by Qualifying Score (2014-2018)**

Race	1300		1330		1350		1390		1440	
	Not Eligible	Eligible								
<b>African American</b>	508	1778	638	1648	715	1571	956	1330	1108	1178
<b>Asian</b>	1371	7506	1672	7205	1887	6990	2410	6467	2826	6051
<b>Latinx</b>	592	4154	763	3983	858	3888	1189	3557	1427	3319
<b>No Response</b>	100	1179	138	1141	159	1120	221	1058	262	1017
<b>Other</b>	80	625	104	601	123	582	174	531	211	494
<b>White</b>	1594	20250	2126	19718	2549	19295	3719	18125	4637	17207
<b>TOTAL</b>	4245	35492	5441	34296	6291	33446	8669	31068	10471	29266

Using the cut score of 1440 that was in place for all retroactive periods, the adjustment to the current cut score of 1390 and lower qualifying scores of 1350, 1330, and 1300 would have the following effect when race and ethnicity are identified.

**Chart 2. Number of Additional Eligible Examinees (2014-2018)**

Race	1440 to 1390	1440 to 1350	1440 to 1330	1440 to 1300
	Count Increase	Count Increase	Count Increase	Count Increase
<b>African American</b>	152	393	470	600
<b>Asian</b>	416	939	1154	1455
<b>Latinx</b>	238	569	664	835
<b>No Response</b>	41	103	124	162
<b>Other</b>	37	88	107	131
<b>White</b>	918	2088	2511	3043
<b>TOTAL</b>	1802	4180	5030	6226

### Simulation 2: The Effect of Qualifying Scores on Eligibility for Provisional Licensing by Race and Ethnicity in the Four-Year Model

The second model restructured the data to analyze whether each examinee qualified as eligible for the proposed provisional licensing program by scoring at or above each of the five different qualifying scores across the four-year period of 2015-18.

**Chart 3. Eligible Examinees by Qualifying Score (2015-2018)**

Race	1300		1330		1350		1390		1440	
	Not Eligible	Eligible								
<b>African American</b>	445	1426	547	1324	612	1259	807	1064	937	934
<b>Asian</b>	1193	5931	1453	5671	1633	5491	2078	5046	2424	4700
<b>Latinx</b>	520	3447	669	3298	757	3210	1042	2925	1246	2721
<b>No Response</b>	69	809	93	785	107	771	145	733	173	705
<b>Other</b>	69	493	89	473	104	458	144	418	173	389
<b>White</b>	1370	15693	1802	15261	2145	14918	3103	13960	3860	13203
<b>TOTAL</b>	3666	27799	4653	26812	5358	26107	7319	24146	8813	22652

Using the cut score of 1440 that previously was in place for the four-year retroactive period, the adjustment to the current cut score of 1390 and lower qualifying scores of 1350, 1330, and 1300 would have the following effect when race and ethnicity are identified.

Chart 4. Number of Additional Eligible Examinees (2015-2018)

Race	1440 to 1390	1440 to 1350	1440 to 1330	1440 to 1300
	Count Increase	Count Increase	Count Increase	Count Increase
<b>African American</b>	130	325	390	492
<b>Asian</b>	346	791	971	1231
<b>Latinx</b>	204	489	577	726
<b>No Response</b>	28	66	80	104
<b>Other</b>	29	69	84	104
<b>White</b>	757	1715	2058	2490
<b>TOTAL</b>	1494	3455	4160	5147

### Simulation 3: The Effect of Qualifying Scores on Eligibility for Provisional Licensing by Race and Ethnicity in the Three-Year Model

The third model restructured the data to analyze whether each examinee qualified as eligible for the proposed provisional licensing program by scoring at or above each of the five different qualifying scores across the three-year period of 2016-18.

Chart 5. Eligible Examinees by Qualifying Score (2016-2018)

Race	1300		1330		1350		1390		1440	
	Not Eligible	Eligible								
<b>African American</b>	372	1057	449	980	496	933	659	770	768	661
<b>Asian</b>	995	4420	1207	4208	1350	4065	1708	3707	1981	3434
<b>Latinx</b>	439	2658	564	2533	639	2458	882	2215	1041	2056
<b>No Response</b>	50	541	66	525	77	514	103	488	122	469
<b>Other</b>	55	381	73	363	85	351	116	320	143	293
<b>White</b>	1113	11555	1448	11220	1712	10956	2458	10210	3048	9620
<b>TOTAL</b>	3024	20612	3807	19829	4359	19277	5926	17710	7103	16533

Using the cut score of 1440 that previously was in place for the three-year retroactive period, the adjustment to the current cut score of 1390 and lower qualifying scores of 1350, 1330, and 1300 would have the following effect when race and ethnicity are identified.

Chart 6. Number of Additional Eligible Examinees (2016-2018)

Race	1440 to 1390	1440 to 1350	1440 to 1330	1440 to 1300
	Count Increase	Count Increase	Count Increase	Count Increase
<b>African American</b>	109	272	319	396
<b>Asian</b>	273	631	774	986
<b>Latinx</b>	159	402	477	602
<b>No Response</b>	19	45	56	72
<b>Other</b>	27	58	70	88
<b>White</b>	590	1336	1600	1935
<b>TOTAL</b>	1177	2744	3296	4079

#### Simulation 4: The Effect of Qualifying Scores on Eligibility for Provisional Licensing by Race and Ethnicity in the Two-Year Model

The fourth model restructured the data to analyze whether each examinee qualified as eligible for the proposed provisional licensing program by scoring at or above each of the five different qualifying scores across the two-year period of 2017-18.

Chart 7. Eligible Examinees by Qualifying Score (2017-2018)

Race	1300		1330		1350		1390		1440	
	Not Eligible	Eligible								
<b>African American</b>	296	783	351	728	386	693	502	577	591	488
<b>Asian</b>	790	3108	968	2930	1074	2824	1342	2556	1550	2348
<b>Latinx</b>	348	1923	446	1825	503	1768	704	1567	822	1449
<b>No Response</b>	44	377	53	368	59	362	78	343	94	327
<b>Other</b>	42	267	54	255	61	248	83	226	105	204
<b>White</b>	854	7787	1112	7529	1311	7330	1876	6765	2304	6337
<b>TOTAL</b>	2374	14245	2984	13635	3394	13225	4585	12034	5466	11153

Using the cut score of 1440 that previously was in place for the two-year retroactive period, the adjustment to the current cut score of 1390 and lower qualifying scores of 1350, 1330, and 1300 would have the following effect when race and ethnicity are identified.

Chart 8. Number of Additional Eligible Examinees (2017-2018)

Race	1440 to 1390	1440 to 1350	1440 to 1330	1440 to 1300
	Count Increase	Count Increase	Count Increase	Count Increase
<b>African American</b>	89	205	240	295
<b>Asian</b>	208	476	582	760
<b>Latinx</b>	118	319	376	474
<b>No Response</b>	16	35	41	50
<b>Other</b>	22	44	51	63
<b>White</b>	428	993	1192	1450
<b>TOTAL</b>	881	2072	2482	3092

### Simulation 5: The Effect of Qualifying Scores on Eligibility for Provisional Licensing by Race and Ethnicity in the One-Year Model

The final model restructured the data to analyze whether each examinee qualified as eligible for the proposed provisional licensing program by scoring at or above each of the five different qualifying scores across the one-year period of 2018.

Chart 9. Eligible Examinees by Qualifying Score (2018)

Race	1300		1330		1350		1390		1440	
	Not Eligible	Eligible								
<b>African American</b>	191	386	226	351	249	328	317	260	375	202
<b>Asian</b>	555	1513	674	1394	738	1330	922	1146	1050	1018
<b>Latinx</b>	228	1008	288	948	328	908	473	763	557	679
<b>No Response</b>	31	188	37	182	39	180	52	167	63	156
<b>Other</b>	32	134	39	127	44	122	59	107	79	87
<b>White</b>	541	3748	699	3590	827	3462	1136	3153	1432	2857
<b>TOTAL</b>	1578	6977	1963	6592	2225	6330	2959	5596	3556	4999

Using the cut score of 1440 that previously was in place for the one-year retroactive period, the adjustment to the current cut score of 1390 and lower qualifying scores of 1350, 1330, and 1300 would have the following effect when race and ethnicity are identified.

Chart 10. Number of Additional Eligible Examinees (2018)

Race	1440 to 1390	1440 to 1350	1440 to 1330	1440 to 1300
	Count Increase	Count Increase	Count Increase	Count Increase
<b>African American</b>	58	126	149	184
<b>Asian</b>	128	312	376	495
<b>Latinx</b>	84	229	269	329
<b>No Response</b>	11	24	26	32
<b>Other</b>	20	35	40	47
<b>White</b>	296	605	733	891
<b>TOTAL</b>	597	1331	1593	1978

The result of the simulation models indicated that selecting a qualifying score lower than the current 1390 score will significantly increase both the overall number of eligible participants and the diversity of the group eligible to participate in the proposed alternate licensing program.

## V. Summary of Findings

There are two important factors impacting how many previous examinees would be eligible to participate in the proposed provisional licensing program: 1) the number of retroactive years included in the program, and 2) the score used to qualify for eligibility. These two factors are interdependent. For lower qualifying scores, the *impact of the time window* is magnified. For longer time windows, *the impact of the qualifying score* is magnified. For example, the largest number of eligible examinees would be eligible if 1300 was selected as a qualifying score and it was applied retroactively for a five-year period. In contrast, the lowest number of eligible examinees would result if 1390 was selected for a one-year period.

Chart 11. Number of Previous Examinees Eligible to Participate by Qualifying Score (2014-2018)

Cohort	1390	1350	1330	1300
<b>5-Year</b>	1802	4180	5030	6226
<b>4-Year</b>	1494	3455	4160	5147
<b>3-Year</b>	1177	2744	3296	4079
<b>2-Year</b>	881	2072	2482	3092
<b>1-Year</b>	597	1331	1593	1978

The results indicate that compared to the other three lower qualifying scores, using California's current 1390 cut score to determine eligibility would qualify relatively few previous examinees for the provisional licensing program, even if selected for a longer period of time. Depending on how many years the program was retroactively extended, the total number of eligible participants could range between 597 to 1,802 previous examinees at the 1390 qualifying score. However, by using the national median score of 1350, the range of eligible participants would significantly increase to a range of 1,331 to 4,180 depending on the number of years included in the program. As many as 6,226 previous examinees would be eligible to participate at a qualifying score of 1300 extended over a five-year period. See Chart 11.

**Chart 12. Overall Eligibility Percentages by Race/Ethnicity by Qualifying Score (2014-2018)**

Race	1300		1330		1350		1390		1440	
	Not Eligible	Eligible								
<b>African American</b>	22.22	77.78	27.91	72.09	31.28	68.72	41.82	58.18	48.47	51.53
<b>Asian</b>	15.44	84.56	18.84	81.16	21.26	78.74	27.15	72.85	31.84	68.16
<b>Latinx</b>	12.47	87.53	16.08	83.92	18.08	81.92	25.05	74.95	30.07	69.93
<b>No Response</b>	7.82	92.18	10.79	89.21	12.43	87.57	17.28	82.72	20.48	79.52
<b>Other</b>	11.35	88.65	14.75	85.25	17.45	82.55	24.68	75.32	29.93	70.07
<b>White</b>	7.30	92.70	9.73	90.27	11.67	88.33	17.03	82.97	21.23	78.77

The above simulation analysis for the five-year period 2014-2018 used actual examinee scores and indicated that the increase in eligibility rates for the provisional licensing program improved significantly for all cohorts as the qualifying score was lowered. However, at the lower qualifying scores, the eligibility of minority examinees increased disproportionately when compared to the percentage increase of White examinees. See Chart 13.

**Chart 13. Percent Increase by Race/Ethnicity (2014-2018)**

Race	1440 to 1390	1440 to 1350	1440 to 1330	1440 to 1300
	% Increase	% Increase	% Increase	% Increase
<b>African American</b>	6.65	17.19	20.56	26.25
<b>Asian</b>	4.69	10.58	13.00	16.39
<b>Latinx</b>	5.01	11.99	13.99	17.59
<b>No Response</b>	3.21	8.05	9.70	12.67
<b>Other</b>	5.25	12.48	15.18	18.58
<b>White</b>	4.20	9.56	11.50	13.93

The results indicate that selecting a qualifying score of 1350 or lower would also significantly increase the diversity of the examinees eligible to participate in the proposed alternate licensing program. As indicated in Charts 12 and 13, although the selection of a lower qualifying score increased eligibility across all groups, the percentage of increase for minority examinees who would be eligible to participate was significantly higher at qualifying scores of 1350 to 1300.

For example, the increase in the number of African American examinees who would qualify for the program at a score of 1390 was only 6.65 percent of the African American examinees (See Chart 13), as measured by the change from a 51.5 percent pass rate at 1440 to a 58.2 percent pass rate at 1390 (See Chart 12). At 1350, the percentage of African American examinees who qualified increased to 17.19 percent and increased further to 26.25 percent at a qualifying score of 1300 (See Chart 13). These results reflect the significant effect that the selection of the qualifying score could have on the diversity of the program participants and its impact on diversity of the profession.

In summary, the overall result of the simulation models indicated that selecting a qualifying score lower than the current 1390 score will significantly increase both *the overall number of eligible participants* and *the diversity of the group eligible to participate* in the proposed alternate licensing program.

## VI. Policy Considerations

“The State Bar’s mission is to protect the public and includes the primary functions of licensing, regulating, and disciplining attorneys; the advancement of the ethical and competent practice of law; and supporting efforts to create greater access to, and inclusion in, the legal system for minorities.”<sup>33</sup> The CBX and the policies related to exam content, format, scoring, and cut score play a crucial role in each of these primary responsibilities.

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<sup>33</sup> *Our Mission: What We Do*, State Bar of California, <https://www.calbar.ca.gov/About-Us/Our-Mission> (last visited Sept. 2, 2020).

## A. Diversity of the Profession

Access to justice, and inclusion in the legal system, are primary policy missions of the State Bar and the Court.<sup>34</sup> Increasing diversity of the profession is expected to improve both access and inclusion, and this cannot be accomplished without admitting more minority attorneys.<sup>35</sup> If the selection of the qualifying score for eligibility to the provisional licensing program has a statistically significant disparate impact on access to the profession on the basis of race and ethnicity, that impact should be an important consideration for policymakers.<sup>36</sup>

California's recent decision to lower the cut score on the CBX to 1390 moved California from having the second-highest cut score to the fourth-highest cut score. However, at 1390, California remains at the 93.8<sup>th</sup> percentile of all cut scores. More importantly, the previous study by this research team<sup>37</sup> established that the use of the 1390 cut score going forward will continue the long-standing pattern of significant, divergent passing rates between Whites and minorities on the CBX.

Both studies reflected that each reduction of the cut score for the CBX, and the qualifying score for the provisional licensing program, increased the eligible number of minority

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<sup>34</sup> *Supreme Court of California Issues Statement on Equality and Inclusion*, California Courts: The Judicial Branch of California, California Courts Newsroom, June 11, 2020, <https://newsroom.courts.ca.gov/news/supreme-court-of-california-issues-statement-on-equality-and-inclusion>, (last visited Aug. 22, 2020). "We state clearly and without equivocation that we condemn racism in all its forms: conscious, unconscious, institutional, structural, historic, and continuing. We say this as persons who believe all members of humanity deserve equal respect and dignity; as citizens committed to building a more perfect Union; and as leaders of an institution whose fundamental mission is to ensure equal justice under the law for every single person. In our profession and in our daily lives, we must confront the injustices that have led millions to call for a justice system that works fairly for everyone. Each member of this court, along with the court as a whole, embraces this obligation. As members of the legal profession sworn to uphold our fundamental constitutional values, we will not and must not rest until the promise of equal justice under law is, for all our people, a living truth."

<sup>35</sup> "Having a diverse legal profession positively impacts the administration of justice, ensures fairness, and promotes the rule of law. The mandate to promote a diverse and inclusive legal profession is central to the State Bar's mission of public protection. See Report Card on the Diversity of the California Legal Profession, <http://www.calbar.ca.gov/Portals/0/documents/reports/State-Bar-Annual-Diversity-Report.pdf> (last visited Sept. 24, 2020).

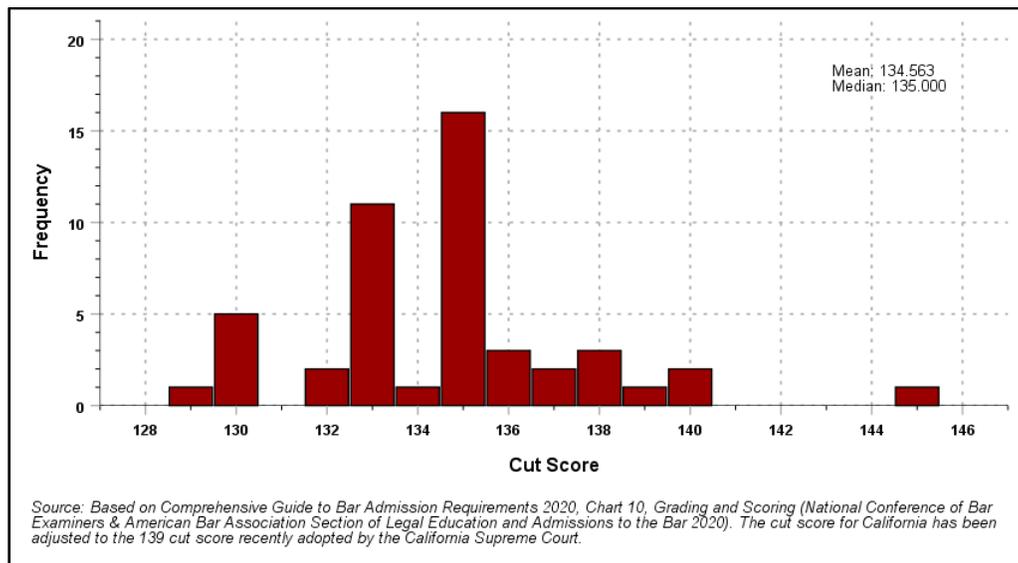
<sup>36</sup> See Howarth, Joan W., *The Professional Responsibility Case for Valid and Nondiscriminatory Bar Exams*, 33 *Geo. J. of Legal Ethics* 931, 958 (2020), available at <https://scholars.law.unlv.edu/facpub/1294> (exam validity and nondiscrimination goals support cut score of 1300 as currently used by five states).

<sup>37</sup> *Examining the California Cut Score: An Empirical Analysis of Minimum Competency, Public Protection, Disparate Impact, and National Standards*, October 15, 2020, *supra* note 2.

licensees. In addition, both studies confirmed that the use of 1390 would have had only a modest quantitative impact. At a cut score of 1390, the CBX would, and will, continue to produce significantly disparate eligibility rates for licensure on the basis of race and ethnicity when compared to the national median of 1350, the New York standard of 1330, and the simulated model of 1300. Similarly, using 1390 as the qualifying score for the provisional licensing program limits its influence on improving diversity of the program participants.

To provide context on where various cut scores fall within the national range, the following chart illustrates the distribution and range of current cut scores across all jurisdictions.<sup>38</sup> The lowest cut score is currently in Wisconsin at 1290 and the highest cut score is currently in Delaware at 1450 (for comparison purposes adjusting the cut scores to the 2000 point scale used in this study vs. the 200 point scale used by the NCBE). The median of the national range of scores is 1350.

**Figure 1. Distribution of July 2020 Bar Exam Cut Scores**



## B. Application of the Study Findings to Policy Considerations

<sup>38</sup> *NCBE Comprehensive Guide to Bar Admission Requirements 2020*, Chart 10 at p. 36-37.

[https://www.ncbex.org/assets/BarAdmissionGuide/CompGuide2020\\_021820\\_Online\\_Final.pdf](https://www.ncbex.org/assets/BarAdmissionGuide/CompGuide2020_021820_Online_Final.pdf) (last visited Sept. 29, 2020).

The purpose of this study was not to recommend which cut score is appropriate for the provisional licensing program, nor to explain *why* passing rates are racially and ethnically disparate at different cut scores. The establishment of the California cut score is a policy decision made by the Court based on many different policy considerations. This study provides the Court with relevant and previously unavailable empirical data and analyses to assist in policy decisions that may be influenced by the relationship between cut scores and access to licensure on the basis of race and ethnicity.

Confidence in the legal system is essential to the protection of the rule of law, and a bar licensee population representative of the people of California will help build confidence that there is one system of equal justice for all Californians.<sup>39</sup> The authors of this study hope that this analysis provides a better understanding of the important relationship between cut scores and racial representation in the bar licensee population as alternate licensing such as the current provisional licensing program are considered.

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<sup>39</sup> *Id.* See also 2019 California Justice Gap Study, Executive Report, The State Bar of California, <http://www.calbar.ca.gov/Portals/0/documents/accessJustice/Justice-Gap-Study-Executive-Summary.pdf> (last visited Sept. 11, 2020).

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**APPENDIX A: Simulation Models - Qualifying Scores by Race/Ethnicity  
for 5-year, 4-year, 3-year, 2-year, and 1-year Cohorts**

<b>Total Passing CBX Examinees (First Time and Eventual) Simulated Across Cut Scores by Race/Ethnicity *</b>											
<b>Five Year</b> Retroactive Models: Feb 2014 - July 2018	Total Passing CBX Examinees (First Time and Eventual) Simulated Across Cut Scores by Race/Ethnicity 2014-2018										
	Race	1300		1330		1350		1390		1440	
		Fail	Pass	Fail	Pass	Fail	Pass	Fail	Pass	Fail	Pass
	African American	508	1778	638	1648	715	1571	956	1330	1108	1178
	Asian	1371	7506	1672	7205	1887	6990	2410	6467	2826	6051
	Latinx	592	4154	763	3983	858	3888	1189	3557	1427	3319
	No Response	100	1179	138	1141	159	1120	221	1058	262	1017
	Other	80	625	104	601	123	582	174	531	211	494
	White	1594	20250	2126	19718	2549	19295	3719	18125	4637	17207
	<b>TOTAL</b>	<b>4245</b>	<b>35492</b>	<b>5441</b>	<b>34296</b>	<b>6291</b>	<b>33446</b>	<b>8669</b>	<b>31068</b>	<b>10471</b>	<b>29266</b>
<b>Four Year</b> Retroactive Models: Feb 2015 - July 2018	Total Passing CBX Examinees (First Time and Eventual) Simulated Across Cut Scores by Race/Ethnicity 2015-2018										
	Race	1300		1330		1350		1390		1440	
		Fail	Pass	Fail	Pass	Fail	Pass	Fail	Pass	Fail	Pass
	African American	445	1426	547	1324	612	1259	807	1064	937	934
	Asian	1193	5931	1453	5671	1633	5491	2078	5046	2424	4700
	Latinx	520	3447	669	3298	757	3210	1042	2925	1246	2721
	No Response	69	809	93	785	107	771	145	733	173	705
	Other	69	493	89	473	104	458	144	418	173	389
	White	1370	15693	1802	15261	2145	14918	3103	13960	3860	13203
	<b>TOTAL</b>	<b>3666</b>	<b>27799</b>	<b>4653</b>	<b>26812</b>	<b>5358</b>	<b>26107</b>	<b>7319</b>	<b>24146</b>	<b>8813</b>	<b>22652</b>
<b>Three Year</b> Retroactive Models: Feb 2016 - July 2018	Total Passing CBX Examinees (First Time and Eventual) Simulated Across Cut Scores by Race/Ethnicity 2016-2018										
	Race	1300		1330		1350		1390		1440	
		Fail	Pass	Fail	Pass	Fail	Pass	Fail	Pass	Fail	Pass
	African American	372	1057	449	980	496	933	659	770	768	661
	Asian	995	4420	1207	4208	1350	4065	1708	3707	1981	3434
	Latinx	439	2658	564	2533	639	2458	882	2215	1041	2056
	No Response	50	541	66	525	77	514	103	488	122	469
	Other	55	381	73	363	85	351	116	320	143	293
	White	1113	11555	1448	11220	1712	10956	2458	10210	3048	9620
	<b>TOTAL</b>	<b>3024</b>	<b>20612</b>	<b>3807</b>	<b>19829</b>	<b>4359</b>	<b>19277</b>	<b>5926</b>	<b>17710</b>	<b>7103</b>	<b>16533</b>
<b>Two Year</b> Retroactive Models: Feb 2017 - July 2018	Total Passing CBX Examinees (First Time and Eventual) Simulated Across Cut Scores by Race/Ethnicity 2017-2018										
	Race	1300		1330		1350		1390		1440	
		Fail	Pass	Fail	Pass	Fail	Pass	Fail	Pass	Fail	Pass
	African American	296	783	351	728	386	693	502	577	591	488
	Asian	790	3108	968	2930	1074	2824	1342	2556	1550	2348
	Latinx	348	1923	446	1825	503	1768	704	1567	822	1449
	No Response	44	377	53	368	59	362	78	343	94	327
	Other	42	267	54	255	61	248	83	226	105	204
	White	854	7787	1112	7529	1311	7330	1876	6765	2304	6337
	<b>TOTAL</b>	<b>2374</b>	<b>14245</b>	<b>2984</b>	<b>13635</b>	<b>3394</b>	<b>13225</b>	<b>4585</b>	<b>12034</b>	<b>5466</b>	<b>11153</b>
<b>One Year</b> Retroactive Models: Feb 2018 - July 2018	Total Passing CBX Examinees (First Time and Eventual) Simulated Across Cut Scores by Race/Ethnicity 2018										
	Race	1300		1330		1350		1390		1440	
		Fail	Pass	Fail	Pass	Fail	Pass	Fail	Pass	Fail	Pass
	African American	191	386	226	351	249	328	317	260	375	202
	Asian	555	1513	674	1394	738	1330	922	1146	1050	1018
	Latinx	228	1008	288	948	328	908	473	763	557	679
	No Response	31	188	37	182	39	180	52	167	63	156
	Other	32	134	39	127	44	122	59	107	79	87
	White	541	3748	699	3590	827	3462	1136	3153	1432	2857
	<b>TOTAL</b>	<b>1578</b>	<b>6977</b>	<b>1963</b>	<b>6592</b>	<b>2225</b>	<b>6330</b>	<b>2959</b>	<b>5596</b>	<b>3556</b>	<b>4999</b>

## APPENDIX B: Simulation Models - Relative Increase by Qualifying Score for 5-year, 4-year, 3-year, 2-year, and 1-year Cohorts

Simulated Impact of Change in Cut Score with Retroactive Effect: Increases in The Total First Time and Eventual Passers												
Five Year Retroactive Models: Feb 2014 - July 2018	Increases in Total of Pass/Fail (First Time and Eventual) CBX Examinees by Race/Ethnicity and Simulated Bar Exam Cut Score 2014-2018											
	Race	1440 to 1390 Count Increase	1440 to 1350 Count Increase	1440 to 1330 Count Increase	1440 to 1300 Count Increase	1390 to 1350 Count Increase	1390 to 1330 Count Increase	1390 to 1300 Count Increase	1350 to 1330 Count Increase	1350 to 1300 Count Increase	1330 to 1300 Count Increase	
	African American	152	393	470	600	241	318	448	77	207	130	
	Asian	416	939	1154	1455	523	738	1039	215	516	301	
	Latinx	238	569	664	835	331	426	597	95	266	171	
	No Response	41	103	124	162	62	83	121	21	59	38	
	Other	37	88	107	131	51	70	94	19	43	24	
	White	918	2088	2511	3043	1170	1593	2125	423	955	532	
	<b>TOTAL</b>	<b>1802</b>	<b>4180</b>	<b>5030</b>	<b>6226</b>	<b>2378</b>	<b>3228</b>	<b>4424</b>	<b>850</b>	<b>2046</b>	<b>1196</b>	
	Four Year Retroactive Models: Feb 2015 - July 2018	Increases in Total of Pass/Fail (First Time and Eventual) CBX Examinees by Race/Ethnicity and Simulated Bar Exam Cut Score 2015-2018										
		Race	1440 to 1390 Count Increase	1440 to 1350 Count Increase	1440 to 1330 Count Increase	1440 to 1300 Count Increase	1390 to 1350 Count Increase	1390 to 1330 Count Increase	1390 to 1300 Count Increase	1350 to 1330 Count Increase	1350 to 1300 Count Increase	1330 to 1300 Count Increase
		African American	130	325	390	492	195	260	362	65	167	102
Asian		346	791	971	1231	445	625	885	180	440	260	
Latinx		204	489	577	726	285	373	522	88	237	149	
No Response		28	66	80	104	38	52	76	14	38	24	
Other		29	69	84	104	40	55	75	15	35	20	
White		757	1715	2058	2490	958	1301	1733	343	775	432	
<b>TOTAL</b>		<b>1494</b>	<b>3455</b>	<b>4160</b>	<b>5147</b>	<b>1961</b>	<b>2666</b>	<b>3653</b>	<b>705</b>	<b>1692</b>	<b>987</b>	
Three Year Retroactive Models: Feb 2016 - July 2018		Increases in Total of Pass/Fail (First Time and Eventual) CBX Examinees by Race/Ethnicity and Simulated Bar Exam Cut Score 2016-2018										
		Race	1440 to 1390 Count Increase	1440 to 1350 Count Increase	1440 to 1330 Count Increase	1440 to 1300 Count Increase	1390 to 1350 Count Increase	1390 to 1330 Count Increase	1390 to 1300 Count Increase	1350 to 1330 Count Increase	1350 to 1300 Count Increase	1330 to 1300 Count Increase
		African American	109	272	319	396	163	210	287	47	124	77
	Asian	273	631	774	986	358	501	713	143	355	212	
	Latinx	159	402	477	602	243	318	443	75	200	125	
	No Response	19	45	56	72	26	37	53	11	27	16	
	Other	27	58	70	88	31	43	61	12	30	18	
	White	590	1336	1600	1935	746	1010	1345	264	599	335	
	<b>TOTAL</b>	<b>1177</b>	<b>2744</b>	<b>3296</b>	<b>4079</b>	<b>1567</b>	<b>2119</b>	<b>2902</b>	<b>552</b>	<b>1335</b>	<b>783</b>	
	Two Year Retroactive Models: Feb 2017 - July 2018	Increases in Total of Pass/Fail (First Time and Eventual) CBX Examinees by Race/Ethnicity and Simulated Bar Exam Cut Score 2017-2018										
		Race	1440 to 1390 Count Increase	1440 to 1350 Count Increase	1440 to 1330 Count Increase	1440 to 1300 Count Increase	1390 to 1350 Count Increase	1390 to 1330 Count Increase	1390 to 1300 Count Increase	1350 to 1330 Count Increase	1350 to 1300 Count Increase	1330 to 1300 Count Increase
		African American	89	205	240	295	116	151	206	35	90	55
Asian		208	476	582	760	268	374	552	106	284	178	
Latinx		118	319	376	474	201	258	356	57	155	98	
No Response		16	35	41	50	19	25	34	6	15	9	
Other		22	44	51	63	22	29	41	7	19	12	
White		428	993	1192	1450	565	764	1022	199	457	258	
<b>TOTAL</b>		<b>881</b>	<b>2072</b>	<b>2482</b>	<b>3092</b>	<b>1191</b>	<b>1601</b>	<b>2211</b>	<b>410</b>	<b>1020</b>	<b>610</b>	
One Year Retroactive Models: Feb 2018 - July 2018		Increases in Total of Pass/Fail (First Time and Eventual) CBX Examinees by Race/Ethnicity and Simulated Bar Exam Cut Score 2018										
		Race	1440 to 1390 Count Increase	1440 to 1350 Count Increase	1440 to 1330 Count Increase	1440 to 1300 Count Increase	1390 to 1350 Count Increase	1390 to 1330 Count Increase	1390 to 1300 Count Increase	1350 to 1330 Count Increase	1350 to 1300 Count Increase	1330 to 1300 Count Increase
		African American	58	126	149	184	68	91	126	23	58	35
	Asian	128	312	376	495	184	248	367	64	183	119	
	Latinx	84	229	269	329	145	185	245	40	100	60	
	No Response	11	24	26	32	13	15	21	2	8	6	
	Other	20	35	40	47	15	20	27	5	12	7	
	White	296	605	733	891	309	437	595	128	286	158	
	<b>TOTAL</b>	<b>597</b>	<b>1331</b>	<b>1593</b>	<b>1978</b>	<b>734</b>	<b>996</b>	<b>1381</b>	<b>262</b>	<b>647</b>	<b>385</b>	