



Preparing for the New Age of Bar Licensure: A Guide for Law Schools

AALS 2025

Panelists

- ▶ **Mary Basick**, Assistant Dean of Academic Skills, UC Irvine School of Law
- ▶ **Marsha Griggs**, Associate Professor, Saint Louis University School of Law
- ▶ **Nachman Gutowski**, Director of Academic Success Program and Assistant Professor-in-Residence, UNLV William S. Boyd School of Law
- ▶ **Ashley London**, Director of Bar Studies and Assistant Professor of Law, Duquesne University Thomas R. Kline School of Law
- ▶ **Deborah Merritt**, Distinguished University Professor and Professor of Law Emerita, Ohio State University Moritz College of Law
- ▶ Moderator: **Christine Francis**, Associate Director of Academic Skills, UC Irvine School of Law

The Current Bar Exam Landscape*

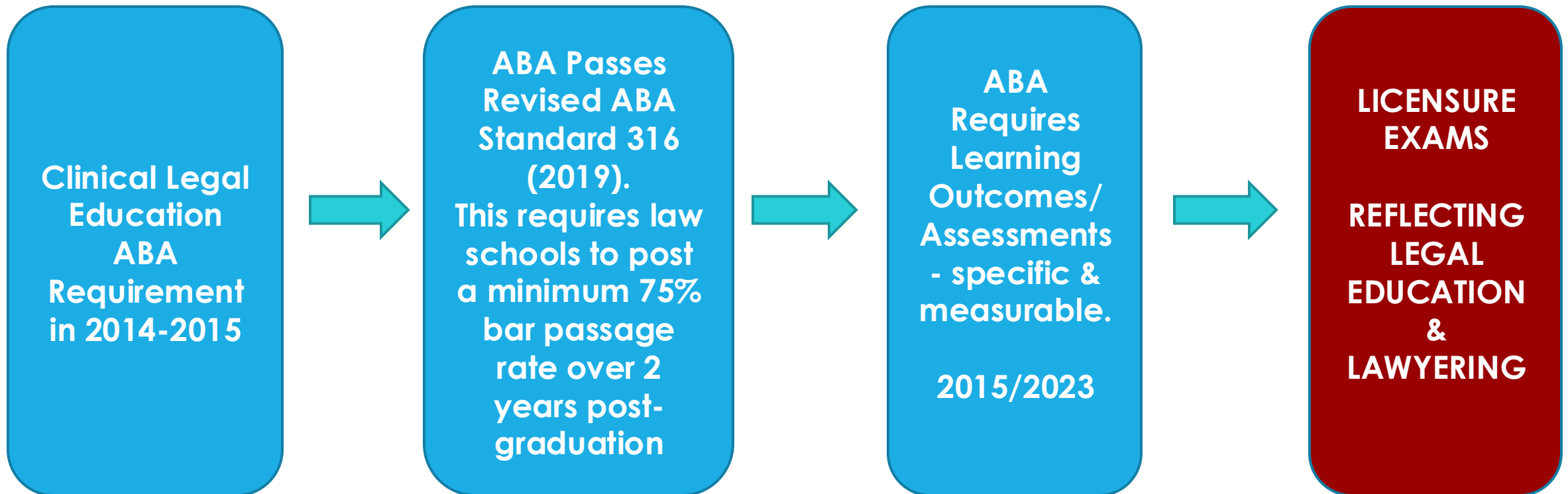
*SUBJECT TO **RAPID CHANGES** AT ANY GIVEN TIME

**WE ARE BUILDING THIS BOAT WHILE WE ARE SAILING IT!

***ARE WE HAVING FUN YET?

Why are bar exams changing?

- ▶ Practical legal education and measuring outcomes has been changing legal education for almost a decade.



Licensure without Bar Examination



New Pathways Under Development

Arizona

California

Massachusetts

Minnesota

Nevada

Oregon

South
Dakota

Utah

Washington

How the bar
is changing



Exam Adoptions



Exam Implementation



Exam Content & Skills

Jurisdictional Breakdown: Bar Exam

30.64%

NextGen (29)

17.2%

State-drafted (2)

52.16%

Undecided (25)

Alaska
Arizona
Colorado
Connecticut
Florida
Georgia
Guam
Illinois
Indiana
Iowa
Kansas
Kentucky
Maryland
Minnesota
Missouri

Nebraska
New Mexico
North Dakota
N. Mariana Isl.
Oregon
Oklahoma
South Dakota
Tennessee
Utah
Vermont
Virginia
Washington
West Virginia
Wyoming

California
Nevada

based on number of July 2024
bar takers (NCBE)

Alabama
Arkansas
D.C.
Delaware
Hawaii
Idaho
Louisiana
Maine
Massachusetts
Michigan
Mississippi
Montana
New Hamp.
New Jersey

New York
North Carolina
Ohio
Palau
Pennsylvania
Puerto Rico
Rhode Island
South Carolina
Texas
Virgin Islands
Wisconsin

BREAKING NEWS!!!

Jurisdictional Breakdown: Bar Exam

17.2%

51.34%

NextGen (30)

State-drafted (2)

Undecided (24)

31.46%

Alaska	Nebraska
Arizona	New Mexico
Colorado	New York
Connecticut	North Dakota
Florida	N. Mariana Isl.
Georgia	Oregon
Guam	Oklahoma
Illinois	South Dakota
Indiana	Tennessee
Iowa	Utah
Kansas	Vermont
Kentucky	Virginia
Maryland	Washington
Minnesota	West Virginia
Missouri	Wyoming

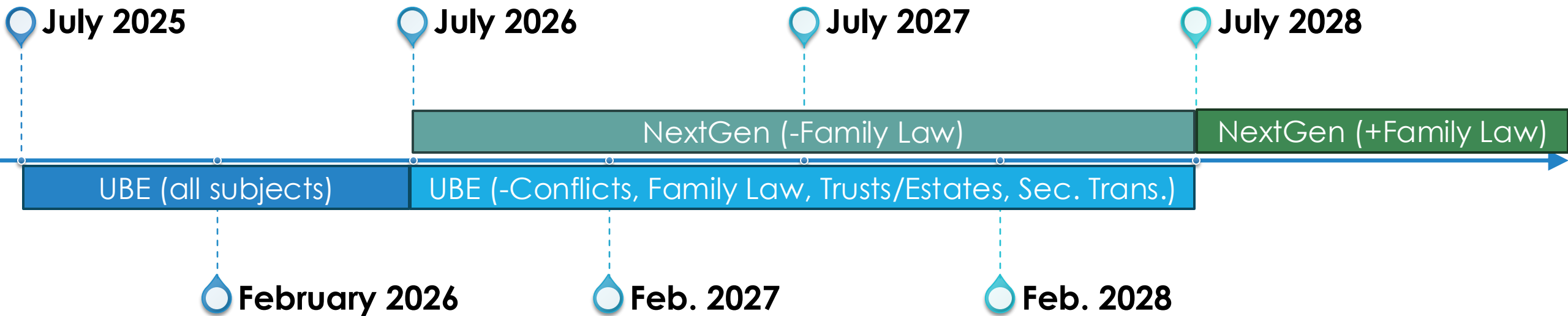
California
Nevada

Alabama
Arkansas
D.C.
Delaware
Hawaii
Idaho
Louisiana
Maine
Massachusetts
Michigan
Mississippi
Montana
New Hamp.
New Jersey

~~New York~~
North Carolina
Ohio
Palau
Pennsylvania
Puerto Rico
Rhode Island
South Carolina
Texas
Virgin Islands
Wisconsin

based on number of July 2024
bar takers (NCBE)

UBE and NextGen Overlap



10/10/24 CA Supreme Court Administrative Order

RECOMMENDATIONS OF THE BLUE RIBBON COMMISSION ON THE FUTURE OF THE BAR EXAM

After due consideration, and with appreciation for the Commission's work, the court makes the following orders concerning the Commission's six recommendations.

1. The court adopts the Commission's recommendation to develop a California-specific bar examination. The recommended general scope for such an examination is adopted with the following modifications:

The Blue Ribbon Commission recommends that the future, California-developed bar exam, will continue to cover legal theories and principles of general application, which would include ~~federal~~ law applicable throughout the United States and ~~that, for certain subject areas such as Civil Procedure and Evidence, California law and rules may also be applicable.~~

2. The court agrees with the Commission's recommendation to test nine topics on the examination, but orders the list of test topics supplemented to include three additional topics, as follows:

- *Administrative Law and Procedure*
- *Civil Procedure*
- *Constitutional Law*
- *Contracts*
- *Criminal Law and Procedure*
- *Evidence*
- *Professional Responsibility*
- *Real Property*
- *Torts*
- *Employment Law*
- *Family Law*
- *Estate Planning, Trusts, and Probate*

3. The court adopts the Commission's recommendation to test the following seven skills on the examination. It orders the recommendation supplemented with a further directive, as follows:

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

In considering the feasibility of testing some of these skills, such as client interviewing and negotiation, the State Bar of California should review the results of the 1980 Assessment Center, its related special sessions, and the availability of any new technologies, such as artificial intelligence, that might innovate and improve upon the reliability and cost-effectiveness of such testing.

4. The court adopts the Commission's recommendation concerning the examination's testing of knowledge and skills, as follows:

It is recommended that in developing the exam, there should be a significantly increased focus on assessment of skills along with the application of knowledge and performance of associated skills for entry-level practice, deemphasizing the need for memorization of doctrinal law. The precise weight of content knowledge versus skills should be determined after the development of the exam.

The commission further recommends transparency on topics and rules to be tested, including the extent to which candidates are expected to recall such topics and rules or possess familiarity with such topics and rules.

5. The court adopts the Commission's recommendation concerning fairness and equity in designing the examination. It orders the recommendation supplemented with further directives, as follows:

If the Supreme Court adopts the Blue Ribbon Commission's recommendation to develop a California-specific exam, the State Bar of California, in consultation with subject matter experts in exam development and other specialists, shall be tasked to design an exam. The design shall be consistent with the guiding principles adopted by the Blue Ribbon Commission, including crafting an exam that is fair, equitable, and minimizes disparate performance impacts based on race, gender, ethnicity, disability, and other immutable characteristics. In a further effort to minimize these disparities, and to the extent that any eventual test design may have separately scored components, consideration should be given as to whether unsuccessful applicants should be permitted to retake only those components that they failed, without having to retake the entire examination.



Bar Exam Scoring

NextGen Grading

- ▶ Jurisdictions will grade all constructed response items (performance tests, short answers, and drafting exercises)
- ▶ That grading will follow rubrics developed by NCBE
- ▶ Grading will be criterion-based, rather than relative
- ▶ At least to start, all constructed response items will be assessed by two graders, with processes for reconciling differences
- ▶ Scores from constructed response items will not be scaled to MCQs, although there will be some scaling to create a single overall score for the 9-hour exam
- ▶ The exam as a whole will be equated over time

NextGen Passing Scores and Portability

- ▶ NCBE will conduct a standard-setting exercise in May 2025 that will provide information for jurisdictions to use in establishing their passing scores
- ▶ NCBE will also create a concordance table that will help jurisdictions determine which scores to accept during the period when jurisdictions are using a mixture of the UBE and NextGen

<i>Dry Weight Measurements (approximate):</i>		
1 ounce	1/16 POUND	28.3495 grams
2 ounces	1/8 POUND	56.669 grams
3 ounces	1/5.3 POUND	85.049 grams
4 ounces	1/4 POUND	113.398 grams
8 ounces	1/2 POUND	226.796 grams
12 ounces	3/4 POUND	340.194 grams
16 ounces	1 POUND	453.592 grams
32 ounces	2 POUNDS	907.185 grams

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Jurisdiction-Specific Components

- ▶ About 17 UBE jurisdictions currently require candidates to pass a course and/or exam on jurisdiction-specific law before admission
- ▶ Those courses and exams are administered at different times than the UBE
- ▶ But NextGen is a 9 hour, 1-1/2 day exam
- ▶ Will any of those jurisdictions (or others) use that second afternoon to administer a jurisdiction-specific exam?
- ▶ This would raise serious questions about cognitive load and portability
- ▶ I understand that NCBE is advising jurisdictions against this

Why does scoring matter?

- ▶ ABA 316 requires schools to show a 75%+ pass rate within 2 years of graduation
- ▶ Schools are also required to report their first time bar pass rate on ABA 509 forms
- ▶ But with different types of bar exams being administered at the same time (UBE and NextGen overlap between 2026-2028), there can be issues in identifying who “passed”, because the standard to “pass” will be different depending on the exam a student takes
 - ▶ We’ve seen this in the past with the UBE and cut scores
 - ▶ Example: all students from a PA school take the PA bar and get a 269 (cut score in PA is 270)
 - ▶ Assume all those students also timely “port” their score to a different jurisdiction with a lower cut score of 266 and are now licensed in that jurisdiction
 - ▶ That PA school would reflect a 0% first time bar passage rate and a 100% ultimate bar passage rate
- ▶ And these pass rates matter when we think of ranking, reputation, etc.



ASP: Leading the Charge

Your School's ASP Professionals are THE Bar Examination EXPERTS

- ▶ The Association of Academic Support Experts (AASE) is the nation's only non-profit organization dedicated to amplifying the work of academic success and bar preparation professionals.
- ▶ Celebrating its 12th year, this organization boast more than 200 members from law schools across the country.
- ▶ Its Bar Advocacy Committee is comprised of professors whose scholarship focuses on the bar examination. This committee, in cooperation with the Executive Board, produce white papers, speak at conferences and law schools, and have helped educated the academy about the changing bar exam.
- ▶ AASE promotes and maintains two publicly available blog resources: [The Law School Academic Support Blog](https://lawprofessors.typepad.com/academic_support/), and the [Learning Curve](https://associationofacademicsupporteducators.org/learningcurve/).



https://lawprofessors.typepad.com/academic_support/

<https://associationofacademicsupporteducators.org/learningcurve/>

AASE and AccessLex

- ▶ Since 2021, AccessLex has supported scholarship from AASE members with its annual grants for publishing articles in the field of ASP and Bar Preparation.
- ▶ Articles have been published in notable law reviews across the country.



Michigan State
Law Review



ASP and AccessLex

- ▶ “This is 100% an initiative that would only work with AASE membership engagement!” – Joel Chanvisanuruk, Senior Director, Programs for Academic and Bar Success.
- ▶ To date, more than 450 ASP, Bar Success, and Law School Staff and Faculty have requested use of the AccessLex Building Bar Skills Modules.
- ▶ These teams are developing and testing curriculum units that expand upon the existing offering of Bar Skills Modules.
- ▶ Complete with student learning outcomes, assessment materials, and professor guides, Bar Skills Modules equip law faculty and instructors with the easily adopted assignments for use in doctrinal courses that are designed to cultivate the skills tested on the NextGen bar exam.
- ▶ Link to resources: <https://www.accesslex.org/building-bar-skills-initiative>



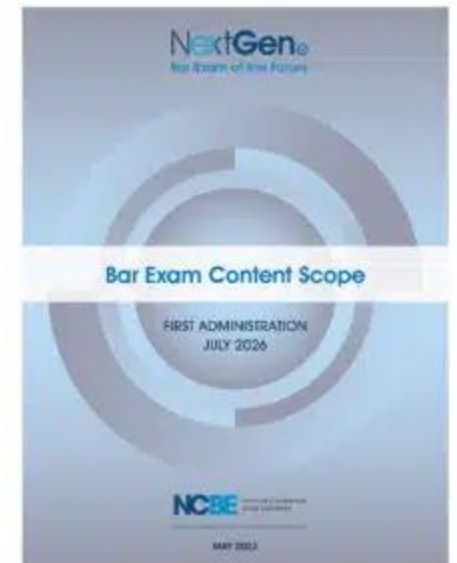
ASP Educators Drafting NextGen Bar Skills Modules for AccessLex

Institution	Module Building Team Member(s) 2023-24	Title
Hawaii, Richardson	Liam Skilling	Assoc. Prof. Dir. of ASP and Evening P/T Program
Ohio Northern University	Garrett Halydier	Visit. Asst. Prof., Interim Dir. Bar Success
LSU, Louisiana State University	Carlota Toledo	Director of Academic Success and Prof. Practice
Nova Southeastern	Megan Chaney	Co-Dir. Criminal Justice Field Placement Clinic & Prof. of Law
Ohio Northern University	Jennifer Gregg & Melissa Kidder	Asst.Dir. Academic Success, Director of Law Clinics
Arizona State University	Toni Miceli	Dir. Bar Success
Syracuse University	Kelly Curtis & Tara Andryshak	Teaching Prof., Legal Ethics; Assoc. Dir. Academic/Bar Success
	2024-25	
Cooley Law	Matthew Marin	Dir. Academic Success & Student Services
Lincoln Memorial	Katie Jones & Laura Mott	Director of Academic Success, Assistant Prof. of Law
Seattle Univ. School of Law	Jeff Minneti & Paul Holland	Assoc. Prof. of Law & Assistant Dean of Academic Excellence/Bar Prep, and Assoc. Dean Experiential Learning
Wake Forest Law	Liz Johnson, Tanya Marsh	Dir. Of Academic Excellence/Bar Support, Prof. of Law
University of Dayton	Nicholas Seger, Katherine Armstrong	Assoc. Prof. Academic Success, Assistant Dir. Bar Prep
University of Richmond	Laura Webb, Chris Cotropia	Assoc. Dean of Student Success, Prof. of Law



SKILLS, SKILLS, SKILLS – Your ASP Professionals are Experts!

- ▶ The new exam now expressly assesses 27 specific lawyering skills under the following categories:
- ▶ **Issue Spotting & Investigation**
- ▶ **Client Management**
- ▶ **Legal Research**
- ▶ **Legal Writing**
- ▶ Substantive doctrinal courses are tested, and a subject matter index is provided with areas requiring memorization indicated by a blue star.



Let your ASP Professionals Educate Your Faculty

- ▶ Your in-house ASP and Bar Prep professionals are your first stop for providing key information to your faculty members.
- ▶ AASE is also happy to connect you with others if you feel a fresh voice would be more helpful!
- ▶ AASE professionals routinely present to faculty members at law schools across the country about the changing bar examination and how law school faculty and the curriculum must respond.



Potential Curricular Changes

REVIEWING SAMPLE NEXTGEN QUESTIONS TO INFORM
CURRICULAR CHANGES

Potential Curricular Changes



CONTENT



SKILLS



ASSESSMENT

Potential Curricular Changes: Content

- ▶ The problem:
 - ▶ Black letter law on the exam is changing, which may necessitate curriculum changes on required courses
 - ▶ The uncertain landscape will require ongoing student counseling from 1L-3L so students can make wise choices about courses
 - ▶ We want to minimize the amount of new topics students are learning during bar prep—for cognitive load, timing, and anxiety reasons
- ▶ Suggested solutions:
 - ▶ Add a 1/2/3 unit course in the last semester that teaches a bar prep version of a non-1L bar subject
 - ▶ Create self study bar modules students can use to fill substantive gaps before bar prep

Potential Curricular Changes: Skills

- ▶ The problem:
 - ▶ Skills/experiential learning/legal writing/clinical is more important but many skills classes are in a small class model & students will have varying degrees of exposure to the different skills based on individual experiences/courses/clinics
- ▶ Suggested solution:
 - ▶ Consider offering a “catch all” skills class to expose students to a variety of skills in bar tested format.

Potential Curricular Changes: Assessment

- ▶ The problem:
 - ▶ No more essays—which is what we do to test 1Ls. The new exam is trying to better replicate what new lawyers do in practice, so to that end, we should incorporate some of the assessment methods into our 1L doctrinal classes
- ▶ Suggested solutions:
 - ▶ Low effort:
 - ▶ Ask questions that require role playing as a lawyer with a client hypo
 - ▶ Incorporate [AccessLex bar skills modules](#) (or create your own) as formative assessments
 - ▶ Medium effort:
 - ▶ Be more creative in exams and think of subject as it is practiced (e.g., draft/edit a contract, create a discovery plan, etc.)
 - ▶ Highest effort:
 - ▶ Include another substantive area in testing by providing rule or statute to put problem in context

NextGen Question Types

MULTIPLE CHOICE QUESTIONS (MCQS)



MCQs: Key Takeaways



Multiple Choice Questions here to stay and will remain PROMINENT

- ▶ Approximately 40% of the exam will be MCQs
 - ▶ NOTE: MCQs appear in the integrated question sets AND the longer-writing tasks
- ▶ Memorization remains prominent, especially on the ★ topics.
- ▶ Questions are role-play style
- ▶ Can have one or two correct answer(s)
- ▶ The variety of MCQs will increase as this exam develops
- ▶ Link to sample questions: <https://nextgenbarexam.ncbex.org/multiple-choice-questions/>

MCQs:
What can we
do now?

- ▶ **Write MCQs to:**
 - ▶ **Reframe the call as a role-play.**
 - ▶ **Have more than one correct answers (e.g., pick two correct answers) and give partial credit.**

NextGen Question Types

PERFORMANCE TASK



Performance Tasks: Key Takeaways

- ▶ Just under 25% of the exam will be on the performance task (currently 20% on UBE)
- ▶ There are three performance tasks. “One of the longer performance tasks will include several multiple-choice questions and short constructed response questions focused on research skills, followed by a longer writing assignment.”
- ▶ Each performance task should take approximately 60 minutes to complete (currently 90 minutes on UBE)
- ▶ These tasks “will require examinees to demonstrate their ability to use **fundamental lawyering skills** in realistic situations, completing tasks that a beginning lawyer should be able to accomplish.” (emphasis added)
- ▶ Link to sample questions:
<https://nextgenbarexam.ncbex.org/performance-task/>



Performance
Task:
What can we
do now?

- ▶ **We can integrate current performance tests**
- ▶ **Integrate targeted short-answer questions when reviewing client documents (e.g., “Identify issues with the client’s contract”)**

NextGen Question Types

INTEGRATED QUESTION SETS




Integrated Question Sets: What are they?

- ▶ Just under 25% will be integrated practice sets
- ▶ “Each of these sets is based on a common fact scenario and may include some legal resources (e.g., excerpts of statutes or judicial opinions) and/or supplemental documents (e.g., a police report or excerpt from a deposition) and include a mixture of multiple-choice and short-answer questions.”
- ▶ **“In addition to testing doctrinal law, some integrated question sets will be focused on drafting or editing a legal document; other sets will be focused on counseling and/or dispute resolution.” (emphasis added)**
- ▶ Link to sample questions:
<https://nextgenbarexam.ncbex.org/integrated-questionsets/>



Integrated
Question Sets:
What can we
do now?

- ▶ **Begin writing assessments in a similar fashion (AccessLex Building Bar Skills modules as a starting point!)**
- ▶ **Create a similar in-class exercise**
- ▶ **Opportunities for a single problem shared between two doctrinal classes**



Q&A

Key References and Takeaways





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