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California Bar Committee Endorses Lowering Exam Pass-Score

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A California State Bar committee stocked with law school deans recommended on Wednesday that the Supreme Court reduce the bar exam passing score from 144 to as low as 135.

The [Law School Council](#) endorsed setting the state's passing score between 135 and 139, a lower range than the 141 to 144 that a [previous bar-commissioned study](#) had suggested. A 135 score is the most common pass score, or cut score, in other states. An [Aug. 25 letter](#) signed by 19 of 21 ABA-approved law school deans recommended the score be temporarily set between 133 and 139 while the bar completes its analysis.

Council members and others referred to findings from a [report released by the bar on Wednesday](#) that looked at [what the passage rates would have been](#) for exam-takers in July 2008 and July 2016 if the passing score, or cut score, had been lower. At 135, the success rate would have jumped dramatically, from 43 percent to 66 overall and by 114 percent for African-Americans and by 75 percent for Hispanic test-takers.

University of California, Hastings College of Law Dean David Faigman, who does not sit on the council, testified on Wednesday that the 144 pass score has become an "anchor" in discussions about the appropriate number.

"Imagine if California indeed had a 135 cut score today and considered moving it to 144," he said. "I don't think we would even be debating moving [it]."

A joint meeting of the bar's committee of bar examiners and the committee on admissions and education meets Thursday to consider its own score recommendation. The bar's board of trustees will make final recommendations to the state Supreme Court in September.

The question of what the appropriate cut score should be has come into sharp focus, and intense debate, over the last year as the exam's pass rate has tumbled. The bar posted an online survey on the topic and received more than 34,000 responses from attorneys. A slightly different survey was offered to July 2017 exam-takers and 4,188 of them responded.

The results were starkly different among the groups. About 80 percent of attorney-respondents opposed lowering the cut score. More than 90 percent of test-takers said the score should be reduced—a majority said it should be lower than 141.

Anonymous comments from attorneys included in Wednesday's report said California's score—the second-highest in the nation—produces highly competent lawyers who display discipline and grit by passing the test.

“To me, the declining pass rate seems to be more of a millennial problem (I say this as a millennial),” one attorney wrote. “Students don't want to work hard for anything, they expect it to be given to them. If they're not willing to put in the work, they should not be admitted as lawyers.”

Other commenters, however, said the high test score requirement is a poor predictor of competence and ethical adherence, one that puts California test-takers at a disadvantage to law school graduates in other states.

“It has been an extreme financial burden as I have spent over \$20,000 dollars in bar fees, accommodations, and resources to prepare for the bar,” one graduate wrote. “Moreover, my employment opportunities and earning potential are on standby until I pass the bar.”

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