



Law Society
of Scotland



International
Conference of
Legal Regulators

Plenary Panel: A Compass for Change?

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Paul Philip, Chief Executive, Solicitors Regulation Authority

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Dr Heike Lörcher, Head of Brussels Office, German Federal Bar

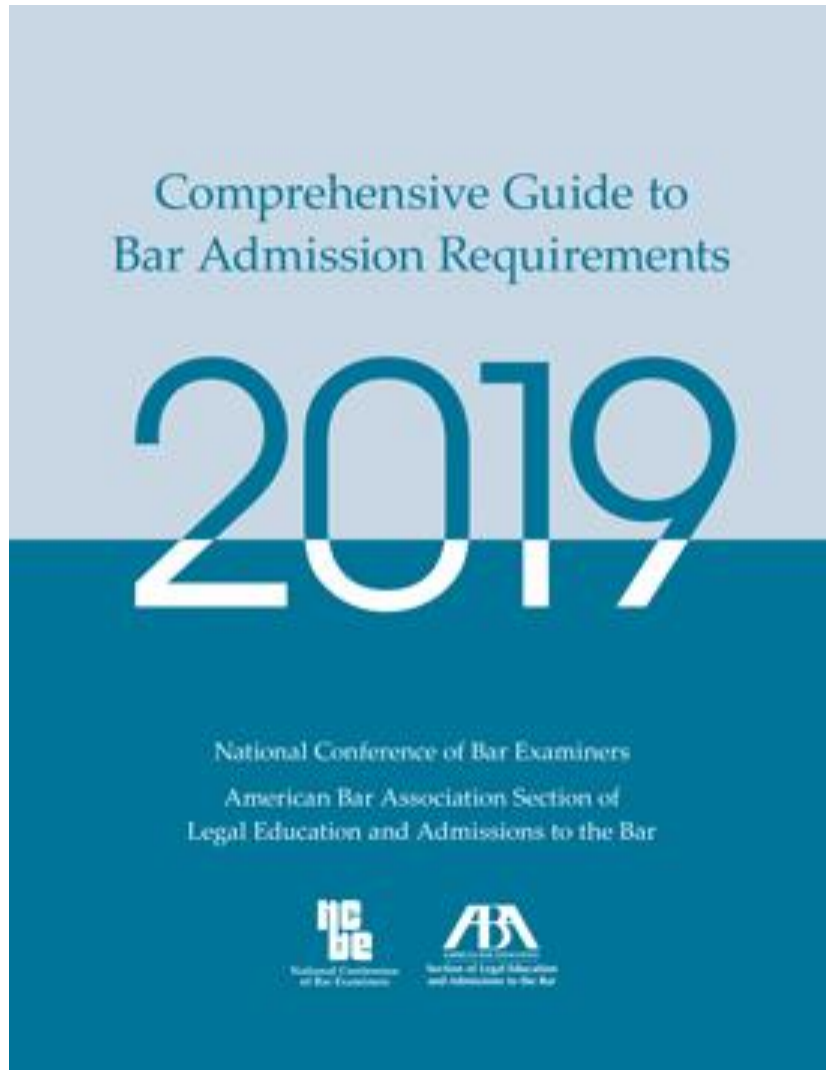
A compass for change: Directions in US Bar Admissions



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US Attorney Admissions Overview



56 jurisdictions/states control attorney admissions on a state-by-state basis

Admissions authorities operate under the authority of the highest court in each state, which is usually the Supreme Court

Admission in one state does not authorize practice in another state

Each jurisdiction decides what tests to use for its bar exam and sets its own passing score



National Conference of Bar Examiners



The National Conference of Bar Examiners is a not-for-profit corporation founded in 1931 with headquarters in Madison, Wisconsin.

NCBE provides high-quality exams, grading training, scoring, scaling, and measurement research and services to US admissions authorities. We engage in educational programming and outreach to jurisdictions and law schools on admissions and testing-related topics. We also conduct character and fitness investigations on behalf of several jurisdictions.



Enhancing New Lawyer Mobility



Uniform Bar Exam

Uniformly administered and graded portable score for newly-licensed lawyers.

Started in 2011 with two states, now 36 jurisdictions have adopted.

Graded by jurisdictions with NCBE training and materials.

Each state:

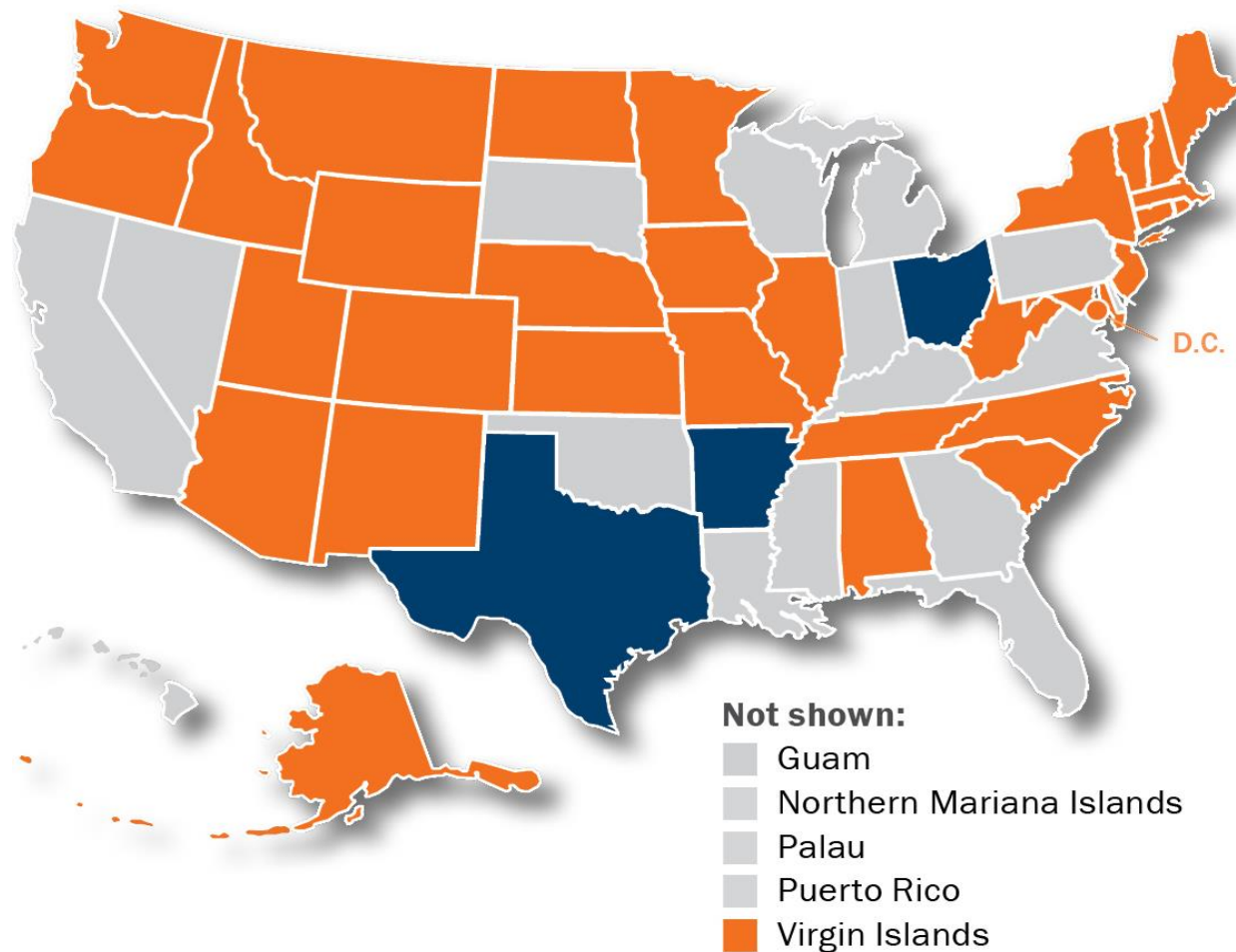
Conducts its own Character and Fitness investigations and decisions.

Sets its own cut score.

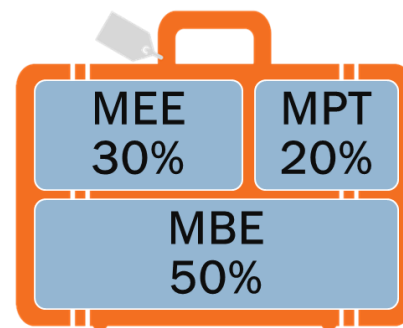
Determines if there is a local component.

Sets the period for how long the score may be transferred.





Weighting the Components



Three UBE Components

Multistate Performance Test (MPT)

Two 90-minute closed-universe skills tests to be finished in 3 hours

Multistate Essay Examination (MEE)

Six 30-minute essays to be finished in 3 hours

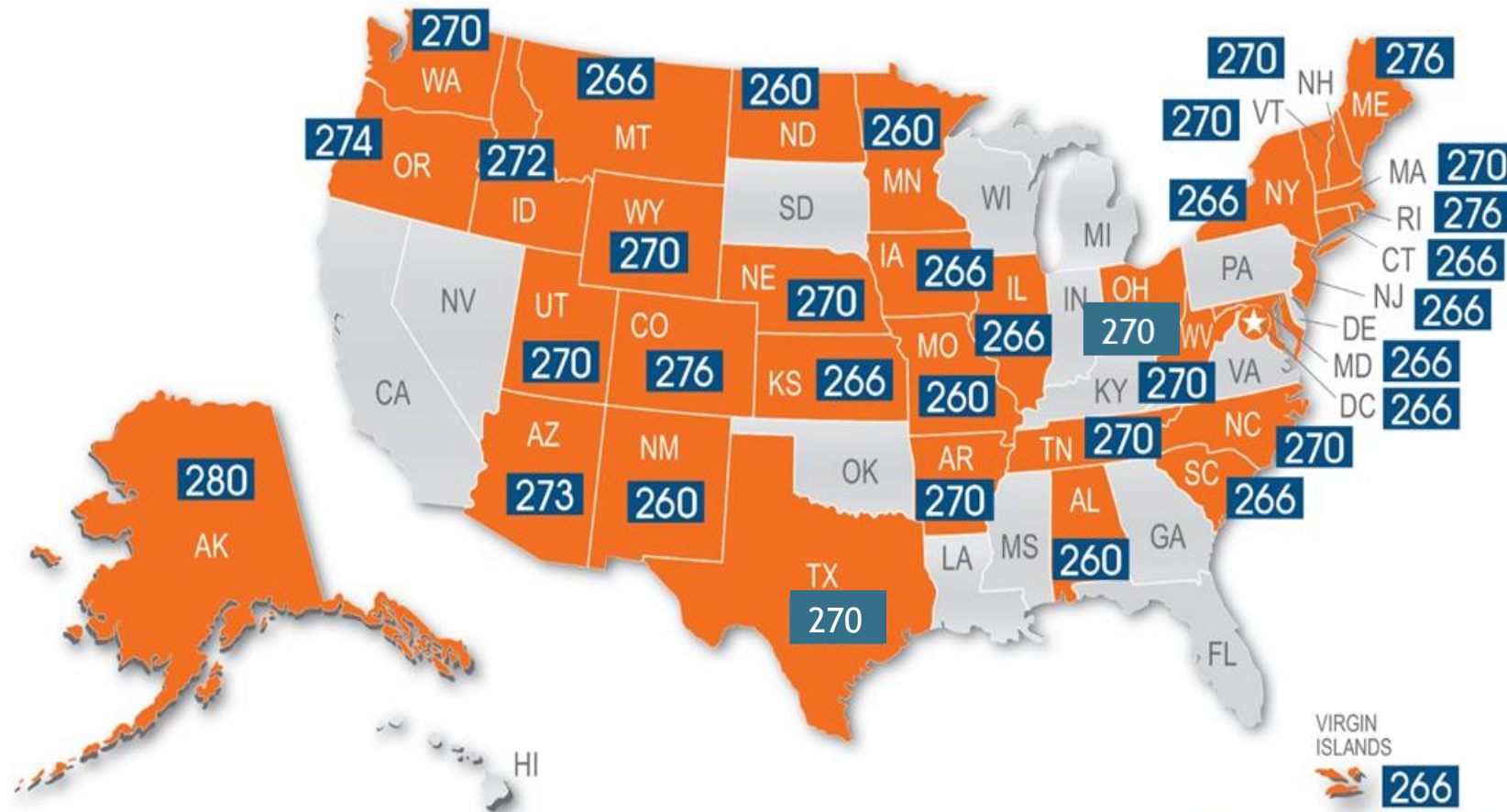
Multistate Bar Exam

200-question, multiple-choice exam to be finished in 6 hours



Minimum Passing UBE Scores (400-point scale)

- Of the 36 jurisdictions that have adopted, **29 (81%) have cut scores between 260 and 270.**



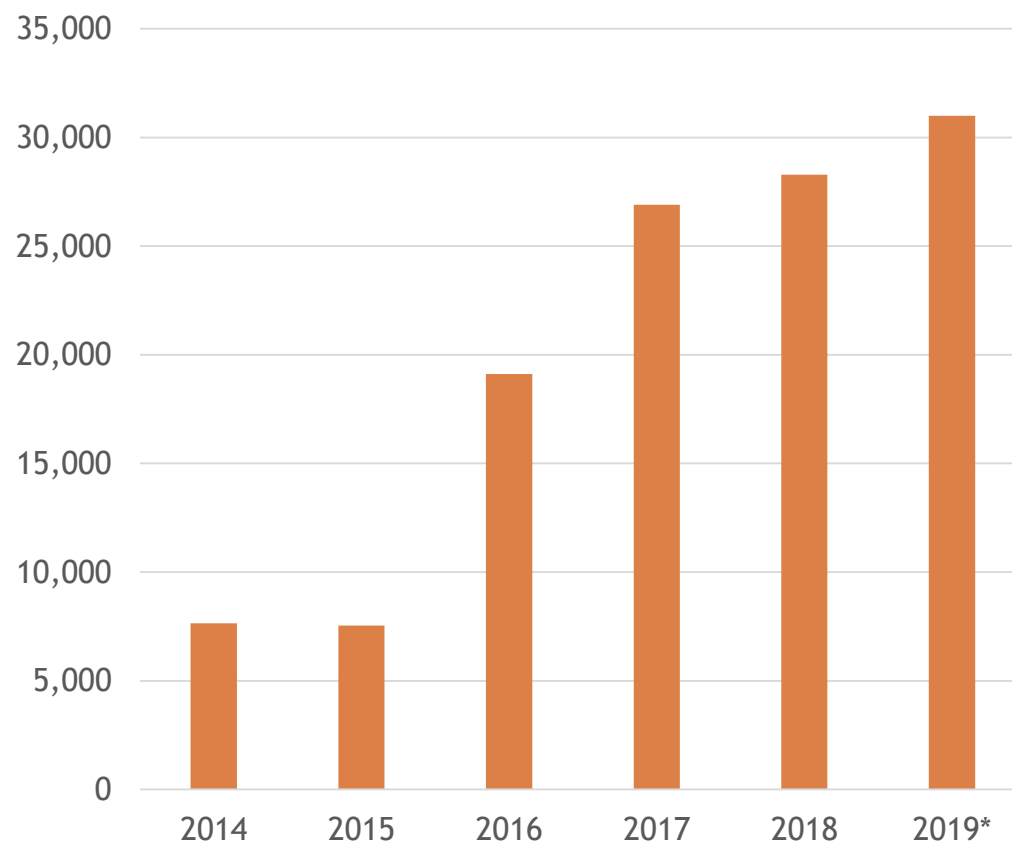
UBE Scores Earned by Year

UBE scores
EARNED

141,810*

UBE scores
TRANSFERRED

17,286



In July 2019,
31 jurisdictions
administered
the UBE to 46%
of all bar
examinees

By February 2021,
36 jurisdictions
will be using the
UBE, representing
approximately 58%
of all bar
examinees.

*July 2019 data estimated



Impact of UBE Adoption

- Fewer examinees will have to take multiple bar exams to be admitted in more than one jurisdiction.
- Examinees who graduate without a job can sit in 31 jurisdictions and transport their score to a jurisdiction in which they secure a job.
- Bar exam preparation is simplified for students and law schools.



Impact of UBE Adoption

A case study: New York first administered the UBE in July 2016

- Average MBE scores, average written scores, average bar exam scores, and pass rates all increased after UBE adoption.
- Law school grade point averages were the best predictors of performance on the bar exam, before and after UBE adoption.
- Eventual pass rates for candidates before and after the UBE adoption followed similar trajectories.
- Differences observed across groups defined by gender or race/ethnicity on the UBE also tended to be observed prior to UBE adoption.

*“... the answer to the overarching question of impact, specifically *what was the impact of adopting the UBE on candidate performance in New York?* was that the impact was, **at most, small and positive.**”*

--Report of the Impact of Adoption of Uniform Bar Examination in New York, National Conference of Bar Examiners Research Department, 2019.

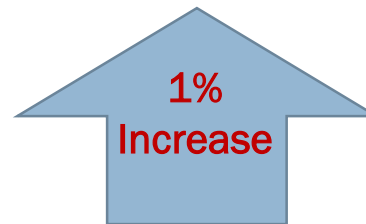
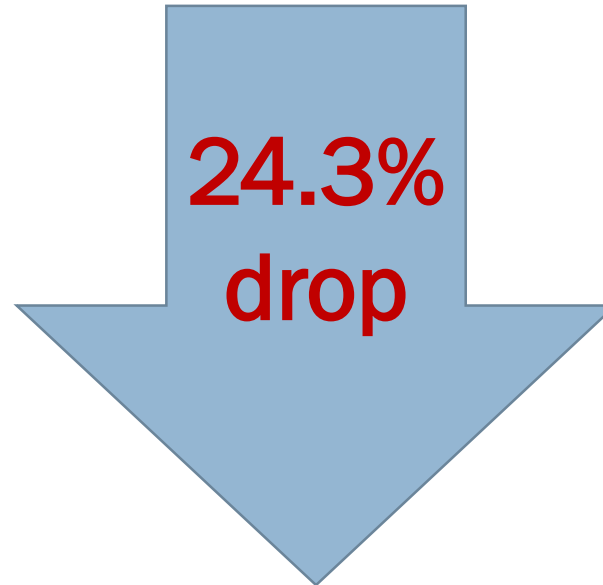


US Law School JD Candidates

2010
147,525

2017
110,183

2018
111,620

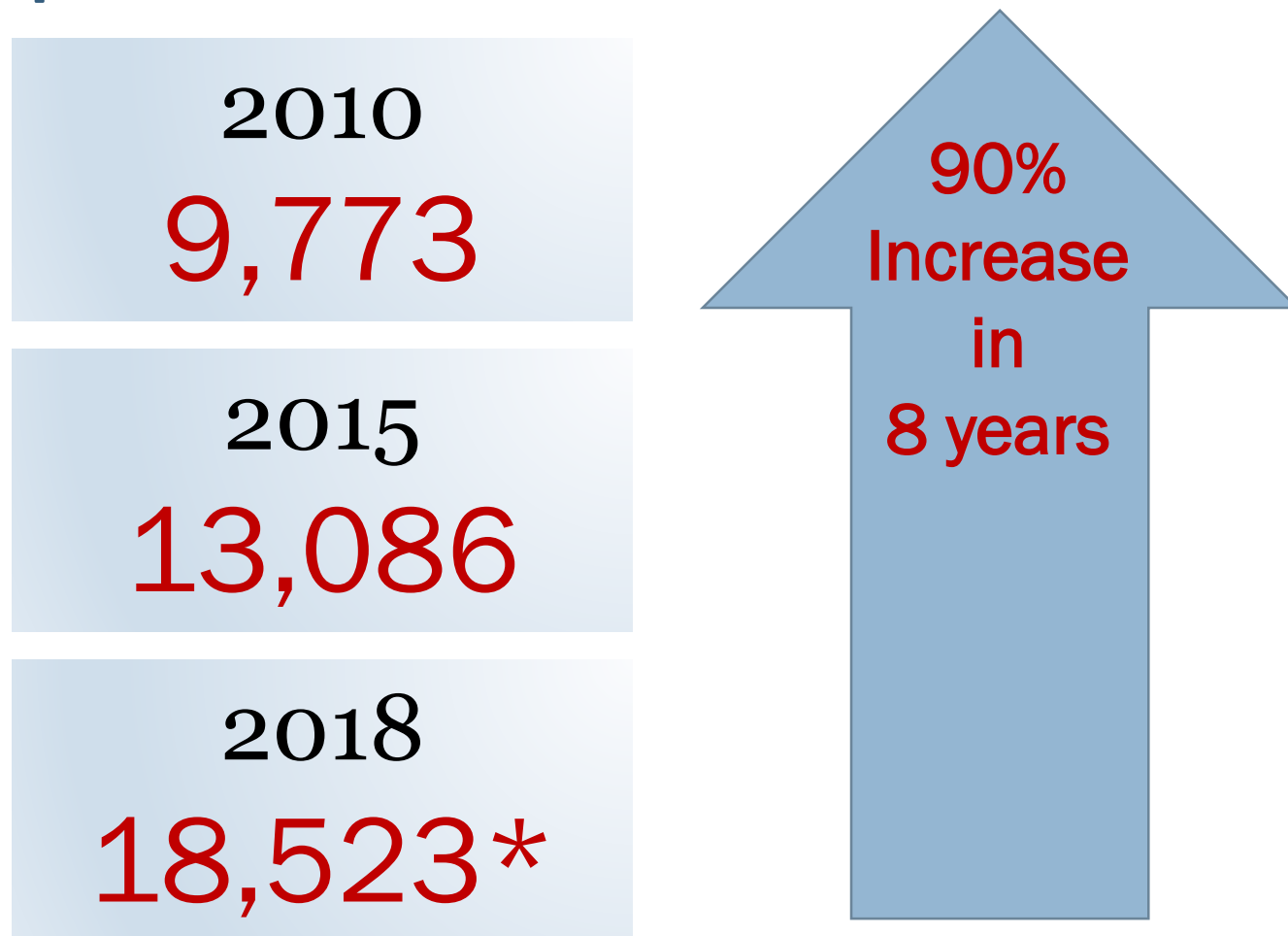


Seven years of declining law school enrollment now showing slight uptick

The recession of 2008 affected the number and quality of legal jobs. Law school became a less attractive proposition.



US Law School post-JD & non-JD Candidates



Post- and Non-JD Candidates represent 14% of law school students in 2018.

In 2010, such programs represented only 6% of law school enrollees.

These programs are currently unregulated.

* 5,400 online

Non-JD Programs

- 177 out of 203 law schools have non-JD programs or post-JD programs.
- These include master's programs, B.A. programs, and certificates.
- There are approximately 990 different programs; 300 have fewer than five students, others have 100+
- Examples:
 - U of AZ Undergrad Degree in Law
 - Columbia LLM in Global Business Law
 - Iowa Certificate in Legal Studies in Human Rights



Jurisdiction Initiatives to Improve Access to Justice



Limited Practice/Alternative Licenses

Arizona Document Preparer Program

Legal Document Preparers are certified individuals who prepare or provide legal documents without the supervision of an attorney. Legal Document Preparers may provide general legal information but may not give legal advice.

Washington Limited License Legal Technicians

A limited license legal technician, also known as a legal technician or a LLLT, is licensed by the Washington Supreme Court to advise and assist people going through divorce, child custody, and other family law matters in Washington.

Utah Licensed Paralegal Practitioner

The Utah Supreme Court amended the definition of who can practice law to include LPPs in some separation/divorce procedures, cases involving forcible entry, and debt collection matters.



The Future of the Bar Exam

Gathering and analyzing suggestions for content revision, delivery method, test design, component divisions, exam scoring and administration timing: The NCBE Testing Task Force



NCBE Test Development and Scoring

- NCBE uses drafting committees composed of professors, lawyers, and judges who are subject matter experts in the areas in which they write test questions.
- Committees are staffed by NCBE test editors who are also lawyers.
- All questions are pretested before used as scored questions on the bar exam.
- All questions are subject to external review and bias review.
- Psychometricians (testing experts) advise and support committees in test development.
- MCQ exams are equated; scaled scores have consistent meaning across time.
- IRT Equating accounts for any differences in difficulty across forms.



Testing Task Force



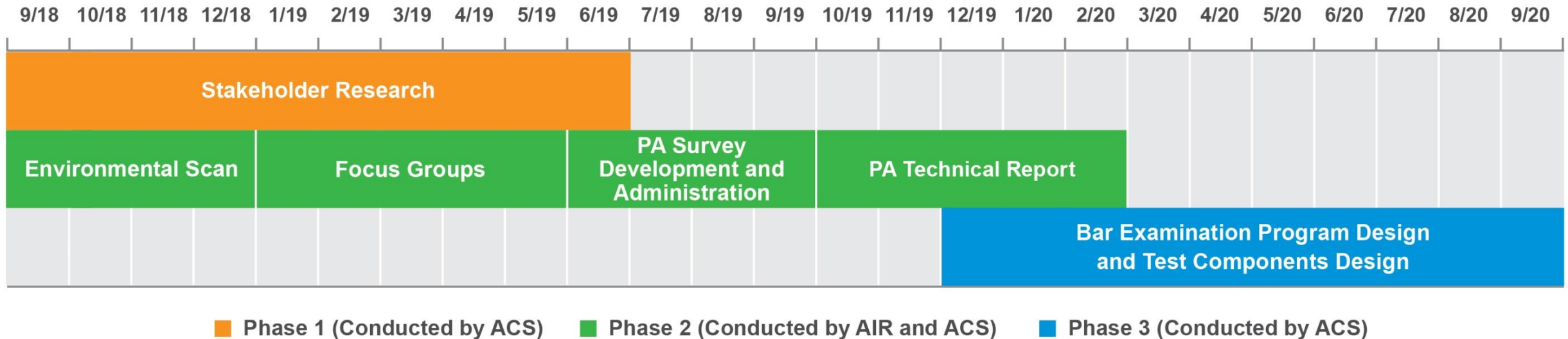
The National Conference of Bar Examiners has appointed a Testing Task Force charged with undertaking a three-year study to ensure that the bar examination continues to test the knowledge, skills, and abilities required for competent entry-level legal practice in the 21st century.





STUDY TIMELINE

(September 2018 – September 2020)



FIRST YEAR REPORT



Prepared by
Hon. Cynthia L. Martin, Chair
April 2019

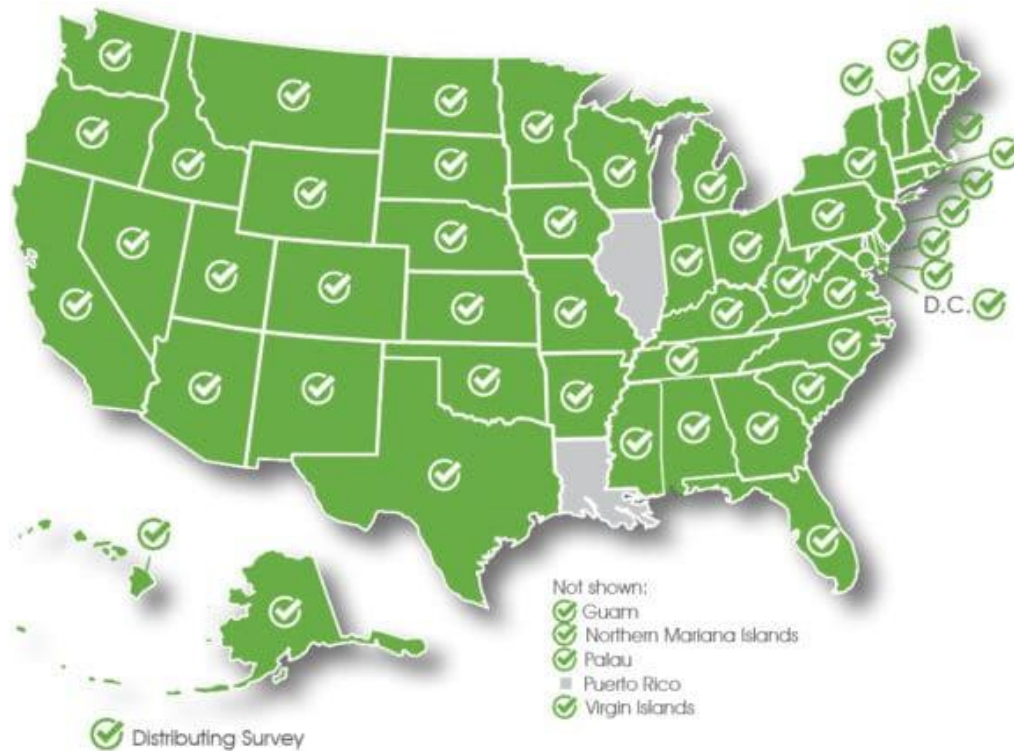
Testing Task Force Phase 1

- With a three-year study in three phases, the Task Force goal is to determine what constitutes the set of fundamental lawyering skills needed at the point of licensure and recommend method(s) for effectively and practically assessing them.
- Over 400 stakeholders participated in ten listening sessions during Phase 1 of the NCBE Testing Task Force study.
- An Executive Summary of the stakeholder listening sessions is available here:

<https://www.testingtaskforce.org/wp-content/uploads/2019/08/FINAL-Listening-Session-Executive-Summary-with-Appendices-1.pdf>



Phase 2: Practice Analysis



State supreme courts and bar associations from 53 jurisdictions began assisting with the distribution of the survey on August 1, 2019. It closes on September 30, 2019.

The results of the practice analysis, which will be available early next year, will provide empirical data regarding the tasks newly licensed lawyers perform and the knowledge, skills, abilities, and other characteristics they need to accomplish their work, as well as the technology used in law practice.

The landing page for the survey can be found here:

<https://www.testingtaskforce.org/2019pasurvey/>



Phase 3: Bar Exam Program Redesign Options



The direction forward will use stakeholder input from bar examiners, law schools, practicing lawyers, judges, psychometricians, subject matter experts, and NCBE testing staff.