Executive Summary
Impact of Adoption of the Uniform Bar Examination in New York

National Conference of Bar Examiners
Research Department

Overview

This study was undertaken to investigate the impact of adoption of the Uniform Bar Examination (UBE) in New York. The UBE was first administered in New York in July 2016. The UBE consists of a multiple-choice component, the Multistate Bar Examination (MBE), weighted 50% of the total score, and a written component consisting of six Multistate Essay Exams (MEEs) and two Multistate Performance Tests (MPTs), weighted 50% of the total score. The New York bar exam prior to UBE adoption consisted of the MBE (weighted 40% of the total score), a written component (five New York-developed essays and one MPT, weighted 50% of the total score), and a New York-developed multiple choice exam (weighted 10% of the total score). This study was conducted by staff from the Research Department of the National Conference of Bar Examiners (NCBE) at the request of the New York State Board of Law Examiners (NYSBLE). The analyses in this study were designed to address three primary questions:

1. How do candidate background characteristics compare across bar exam administrations? How do they relate to performance on the bar exam in New York before and after UBE adoption?
2. How do candidates grouped by race/ethnicity and gender perform on the bar exam before and after UBE adoption?
3. How does performance on the bar exam in New York compare before and after UBE adoption?

In addition, several ancillary questions were addressed, including the following:

- How does performance on the MBE in New York compare to MBE performance in all other jurisdictions before and after New York adopted the UBE?
- What candidate variables best predict performance on the bar exam?
- What are the eventual pass rates for candidates taking the New York bar exam before and after UBE adoption?

Each of these questions was intended to contribute to the overarching question of impact, specifically what was the impact of adopting the UBE on candidate performance in New York? The short answer, based on the data available, is that the impact was, at most, small. Bar exam performance increased, on average, after UBE adoption and the improvement in performance appeared to be explained in large part by improvements in the background characteristics of candidates taking the New York bar exam. In other words, the improvement in bar exam performance after UBE adoption was likely not attributable to the UBE.

Data Samples

Two primary samples of New York bar exam data were used in this study. The samples contained data from July 2015 and February 2016 (prior to UBE adoption) and July 2016, February 2017, and July 2017 (after UBE adoption). The first sample, referred to as the *New York State Board of Law Examiners (NYSBLE) sample*, contained bar exam scores, gender, and race/ethnicity for all candidates taking the bar exam in New York at each bar exam administration between July 2015 and July 2017. The second sample, referred to as the *school-based sample*, was a subset of the NYSBLE sample that contained available school-related information from domestic-educated candidates in addition to bar exam and demographic information. Specifically, the school-based sample included undergraduate grade point average (UGPA), Law School Admission Test (LSAT) score, and law school grade point average (LGPA) for a subset of domestic-educated candidates for whom these background characteristics were available. In order to appropriately analyze LGPAs from different schools, LGPAs were scaled in two ways: (1) to account for school-level differences in selectivity (Index-based LGPA) and (2) to ignore school-level selectivity but ensure that LGPA was on a common 4-point scale (4-point LGPA). All analysis was conducted separately using each method of scaling LGPAs. The school-based sample was used when analysis required candidate background characteristics.

The NYSBLE sample was analyzed as a whole and the following groups within the sample were also analyzed separately: (a) domestic-educated candidates, (b) first-time takers, and (c) domestic-educated first-time takers. The school-based sample, which by definition only included domestic-educated candidates, was studied as a whole, and first-time takers within the sample were also studied separately. Domestic-educated candidates, first-time takers, and domestic-educated first-time takers typically performed better than the entire group but patterns of performance and trends tended to be similar regardless of grouping, particularly for July exams.

February results tended be less stable in general, and February school-based sample candidates as a group didn't appear to adequately represent domestic-educated candidates in New York, likely due to (a) relatively small sample sizes in some instances and (b) the particular group of candidates with appropriate background characteristics available. This limited the results for February exams in the school-based sample, which is a reason why February results were not summarized in some places. It is important to note that the school-based sample may have differed from the entire domestic-educated group (i.e., the domestic-educated NYSBLE sample), requiring caution in interpreting, for example, results based on UGPA, LSAT score, and LGPA data from the school-based sample as representative of all domestic-educated New York candidates. Even though the school-based sample may not have well represented all domestic-educated candidates taking the New York bar exam, especially for February exams, the school-based sample was useful for studying background characteristics of candidates and how they

related to bar exam performance and pass rates for the group included in the school-based sample.

How do candidate background characteristics compare across bar exams? How do they relate to performance on the bar exam in New York before and after UBE adoption?

Candidate background characteristics in the form of UGPAs, LSAT scores, and LGPAs, showed evidence of shifting across time for candidates in the school-based sample taking the New York bar exam in July 2015, February 2016, July 2016, February 2017, and July 2017. Background characteristics related positively to performance on the bar exam in New York and the relationships were consistently positive before and after UBE adoption; as UGPA, LSAT scores, and LGPAs increased, so did bar exam scores.

Average UGPAs, 4-point LGPAs, and Index-based LGPAs tended to improve or remain constant across February exams and across July exams. Between July 2015 and July 2017 each tended to increase. Average LSAT scores decreased slightly across February 2016 and February 2017 and decreased across July 2015 and July 2016 before increasing in July 2017.

Average values for background characteristics tended to differ by gender. Females tended to have higher average UGPAs than males for groups taking each bar exam. This pattern was reversed for LSAT scores, 4-point LGPAs, and Index-based LGPAs, where males tended to have higher averages than females. Average values for background characteristics by gender tended to follow the pattern for the entire group, however differences in means between males and females decreased slightly between July 2015 and July 2017.

Average values for background characteristics tended to differ according to candidates' race/ethnicity. Caucasian/White and Asian/Pacific Islander groups almost always had higher average performance on background characteristics in July compared to Hispanic/Latino and Black/African American groups. February results were somewhat more idiosyncratic and tended to have smaller average differences across groups. For July exams, average UGPAs, LSAT scores, Index-based LGPAs, and 4-point LGPAs in 2016 compared to 2015 tended to (a) remain constant or increase for Asian/Pacific Islander, Black/African American, and Hispanic/Latino groups (although average 4-point LGPA did dip slightly for the Black/African American group in July 2016 compared to July 2015) and (b) remain constant or decrease for the Caucasian/White group. In 2017, average performance tended to increase for each group, with the exception of the Hispanic/Latino group, which had similar average UGPAs and lower average 4-point LGPAs in 2017 compared to 2016.

Relationships between background characteristics and bar exam scores and pass rates were positive; as background characteristics increased, so did bar exam scores and pass rates. LGPAs (Index-based followed by 4-point) had the strongest relationships with bar exam scores

and pass rates, followed by LSAT scores and UPGAs. Relationships did not appear to differ for July exams before and after UBE adoption. For example, correlations[1] between background characteristics and bar exam scores were of comparable magnitude in July 2015 and July 2016.

How do candidates grouped by race/ethnicity and gender perform on the bar exam before and after UBE adoption?

Across different groupings of the NYSBLE sample (entire sample, domestic-educated, domestic-educated first-time takers) and the school-based sample (domestic-educated, domestic-educated first-time takers), average MBE scores, written scores, bar exam scores, and pass rates tended to differ by groups defined by gender or race/ethnicity. Although not always the case, scores and pass rates tended to increase across Februarys[2] and across Julys for each group. A notable exception was the tendency for average written scores, average bar exam scores, and pass rates for the Black/African American group to increase less than other groups or even decrease between July 2015 and July 2016 before increasing more than other groups in July 2017, which appeared as a dip compared to the performance of other groups in July 2016. This dip for the Black/African American group disappeared in July 2017 at the second July UBE administration in New York. A similar pattern in July 2016 was observed for the average MBE scores of the Black/African American group in the school-based sample, but not for the NYSBLE sample, where average MBE scores for the Black/African American group increased consistently across Februarys and across Julys. The Caucasian/White group tended to have the highest average scores on the bar exam, followed by either the Asian/Pacific Islander group or the Hispanic/Latino group (depending on the year and breakdown of the sample), and then the Black/African American group.

Males tended to have consistently higher average scores on the MBE than females. Females tended to have slightly higher average scores on the written component than males, although this pattern did not always hold (males had slightly higher average written scores in July 2016). The differences in average written scores advantaging females were smaller than the differences in average MBE scores advantaging males, which led to males having higher average bar exam scores than females. The difference in average bar exam scores between males and females increased somewhat in July 2016 at the first UBE administration, but this increased difference did not persist in July 2017. Similar patterns were observed for pass rates: males tended to have higher pass rates than females, and in July 2016 the difference increased somewhat before narrowing in July 2017.

Differences in performance on the bar exam across groups were observed before and after UBE adoption. These differences tended to be of similar magnitude before and after UBE

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[1] Correlations summarize the degree of linear relationship between variables.
[2] February results less consistently showed increases across exams for different breakdowns (entire sample, domestic-educated, domestic-educated first-time takers) of the samples for some groups in some instances.

adoption, although two groups, the Black/African American group and females, tended to see larger differences in bar exam performance at the first UBE administration in July 2016 that disappeared in July 2017. In some cases, the associated background characteristics were flat or decreased slightly between July 2015 and July 2016, which explained at least a portion of the larger differences observed for the Black/African American group and females in July 2016. However, there may be other variables unavailable in the data from this study that would help explain these patterns. Ultimately, group differences in performance existing prior to UBE adoption did not appear to change after UBE adoption, particularly when looking between July 2015 and July 2017. If anything, differences appeared to be decreasing somewhat after UBE adoption.

How does performance on the New York bar examination compare before and after UBE adoption?

Average MBE scores, average written scores, average bar exam scores, and pass rates all increased after UBE adoption. When this pattern was compared to the patterns of background characteristics using the school-based sample, we see that background characteristics (UGPA, LSAT score, 4-point LGPA, and Index-based LGPA) tended to remain fairly constant or increase across years, with the exception of average LSAT scores, which dipped slightly between (a) July 2015 and July 2016 and (b) February 2016 and February 2017. The patterns in mean scores and pass rates after UBE adoption were generally consistent with the patterns in average performance on UGPA, LSAT score, and LGPA after UBE adoption. This is not to say that the pattern was perfect, but background characteristics certainly explained at least a portion of the improvement in bar exam scores after UBE adoption, indicating that improvement in bar exam scores was likely not due to the UBE. It is worth noting that the MBE was used before and after UBE adoption and showed average score increases after UBE adoption, which also supports the idea that increases in bar exam performance after UBE adoption were not due to the UBE (or, more specifically, not due to the UBE being a different exam from the previous New York bar exam).

How does performance on the MBE in New York compare to MBE performance in all other jurisdictions before and after New York adopted the UBE?

Average MBE scores for New York increased after UBE adoption in July 2016. The increases in July 2016 and July 2017 were larger than those observed nationally for all other jurisdictions with MBE scores. In February, all other jurisdictions saw a decrease in average MBE scores between 2016 and 2017 but New York saw an increase. In other words, New York's average MBE performance improved more than all other jurisdictions in the period between July 2015 and July 2017. The increasing pattern of average MBE scores is consistent with the hypothesis that candidates were better prepared in New York, on average, between July 2015 (before UBE) and July 2016 (after UBE).

What candidate variables best predict performance on the bar exam?

Linear regression models were used to predict bar exam scores with combinations of UGPAs, LSAT scores, 4-point LGPAs, and Index-based LGPAs using the school-based sample, which contained a sub-set of all domestic-educated candidates in New York. In addition, gender and race/ethnicity were included in models to determine the extent to which groups differed after accounting for background characteristics. As might be expected, LGPA was the best predictor of performance on the bar exam. If 4-point LGPA was included in the model, LSAT score and UGPA were statistically significant predictors of bar exam scores. If Index-based LGPA was included in the model, LSAT score and UGPA were generally not statistically significant predictors, likely because Index-based LGPA accounts for school-level effects of UGPA and LSAT scores. Summarizing the relationships among variables using correlations similarly showed that Index-based LGPAs and 4-point LGPAs had the strongest positive relationship with bar exam scores, followed by LSAT scores and UGPAs. Correlations tended to be similar for July 2015, July 2016, and July 2017 before and after UBE adoption, and regression models tended to show similar patterns across July bar exams. February results were less stable and not emphasized.

While statistically meaningful differences were observed across groups, the magnitude of these differences was relatively small, especially when compared to the much larger effects of LGPAs on bar exam scores. For July exams, (a) females were predicted to have statistically significantly lower bar exam scores than males in July 2016 after accounting for UGPA, LSAT score, and LGPA (4-point or Index-based), (b) the Asian/Pacific Islander group was predicted to have statistically significantly lower bar exam scores than the Caucasian/White group across July exams before and after UBE adoption after accounting for UGPA, LSAT score, and 4-point LGPA, (c) Black/African American first-time takers were predicted to have statistically significantly lower bar exam scores than the Caucasian/White first-time takers in July 2016 after accounting for UGPA, LSAT score, and 4-point LGPA, and (d) the Asian/Pacific Islander, Black/African American, and Hispanic/Latino groups were each predicted to have statistically significantly lower bar exam scores at each July exam before and after UBE adoption after accounting for UGPA, LSAT score, and Index-based LGPA. In addition, the results of these statistical models did not indicate that UBE adoption led to dramatic or sustained increases in differences for groups defined by gender or race/ethnicity in July 2017.

What are the eventual pass rates for candidates taking the New York bar exam before and after UBE adoption?

Eventual pass rates for candidates before and after UBE adoption (i.e., July 2015 first-time takers compared to July 2016 first-time takers) followed similar trajectories, with nearly or just over 90% of July domestic-educated candidates and roughly 74% or 78% of February domestic-educated candidates passing the bar exam after the second attempt. For candidates grouped by race/ethnicity and gender, when eventual pass rates before and after UBE adoption were compared, (a) the Black/African American group had larger gains in eventual pass rates compared to other groups and (b) females tended to have larger gains in eventual pass rates compared to males. That these groups tended to close the gap in differences observed in initial pass rates, regardless of whether or not the bar exam was the UBE, was encouraging because it indicated that initially observed performance differences at the group level were not dispositive of eventual pass rates, despite group differences observed at different points along the pipeline to practice, such as LGPAs, LSAT scores, and UGPAs. In addition, persistence rates (i.e., the percentage of first-time takers who did not pass initially but continued to attempt subsequent bar exams) for gender and racial/ethnic groups in New York were encouraging, because persistence rates did not differ much before and after UBE adoption. In addition, females had higher persistence rates than males and the Black/African American group had higher persistence rates than the Caucasian/White group.

Concluding Remarks

Despite potential limitations in the representativeness of the data contained in the school-based sample, particularly for February exams, the results of this study indicated that the UBE did not have sustained or adverse effects on candidates in New York compared to the prior bar exam. Differences observed across groups defined by gender or race/ethnicity[3] on the UBE also tended to be observed prior to UBE adoption in New York. Bar exam performance increased after UBE adoption, but this appeared to be due, at least in part, to shifts in candidate background characteristics (i.e., UGPAs, LSAT scores, and LGPAs). While this study was able to account for UGPAs, LSAT scores, and LGPAs, there are a variety of other academic and non-academic characteristics that were not available in this study that could add useful information for better understanding (and accounting for) performance on the bar exam and for better contextualizing, and perhaps even explaining, what contributes to differences in performance on variables like UGPAs, LSAT scores, LGPAs, and bar exam scores, specifically across groups defined by gender and race/ethnicity. As stated early in this summary, 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.

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[3] Another limitation of this study was that several racial/ethnic groups had too few examinees to adequately study as a disaggregated group, although results for these groups are provided in appendices to the main report.