

SO YOU WANT TO BE A BAR EXAMINER?

I. Structure of Committee of Law Examiners

A. APR 1 provides: “The Supreme Court of Washington has the exclusive responsibility and the inherent power to establish the qualifications for admission to practice law, and to admit persons to practice law in this state. Any person carrying out the functions set forth in these rules is acting under the authority and at the direction of the Supreme Court.

APR 2(a) provides that the Board of Governors has the authority to appoint the Committee of Bar Examiners to assist the Board in conducting the bar exam.

APR 4(a) provides that the bar exam shall be conducted by and under the direction of the Board of Governors with the assistance of the Committee.

Board of Governors Policies Governing Admission provides that the exam consists of 24 essay questions which the Committee selects and prepares on subjects chosen by the Committee and in such form as the Committee may choose.

Board of Governors Policies Governing Admission further provides that the Committee shall prescribe standards for grading and all answers shall be graded by the same person.

B. Appointments and Training. Appointments to the Committee are made by the Board of Governors. The Committee may consist of about 100 lawyers from all over the State. They come from a variety of practices and experiences—small firms, large firms, public lawyers, corporate lawyers, etc. The Committee actively recruits minority and women lawyers for greater representation, and the Committee’s efforts in that regard have received recognition from the bar.

1. Training—as a prerequisite to Committee work, all examiners must attend a day long training session mandated by the Board of Governors. Examiners receive instruction on the preparation and grading of bar exam questions and an orientation to the Committee’s work.

2. Assignment—newly appointed examiners prepare questions for a Question Bank. Having successfully done so, they then are available for assignment to one of the two exams given. An examiner usually writes for 3-5 exams before participating in any of the Committee’s other sub-committees. Those are:

a. Executive/Screening Committee—Its responsibility is the screening of questions to insure compliance with the Committee’s standards. The Committee also serves as the “think tank” for responses to the Board of Governors, etc.

b. Appeals Committee—Its responsibility is to regrade the answers of applicants who have failed the exam but whose total points fall within a designated appeals range.

c. Sample Answer Committee—Its responsibility is to select sample answers for each of the questions on the exam for distribution to failing applicants as “representative sample answers.”

II. The Exam Itself

A. Question Assignment—made by the chair from a “master question list” of major topics that are listed in the materials applicants receive when they request an application packet. The question matter changes all of the time, from exam to exam and from year to year.

B. Examiner’s Duties. One examiner is assigned to write each of the 24 questions on the bar exam, which consists of 18 substantive law questions and six dealing with the Washington Rules of Professional Conduct. The examiner also is required to prepare a question analysis and a weighted issues list.

1. Questions. There are several mandatory requirements:

a. Questions must cover the assigned subject matter.

b. Substantive questions cannot exceed 350 words; RPC questions cannot exceed 200 words.

c. Questions are not asked on specific statutory or rule language except for the RPC's.

d. The factual situations are generally set in Washington.

e. Substantive questions must be answerable in 45 minutes and 64 lines - for those using a laptop this is limited to 4963 characters; the RPC questions in 23 minutes and 29 lines if using a laptop this is limited to 2349 characters.

f. There are no "dead-end" questions—those that can be simply answered "yes" or "no."

g. There should be no "red herrings." We try to remove or clarify anything confusing. Nothing is intentionally ambiguous or misleading.

h. Professional responsibility questions contain both appropriate and inappropriate conduct, and they do require knowledge of the language of the RPC's.

i. Questions should contain 8-12 issues.

2. Question Analysis—the examiner must prepare what is essentially a short brief in support of the question. It should contain citation to authorities governing the issues the examiner believes are presented by the question.

3. Issues List—a list of issues identified by the examiner as having been raised by the question with relative weight attached to each.

C. Screening—several months prior to the exam a group of six very experienced examiners meets several times to screen the questions, analyses and issues lists submitted to insure compliance with the standards of the Committee. The submissions may be reviewed 2 or 3 times. Additional screening is performed by two members of the bar staff. Eventually, the questions are printed in-house in preparation for the exams, which usually take place in February and July.

D. The exam. It consists of 2 ½ days of testing. The first two days consist of three sessions of two hours and 15 minutes during which applicants are given three essay questions testing knowledge of substantive law. That converts to 45 minutes per question, and answering space is limited to 64 lines or 4963 characters. On the third day is one session of two hours and 15 minutes during which applicants are given three short essay questions testing knowledge of the RPC's. That converts to 23 minutes per question, and answering space is limited to 29 lines or 2349 characters.

E. Grading

1. Answers to each question are graded by the same person. Examiners have about 30 days to grade winter bar exams and about 45 days to grade the summer bar exams. Examiners are asked to grade 50-100 exams at random as a reality check on the issues, analyses, etc.
4. Examiners select 10 representative passing answers as sample answer from which the eventual sample answer is chosen.
5. After all the exams are graded, the committee meets as a whole at what we call borderline review to re-read the answers of applicants falling within a designated range. The object is to insure that those who should pass do and that those who should not, do not. Scores can go up or down during borderline review.
6. Applicants falling within appeals range may then ask for re-grading of six substantive answers and all six RPC answers. Those are read by the Appeals Committee, which does not know the original score given. Scores can go up or down during appeal.

III. Time Commitment – Stipend.

A. The First Year – A newly appointed examiner will spend the first year in training. The examiner will attend a day long training session at the bar office in Seattle and then will be assigned a summer question bank question which will be screened during the summer following the examiner's appointment. This first question is difficult for some examiners and may take 40 or more hours to complete successfully. Once an examiner has successfully completed the training and has his/her question accepted into the question bank, the new examiner is paid a stipend of \$500.

B. The Second Year – An examiner who has completed training will be asked to write a question for one of the two exams in the following year. Writing a question, analysis and issues list for a real exam may again take more than 40 hours until the examiners has more experience. Grading the winter exam (~500 applicants) can take 50 hours or so. Grading the summer exam (~1,000 applicants) will take twice as long. Generally, writing and grading takes in excess of 125 hours. In addition to writing and grading the examiners are required to attend the Saturday all-examiners screening meeting and the Saturday borderline review

C. The Third Year and Beyond – Many experienced examiners have written for ten years or more. As with any task the process seems less demanding as an examiner gains experience. Nonetheless even an experienced examiner will spend 125 hours writing and grading. Examiners for the winter exam receive a stipend of \$ 2250 examiners for the summer exam receive \$2750.

D. Mandatory Meetings and Deadlines – all meetings that an examiner is to attend are mandatory. Submission of materials for screening and for the exam is done according to strict and required deadlines.