August 5, 2025

State Bar of California
Committee of Bar Examiners
180 Howard Street
San Francisco, CA 94105

Cc: California Supreme Court

Re: Adoption of the NextGen UBE in 2028

To the Committee of Bar Examiners,

As deans of ABA-accredited law schools in California, we write to urge adoption of the NextGen Universal Bar Exam in 2028. We share the Supreme Court's and the Bar's commitment to ensuring that new attorneys are licensed through a fair, reliable examination that protects the public. In our view, the NextGen UBE exam offers the best pathway for complying with the Supreme Court's October 10, 2024 order ("the Order").

The Order mandates that a new California bar exam test twelve substantive areas of law and seven skills. As detailed in the chart below, the NextGen UBE's content will closely align with this mandate. By 2028, the NextGen UBE will test ten of these areas of law through multiple-choice, integrated question sets, and/or performance tasks and it will test six of the seven foundational skills.[1] The NextGen UBE is designed to be supplemented by a half-day of jurisdiction-specific questions. Therefore, the two subjects mentioned by the Order but not tested on the NextGen UBE, Administrative Law & Procedure and Employment Law, and the "Litigation" skills area, could be incorporated into the California-specific part of the exam. This approach would ensure all twelve subjects and seven skills from the Order are tested, without requiring California to develop an entire exam in a short timeframe.

The Order also indicates that the new exam should provide transparency on the topics tested and the extent to which memorization is required, and should be constructed in a way that is fair and equitable. These are precisely the goals that the NCBE has adopted in creating the NextGen UBE exam. More specifically, the California Supreme Court urged a "significantly increased focus on assessment of skills." NextGen UBE has been designed with the same philosophy; it emphasizes practical lawyering skills and applied knowledge over rote memorization, which should address the Court's concern. Furthermore, the NCBE's development process for the NextGen UBE bar has been rigorous and transparent: the NCBE has released detailed content outlines and sample questions, so stakeholders know exactly what will be tested and at what depth. Since 2022, NextGen UBE questions have been piloted and studied extensively. Results from thousands of pilot test-takers have been analyzed across a variety of metrics, including those related to racial and ethnic performance disparities. This level of research-based validation ensures that NextGen UBE is designed to be as fair and equitable as possible. We believe it would be extraordinarily difficult for California to replicate this level of rigor and validation on its own in the limited timeframe available to implement the Order's directives.

Adopting the NextGen UBE exam also allows California to leverage the decades of expertise that the National Conference of Bar Examiners brings to developing high-quality licensure tests. NCBE has a proven track record; it currently develops bar exam content for 54 of the 56 U.S.

jurisdictions and is uniquely equipped to design an exam that meets psychometric standards for reliability and validity. By adopting the NextGen UBE, California will ensure that the state's new exam is crafted by professional exam designers and testing specialists who have devoted years to this reform. Recent experiences have demonstrated the importance of such expertise.

In sum, our view is that adopting the NextGen UBE exam in 2028 will enable California to meet virtually all requirements of the Order efficiently and effectively. It offers a pragmatic solution that satisfies the Court's mandates regarding content coverage, skills emphasis, and fairness. It also allows the California Bar to focus its efforts and resources on the remaining three areas to be covered in the jurisdiction-specific questions.

Adopting the NextGen UBE exam has the additional advantage of allowing California bar-takers to transfer their scores to other jurisdictions that use NextGen, as part of the portability system. This score portability will help reduce the heavy financial burden on new lawyers, who would otherwise have to take multiple exams to be admitted in different states. It will also put our law school graduates on equal footing with those in the majority of other states that are moving toward NextGen UBE. As of July 7, 2025, forty-three states and jurisdictions, including large-population states like New York, Florida, Texas, Pennsylvania, and Ohio, have announced their adoption of the NextGen UBE. California's participation in this national effort will demonstrate our leadership and commitment to a modern, equitable bar exam, rather than isolating our applicants with a one-state-only test. Ultimately, aligning with NextGen UBE will serve the **public interest** by producing new attorneys who have been tested on the skills and knowledge that matter most for competent practice in today's legal environment.

The February 2025 exam demonstrated the complexity of developing and administering a fair and reliable bar exam at the scale required in our state. Adding the assessment of skills to the bar exam is an entirely new and more challenging task. In our view, the NCBE is the only entity with the resources, expertise, and experience to successfully meet the parameters set out by the Order and to avoid a repeat of this spring's disaster.

We appreciate your consideration of this important issue. We remain fully available and willing to partner with you as you work to implement the Court's Order. Our law schools stand ready to assist in any way we can – whether by providing input on California-specific components or helping educate our students about the new exam. Thank you for your dedication to improving the California Bar Examination. We are confident that, by working together and embracing the NextGen UBE exam, we can achieve an outcome that benefits our profession, our applicants, and the public we all serve.

Yours sincerely,

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California Supreme Court Order 10/10/2024	Next Gen UBE Exam
Adopted the Blue Ribbon Commission's recommendation to develop a California-specific bar exam which would test general law applicable in the US as well as California Law.	The NextGen UBE will be administered over 1.5 days, with two three-hour sessions on day one and one three-hour session on day two. Jurisdictions that administer their own local law components may elect to extend day two for that purpose.
Tested Topics: 1. **Administrative Law and Procedure** 2. Civil Procedure 3. Constitutional Law 4. Contracts 5. Criminal Law and Procedure 6. Evidence 7. Professional Responsibility 8. Real Property 9. Torts 10. **Employment Law** 11. Family Law 12. Estate Planning, Trusts, and Probate	Tested Topics 1. **Not tested** 2. Civil Procedure 3. Constitutional Law 4. Contracts 5. Criminal Law and Procedure 6. Evidence 7. Professional Responsibility 8. Real Property 9. Torts 10. **Not Tested** 11. Family Law (beginning July 2028) 12. Trusts and Estates[2] 13. Business associations[3]
Tested Skills: A. Drafting and Writing B. Research and Investigation C. Issue-spotting and fact-gathering D. Counseling/Advising E. Litigation F. Communication and Client Relationship G. Negotiation and Dispute resolution	**Foundational Lawyering Skills:** A. Legal writing B. Legal research, Investigation and evaluation C. Issue spotting and analysis, investigation and evaluation D. Client counseling and advising E. **Not tested** F. Client relationship and management G. Negotiation and dispute resolution

Exam Innovations	**Examination Innovations**
- Increased focus on assessment of skills along with application of knowledge and performance of associated skills for entry-level practice - Deemphasizing the need for memorization of doctrinal law - Transparency on topics and rules to be tested, including extent to which candidates are expected to recall such topics and rules or possess familiarity with such topics and rules	- Examination will test a broad range of foundational lawyering skills, utilizing a focused set of clearly identified fundamental legal concepts and principles needed in today's practice of law - Three broad categories of question types: **Multiple-Choice Questions:** Approximately 40% of the exam time will be devoted to standalone multiple-choice questions with between four and six answer options and one or more correct answers. **Integrated Question Sets:** Approximately a quarter of the exam time will be devoted to integrated question sets. **Longer Performance Tasks:** Approximately a third of the exam time will be devoted to longer performance tasks. - Content scope outlines are already released - Sample questions for schools and applicants already released

Fairness & Equity:	Fairness & Equity
• Craft an exam that is fair, equitable, and minimizes disparate performance impacts based on race, gender, ethnicity, disability, and other immutable characteristics • Give consideration to whether unsuccessful applicants can be permitted to retake only components of exam they failed • Use intervention programs to ameliorate disparities in passing rates based on race, gender, ethnicity, disability and other immutable characteristics	• Currently under development utilizing a process that includes multiple phases of research testing and statistical analysis. The development process is being conducted in accordance with the same best practices in licensure exam development utilized by a broad range of exams, including those for medicine, dentistry, pharmacy, engineering, accounting, and other licensed professions • Written by diverse teams of law professors and deans, practicing attorneys, and judges drawn from jurisdictions throughout the US. • A secure, online assessment platform will be used to present the exam and to collect examinees' responses. The platform will offer a range of assistive technologies and custom created formats for examinees who require testing accommodations.

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[1] The last skills area the Order describes as "litigation," is arguably at least partially covered in the NextGen's testing of "client counseling and advising," "client relationship and management," and "negotiation and dispute resolution."

[2] Trusts and estates will appear on every NextGen exam in a performance task and may also be included in integrated question sets through at least February 2028.

[3] Currently tested on CA bar but is not included in the Supreme Court's order.