New York Bar Examination Performance in February and July 2006 for Candidates Failing for the First Time in July 2005

Report Prepared for the New York Board of Law Examiners

by

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Executive Summary

This study is a follow-up to a larger study completed in 2006. The 2006 study examined the performance of the candidates taking the New York Bar Examination (NY bar exam) in July 2005 in the aggregate and as a function of a number of demographic variables (gender, race/ethnicity, age at graduation, and age when taking the bar examination). This study focuses on the subsequent performance (in February 2006 and/or July 2006) of candidates who failed the bar examination in July 2005, and in particular, on the subsequent performance of candidates who failed the bar examination for the first time in July 2005.

Persistence Rates of Candidates Who Failed in July 2005

Section 1 provides an overview of persistence rates (the percentages of candidates retaking the examination on subsequent test dates) for domestic-educated and foreign-educated candidates who failed the NY bar exam for the first time in July 2005.

Of the 1,241 domestic-educated candidates who took the NY bar exam for the first time in July 2005 and failed, a total of 1,056 (or about 85%) had retaken a bar examination in New York or another jurisdiction by July 2006 (Table 1.2). This suggests that as many as 185 (or about 15%) of the candidates who failed the NY bar exam for the first time in July 2005 did not retake the examination on the next two administrations. The data do not provide any indication of why these candidates did not retake the NY or another bar exam.

Of the 831 foreign-educated candidates who took the NY bar exam for the first time in July 2005 and failed, a total of 409 (or about 49%) had retaken a bar examination in New York or another jurisdiction by July 2006 (Table 1.3). This suggests that as many as 422 (or about 51%) of the foreign-educated candidates who failed for the first time in July 2005 did not retake the examination on the next two administrations and that the persistence rate is much lower for the foreign-educated candidates than it is for the domestic-educated candidates. Again, the data do not provide any indication of why these candidates did not retake the NY or another bar exam.

Of the 93 candidates who did not repeat the NY bar exam by July 2006 after failing for the first time in July 2005, but were identified as taking a bar examination in another jurisdiction, 46 (or just under half) took the New Jersey Bar Examination in February 2006 or July 2006.

Repeat Test-Taking Patterns from July 2005 to July 2006

Section 2 provides a more detailed breakdown of persistence patterns as a function of number of previous attempts as of July 2005, and for first-time takers in July 2005 by race/ethnicity, gender, and age at graduation from law school and age at bar

attempt. As is generally the case in this report, these results are reported separately for domestic-educated candidates and foreign-educated candidates.

As noted earlier, for the domestic-educated candidates, the first-time takers who failed the NY bar exam in July 2005 had a persistence rate of about 85% as of July 2006. The persistence rate was about 64% for the second-time takers who failed in July 2005, and was fairly constant for candidates taking the bar exam for the third time or more (between 55 and 70%). The data do not provide any indication of why the persistence rates drop after the first attempt and then seem to stabilize.

For the foreign-educated candidates who failed the NY bar exam in July 2005, the pattern is somewhat different. As noted earlier, the foreign-educated first-time takers who failed in July 2005 had a persistence rate of only about 49%, but the persistence rate was higher for failing candidates who had taken the NY bar exam two or more times as of July 2005. The persistence rates for the foreign-educated candidates increased to about 80% (with some substantial fluctuations) as the number of previous attempts increased. The data do not provide any indication of why the persistence rates were relatively high for foreign-educated candidates who had already taken the NY bar exam a number of times.

The persistence rates for first-time takers who failed in July 2005 were fairly consistent across racial/ethnic groups for both the domestic-educated candidates and the foreign-educated candidates. For the domestic-educated group, the persistence rates clustered around 85% (Table 2.3), and for the foreign-educated group, the persistence rates clustered around 50% (Table 2.4). The persistence rates were also quite consistent across gender for both the domestic-educated group and the foreign-educated group (Tables 2.5 and 2.6).

The persistence rates for domestic-educated first-time takers who failed in July 2005 declined gradually as age at graduation from law school increased from the first age category (< 27), which had a persistence rate of over 87%, to the seventh category (46 – 50), which had a persistence rate of about 61%, but was 100% for the 16 first-time candidates who were over age 50 (Table 2.7). Age at graduation from law school was not available for the foreign-educated candidates.

Similarly, the persistence rates for domestic-educated first-time takers who failed in July 2005 as a function of their age when they took the bar exam in July 2005 declined gradually from the first category (< 27), which had a persistence rate of over 89%, to the seventh category (46 – 50), which had a persistence rate of 68%, but the persistence rate was 92% for the 25 first-time candidates who were over 50 (Table 2.8). For the foreign-educated candidates, the relationship between age when taking the bar examination and persistence after failing for the first time did not show a clear trend, but the older candidates had somewhat higher persistence rates.

Score Changes for First-Time Takers between July 2005 and February 2006

The analyses in Section 3 examine the changes in scores for candidates who failed the NY bar exam for the first time in July 2005 and retook the exam in February 2006. Both the domestic-educated and foreign-educated first-time takers who failed in July 2005 and retook the examination in February 2006 tended to improve their scores by similar amounts on the 1,000 point NY bar exam scale on the second attempt. For the domestic-educated candidates, the scores increased (by about 44 points on average), with the male candidates achieving a slightly larger increase (about 45.7 points) than the female candidates (about 42.4 points). Foreign-educated candidates' scores also increased (by 45.4 points), however their scores were much lower than those of the domestic-educated candidates in July 2005 and on subsequent administrations. Of course, some candidates achieved much larger increases and some candidates suffered declines in their scores between July 2005 and February 2006, but the average scores increased on all three of the subtests (MBE, Essay, and NYMC), with the largest increase in the essay scores and the smallest increase in the NYMC scores.

Domestic Educated

For the domestic-educated first time takers who failed in July 2005, the average scores in July 2005 and in February 2006 were fairly consistent across the racial/ethnic categories (Table 3.3). The average scores were clustered around 628 in July 2005 and around 672 in February 2006, and the change scores were clustered around an overall average increase of almost 44 points (Table 3.4). The "Other" group showed the largest increase (about 51 points), the Caucasian/White group had the second largest increase (about 45 points), followed by the Black/African American group (about 43 points), the Asian/Pacific Islander group (about 41 points), and the Hispanic/Latino group (about 40 points). The differences in change scores among these groups are not large enough to be statistically meaningful, and they are quite small compared to the differences in average scores across racial/ethnic groups that were found for all domestic-educated first-time takers in July 2005.

This pattern was also found in separate analyses of change scores as a function of race/ethnicity for domestic-educated males and females who failed the NY bar exam for the first time in July 2005 and retook it in February 2006 (Tables 3.5 to 3.12). The average scores increased from July 2005 to February 2006 by comparable amounts for females and males and for the different racial/ethnic groups.

Similarly, the average increase in scores between the first try in July 2005 and the second try in February 2006 was fairly consistent across age at graduation.

Foreign Educated

The average score changes across race and gender for foreign-educated candidates who failed for the first time in July 2005 were also quite consistent, with an

overall average increase between July 2005 and February 2006 of 45.4 points. The foreign-educated first-time takers who failed in July 2005 had a lower average score than the domestic-educated first-time takers who failed in July 2005 (589.0 vs. 628.4), and therefore, although their averages went up by about the same amount as those of the domestic-educated candidates, the average scores in February 2006 for the foreign-educated candidates who failed for the first time in July 2005 were still about 38 points lower than those of the domestic-educated candidates who failed for the first time in July 2005 (634.4 vs. 672.0).

Analyses of Cumulative Pass Rates from July 2005 to July 2006

The analyses in Section 4 examine the changes in cumulative pass rates between July 2005 and July 2006 in different sub-groups of the candidates taking the NY bar exam for the first time in July 2005. These cumulative pass rates necessarily increase or remain the same as candidates who failed in July 2005 got a chance to repeat the bar examination.

Almost 83% of the domestic-educated first-time takers passed the examination in July 2005. Of the domestic-educated first-time takers who failed in July 2005, 864 repeated the examination in February 2006. Almost 57% of these repeaters passed, resulting in an overall pass rate as of February 2006 of 89.5%. By July 2006, the cumulative pass rate was 91.1%.

The initial pass rate was slightly higher for domestic-educated first-time male candidates than for similarly situated female candidates (84.0% vs. 82.2%), and this difference of 1.8 percentage points shrank a bit between July 2005 and July 2006 (Table 4.1). By February 2006, the difference in cumulative pass rates was 1.4 percentage points (90.4% vs. 89.0%), and by July 2006, the difference was 1.0 percentage point (91.7% vs. 90.7%).

The initial pass rates for domestic-educated first-time takers in July 2005 were quite different across the racial/ethnic groups, with the Caucasian/White group having the highest pass rate (86.8%) and the Black/African American group having the lowest pass rate (54.2%). Therefore, the percentage of first-time takers in July 2005 who could repeat the examination in 2006 varied substantially over the racial/ethnic groups (e.g., 13.2% for the Caucasian/White group and 45.8% for the Black/African American group). As noted earlier, the persistence rates in February 2006 were similar for the racial/ethnic groups, and as indicated in Table 4.2a, the pass rates in February 2006 for the repeaters (who had taken the bar exam for the first time in July 2005) were similar for the different groups. As a result, the pass rate for the Black/African American group increased to 72.3% by February 2006, an increase of 18.1 percentage points, while the pass rate for the Caucasian/White group increased to 92.1% by February 2006, an increase of 5.3 percentage points. However, even though the pass rate for the Black/African American domestic-educated first-time takers in July 2005 increased much more between July 2005 and February 2006 than it did for the Caucasian/White group, the cumulative pass rate for the Black/African American group by February 2006

was still much lower than that of the Caucasian/White group (72.3% vs. 92.1%). By July 2006, the Black/African American pass rate increased to 75.1%, and the Caucasian/White pass rate increased to 93.4% (Table 4.2a).

In analyses of cumulative pass rates as a function of age at graduation from law school for the domestic-educated candidates who took the NY bar exam for the first time in July 2005, the initial pass rate in July 2005 was highest for the youngest category, and it declined fairly regularly as a function of age at graduation, at least up to about 50. The cumulative pass rates for all age groups increased by February 2006 and again by July 2006, but the pass rates continued to be a decreasing function of age at graduation. However, the magnitude of the differences between the youngest group (under 27) and the group between 41 and 50 decreased from about 30 percentage points in July 2005 to about 20 percentage points in February 2006 and to about 18 percentage points in July 2006.

There was also a substantial increase in the cumulative pass rates of foreign-educated first-time takers between July 2005 and February 2006 for the total group and for various subgroups, and a more modest increase between February 2006 and July 2006 for the total group and for various subgroups. However, the pass rates for the foreign-educated, first-time takers were much lower than those for the domestic-educated first-time takers in July 2005, and continued to be much lower than those for the domestic-educated first-time takers in February 2006 and July 2006.

The pass rates included in Section 4 can be considered underestimates because the candidates who failed in July 2005 and did not persist in New York (for whatever reason) are counted as failing (or not passing) as of February 2006 and July 2006. They are included in the denominators in computing the pass rates, but they have no chance of contributing to the numerators, because the non-persisters did not take the New York bar exam in 2006. If the non-persisters are removed from the calculations of the pass rates, the denominators get smaller, and the pass rates increase. The total pass rate as of February 2006, which was 89.5%, would increase to 93.1%, if the non-persisters were excluded from the analysis. The total pass rate as of July 2006, which was 91.1%, would increase to 94.7%, if the non-persisters were excluded from the analysis. The pass rates for various subgroups would also increase if the non-persisters are not included in the calculations. For example, the pass rate as of July 2006 for the Caucasian/White group would increase from 93.4% to 96.3%, and the pass rate as of July 2006 for the Black/African American group would increase from 75.1% to 82.6%.

The cumulative pass rates would also be influenced by changes in the passing score. Although it is not possible to predict the impact of changes in the passing score on future pass rates with much assurance because future candidate scores may be influenced by many factors (including the change in the passing score, per se), rough projections based on the current data are possible. For example, assuming that the distribution of scores on each test date remained the same, the pass rates must decrease or remain the same as the passing score is increased. If the passing score had been 665 in July 2005 (as it was) and had been raised to 670 or 675 in February

2006, the pass rates for the first-time repeaters and the cumulative pass rates as of February 2006 would decrease, compared to what they actually were with the passing score of 665. If the passing score had been raised to 670 in February 2006, the pass rates for first-time repeaters in February 2006 would decrease from 56.6% to 53.1%, and if the passing score had been raised to 675 in February 2006, the pass rates for first-time repeaters would decrease to 51.6%.

Again, assuming the score distributions remain the same, if the passing score were raised to 670 or 675, the cumulative pass rate for the July 2005 first-time takers as of February 2006 would decrease from 89.5% (for a passing score of 665) to 89.1% (for 670) or 88.9% (for 675). If the passing score were raised, the pass rates would tend to decline for all subgroups. For example, the Caucasian/White cumulative pass rate as of February 2006 would decrease from 92.1% (at 665) to 91.7% (at 670) or to 91.5% (at 675). The Black/African American cumulative pass rate would remain the same, at 72.3%, for February passing scores of 665 or 670 and would decrease to 71.6% (at 675). Note that these analyses of possible pass rates are at best rough projections assuming all else equal rather than predictions about what will happen. For example, if candidates prepare more thoroughly, scores may increase, and the projected pass rates would be underestimates.

Characteristics of the Candidates Who Failed for the First Time in July 2005

The analyses in Section 5 examine the characteristics of the candidates who took the NY bar exam for the first time in July 2005 and failed. As noted above, domestic-educated candidates who failed in July 2005 were more likely than the foreign-educated candidates to take a bar exam in 2006, and they were more likely to have passed the bar exam by February 2006 or July 2006 than the foreign-educated candidates.

However, within the group of domestic-educated first-time takers who failed the New York bar exam in July 2005 and within the group of foreign-educated first-time takers who failed the New York bar exam in July 2005, the differences in subsequent performance across gender, racial/ethnic group, and age were not very large.

The domestic-educated candidates who took the NY bar exam for the first time in July 2005 and failed were quite consistent across gender, racial/ethnic group, and age in their scores on previous measures of achievement (undergraduate GPA, LSAT scores, Index-based L-GPA, and 4-pt L-GPA). The differences in scores of all domestic-educated first-time takers in July 2005 across racial/ethnic groups and to a lesser extent, across age, were much larger than those among the first-time failing candidates in July 2005.

Relationship between Cumulative Pass Rates and Prior Achievement

The analyses in Section 6 use regression analyses (principally logistic regression) to examine the relationships between cumulative pass rates (in July 2005, February 2006, and July 2006) of those who took the NY bar exam for the first time in July 2005 and various measures of prior achievement (undergraduate GPAs, LSAT scores, and law school GPAs).

These analyses indicate that a candidate's chances of passing the bar exam in July 2005, by February 2006, or by July 2006 are strongly related to performance in law school (as measured by the law school GPAs scaled in two different ways) and somewhat less strongly to measures of readiness for law school (undergraduate GPAs and LSAT scores).

Since the bar examination assesses each candidate's readiness for practice in terms of their competence in applying basic legal principles to practice situations, and since law schools presumably assess these skills in grading students, the existence of a positive relationship between law school GPA and performance on the bar examination is not surprising. Because law school GPA is, in turn, related to performance on measures of readiness for law school (LSAT scores and undergraduate GPAs), the positive relationship between bar exam scores and scores on measures of readiness for law school is also not very surprising. It seems that the candidates who do relatively well on the LSAT and undergraduate GPA tend to do relatively well in law school, and subsequently tend to do relatively well on the bar exam.

General Findings

The domestic-educated first-time takers who failed in July 2005 generally retook the NY bar exam in February 2006 and/or July 2006, and achieved pass rates of about 57% in February 2006 and about 32% in July 2006. As a result of their high persistence rates and fairly high pass rates when retaking the bar exam, the cumulative pass rates for the July 2005 first-time takers increased from about 83% in July 2005 to almost 90% in February 2006 and to just over 91% in July 2006.

Although we found large differences in pass rates across different racial/ethnic groups for the domestic-educated first-time takers in July 2005, the pass rates for the July 2005 first-time failing candidates when they repeated in February 2006 were quite similar across the racial/ethnic groups. In July 2006, the pass rates for the domestic-educated first-time takers in July 2005 were somewhat more variable across racial/ethnic groups than they were in February 2006, but they did not show the large differences or the pattern of differences found for the first-time takers in July 2005. The pass rates for the first-time takers who failed in July 2005 when they repeated the NY bar exam in 2006 did not show large differences across gender or age at graduation.

The differences in pass rates across various sub-groups diminished as the failing candidates had a chance to repeat the NY bar exam in February and July 2006, but the

differences in cumulative pass rates across some subgroups were still fairly large as of July 2006. By July 2006, the cumulative pass rate for the White/Caucasian group was 93.4%, and that for the Black/African American group was 75.1%.

The foreign-educated candidates had substantially lower pass rates when they took the NY bar exam for the first time in July 2005 and they continued to have substantially lower pass rates in February 2006 and July 2006. Their cumulative pass rates also increased from 43.0% to 54.1% between July 2005 and July 2006, but they did not improve as much as did those for the domestic-educated candidates.

Introduction

In a previous study completed in 2006,[1] we examined the impact of an increase in the *passing score* on the New York Bar Examination (NY bar exam) from 660 to 665, which was implemented in July 2005, on candidate *pass rates*, and we projected the results to indicate the pass rates that could be expected if the passing score were increased to 670 or 675. The analyses described in that report were based on the results for candidates who took the NY bar exam in July 2005.

Demographic data were supplied by candidates who completed an optional demographic survey when they applied to take the NY bar exam. Bar examination results were obtained from the New York State Board of Law Examiners (NYBLE). Law School Admission Test (LSAT) scores, undergraduate grade-point averages (U-GPAs) and some demographic data were obtained from the Law School Admission Council (LSAC) for candidates who authorized release of these data (see Appendix A). Law-school GPAs were obtained from law schools with the permission of the candidates (see Appendix B). All of these data were combined into a single database for the candidates taking the July 2005 NY bar exam. The relationship between potential passing scores (660, 665, 670, and 675) and pass rates was examined for the candidate population as a whole and for various subgroups within the population (defined in terms of foreign or domestic legal education, gender, race/ethnicity, age at graduation from law school, and age when taking the bar examination).

This report extends the results in the 2006 report by examining the performance of candidates who failed the NY bar exam in July 2005 on the two subsequent administrations in February 2006 and July 2006, and on the cumulative pass rates for the candidates who took the NY bar exam for the first time in July 2005. It examines the percentages of the first-time failing candidates in July 2005 who repeated the examination in February 2006 and/or in July 2006, as well as their pass rates on these subsequent attempts and their cumulative pass rates over the three bar examination dates between July 2005 and July 2006. Analyses are reported separately for the graduates of domestic law schools and foreign law schools, and are also reported as functions of gender, race/ethnicity and age at graduation from law school.

The NY bar exam includes four components, the Multistate Bar Examination (MBE), the New York Essay Examination (NY Essay), a Multistate Performance Test (MPT), and a multiple-choice test on New York law (NYMC). Scores on the NY bar exam are reported on a scale with a range from 0 to 1,000, and the proposed 15-point change in passing score corresponds to a change of 3 points on the MBE scale, which has a range from 0 to 200. The first score increase, from 660 to 665, represented a one-point increase on the MBE scale.

In analyzing the data for the previous study, it became quite clear that the graduates of foreign law schools and the graduates of domestic (in the United States)

law schools constituted distinct populations with very different demographic characteristics and very different pass rates. Foreign-educated candidates constituted about 21% of the respondents, they had a much smaller percentage of candidates who classified themselves as Caucasian/White and a much larger percentage who classified themselves as Asian/Pacific Islander, and they had a larger percentage of males and were slightly older than the domestic-educated candidates. In addition, the foreign-educated candidates had lower scores on average and lower pass rates than the domestic-educated candidates. Because of the substantial differences between these two populations, most of the analyses of candidate performance in the 2006 report were reported separately for domestic-educated candidates and foreign-educated candidates, and this practice is continued here.

Notes:

1. Kane, M., Mroch, A., Ripkey, D., & Case, S. (2006). *Impact of the Increase in the Passing Score on the New York Bar Examination.* Madison, WI: National Conference of Bar Examiners. See http://www.nybarexam.org/NCBEREP.htm.

1. Candidates Who failed in July 2005

In this section, we consider the data available on candidates who failed the New York Bar Examination (NY bar exam) for the first time in July 2005 (first-time failing candidates) and who may or may not have retaken a bar examination in February 2006 or July 2006. In subsequent sections, we will examine score patterns and pass rates for these candidates.

1.1 Overview of Data

Table 1.1 indicates the extent of missing data in our data set for domestic- and foreign-educated law-school graduates. A total of 1,241 graduates of domestic law schools and 831 graduates of foreign law schools failed the NY bar exam for the first time in July 2005. As indicated in Table 1.1, we had relatively complete data for the domestic graduates, but were missing information on several variables for most of the foreign graduates. This limits the analyses that can be implemented for the foreign graduates to some extent.

As indicated in Table 1.1, we had information on gender and race/ethnicity for both domestic-educated candidates and foreign-educated candidates; this information was supplied by most of the candidates in response to a voluntary survey administered by the NYBLE. We had essentially complete data for the domestic-educated candidates on their age at graduation; these data were available from candidate records. The undergraduate GPAs (U-GPAs) and LSAT scores were supplied by LSAC for candidates who gave permission for these data to be released by LSAC; these data were not available for almost all foreign graduates and for about 16.5% of the domestic-educated candidates (either because they did not give permission or because we could not match the candidate information to any records in the LSAC data base). Law school GPAs (L-GPAs) were generally not available for foreign-educated candidates (although many had taken some law-school courses in the United States).

Table 1.1
Numbers and Percentages of Omitted Responses
First-Time Failing Candidates in July 2005
Graduates of Domestic and Foreign Law Schools

Variable (Count of Omitted Responses*)	Type of Legal Education			
	Domestic (n = 1,241)		Foreign (n = 831)	
	n	%	n	%
Gender (145)	105	8.5%	40	4.8%
Race/Ethnicity (147)	103	8.3%	44	5.3%
Age at Law School Graduation (834)	3	0.2%	831	100.0%
Undergraduate GPA (1,035)	205	16.5%	830	99.9%
LSAT Scores (1,021)	206	16.6%	815	98.1%
Law-School GPA (1,159)	328	26.4%	**	**

n = number of candidates
Total number of first-time failing candidates in July 2005 (2,072).
*Omitted responses include those that were not released, not available, or not resolvable (e.g., because of contradictory information).
** Many of the foreign graduates had taken some courses in the United States, but law-school GPAs were not generally available for the foreign graduates.

Table 1.2 indicates the numbers of domestic-educated first-time failing candidates and the numbers of these failing candidates who repeated a bar examination in February 2006 and/or July 2006 in New York or in another jurisdiction. We made an effort (using various identifiers) to determine if any candidates had taken a bar examination in any jurisdiction other than New York in February 2006 or July 2006, and in some cases we were able to identify such candidates. However, we were unable to identify all of the candidates repeating in another jurisdiction, because of candidates' inconsistencies in recording their identifiers and/or differences in the type of identifiers used across jurisdictions. So, the numbers in Table 1.2 are probably underestimates, because we likely failed to identify some candidates who repeated the bar exam in another jurisdiction in February 2006 or July 2006[1].

Table 1.2
Domestic-Educated First-Time Failing Candidates in July 2005
Numbers Repeating in February 2006 and/or July 2006

Bar Administration		Repeated in February 2006?		Total
		No	Yes	
Repeated in July 2006?	No	185	682	867
	Yes	121	253	374
Total		306	935	1,241*

*Number of domestic-educated first-time taking candidates who fail the NY Bar Exam in July 2005.
Note: This table includes candidates repeating the bar examination in jurisdictions other than New York.

Of the 1,241 domestic-educated candidates who failed the NY bar exam in July 2005, 935, or about 75%, took a bar examination in February, 2006, and 253 of these candidates took a bar examination again in July 2006. In addition, 121 of the candidates who failed the NY bar exam in July 2005 repeated a bar examination for the first time in July 2006. So, by July 2006, 1,056 or about 85% of the domestic-educated candidates who had failed the NY bar exam for the first time in July 2005 had repeated a bar examination.

As indicated in Table 1.2, up to 185 (or about 15%) of the domestic-educated candidates who failed the NY bar exam in July 2005 had not retaken a bar exam in New York or in any other jurisdiction by July 2006. As noted earlier, the percentage failing to repeat the examination may be overestimated because we may have missed some candidates who took a bar examination in a different jurisdiction.[1]

Table 1.3 provides data on the numbers of foreign-educated first-time failing candidates who repeated a bar examination in February 2006 and/or July 2006. Again, the numbers in Table 1.3 include foreign-educated candidates who were identified as taking a bar examination in any jurisdiction in February 2006 or July 2006.

Of the 831 foreign-educated first-time failing candidates, 316 or about 38% took a bar examination in February 2006. Of this group, 105 took a bar examination again in July 2006. In addition, 93 of the foreign-educated candidates who failed the NY bar exam in July 2005 repeated a bar examination for the first time in July 2006. So, by July 2006, 409 (or about 49%) of the foreign-educated candidates who had failed the NY bar

exam for the first time in July 2005 had repeated a bar examination. Again, the percentage failing to repeat the examination may be overestimated because we may have missed some candidates who took a bar examination in a different jurisdiction.

As indicated in Table 1.3, 422 (or about 51%) of the foreign-educated first-time failing candidates had not retaken a bar exam in New York or in any other jurisdiction by July 2006.

So by one year after failing for the first time in July 2005, the great majority of the domestic-educated candidates had retaken the bar examination in New York or in another jurisdiction, but only about half of the foreign-educated candidates had repeated a bar examination.

Table 1.3
Foreign-Educated First-Time Failing Candidates in July 2005
Numbers Repeating in February 2006 and/or July 2006

Bar Administration		Repeated in February 2006?		Total
		No	Yes	
Repeated in July 2006?	No	422	211	633
	Yes	93	105	198
Total		515	316	831*

*Number of foreign-educated first-time taking candidates who fail the NY Bar Exam in July 2005.
Note: This table includes candidates repeating the bar examination in jurisdictions other than New York.

Table 1.4 provides an indication of the jurisdiction in which July 2005 first-time failing candidates repeated. Of the 93 candidates who were identified as taking the bar examination in a jurisdiction other than New York in February 2006 or July 2006 (and not in New York on these two test dates) after failing the NY bar exam in July 2005, almost half took the bar examination in New Jersey. Many candidates take the bar examination in New York and New Jersey on any given test date. The test schedules in each jurisdiction are set up to make it possible for candidates to take the bar exams in both jurisdictions. It may be that after failing once, some of these candidates choose to focus all of their attention on the bar examination in one jurisdiction.

Table 1.4
First-Time Failing Candidates Repeating the Bar Exam
in Jurisdictions other than New York in February 2006 or July 2006

Jurisdiction	Number of Candidates
New Jersey	46
California	12
Massachusetts	7
Illinois	6
Florida	5
Connecticut	4
Virginia	3
Minnesota	2
Pennsylvania	2
Tennessee	2
Alaska	1
District of Columbia	1
Maryland	1
Vermont	1
Total	93

1.2 Consistency Checks

Table 1.5 reports on one of a number of analyses performed mainly to check on the quality of the data. This analysis examined the consistency in the self reports of race/ethnicity for candidates who sat for both the July 2005 and February 2006 administrations of the NY bar exam. As can be seen in Table 1.5, almost all of the candidates who sat for both administrations put themselves in the same racial/ethnic category on both occasions.

Note that of the seven candidates who chose different categories on the two occasions, all but one switched from or to the “Other” category. We assume that the “Other” category probably includes some candidates with a mixed heritage, some candidates who prefer to identify their racial/ethnic heritage more specifically than is possible with the broad categories in our list, and some candidates who prefer not to list a racial/ethnic category. The admittedly small sample of data in Table 1.5 is consistent with this view, in that it does not indicate that the candidates in the “Other” category are predominantly associated with any of the more specific racial/ethnic categories.

Table 1.5
Number of First-Time Failing Candidates Who Recorded Different Races/Ethnicities when Repeating in February 2006

		Race/Ethnicity February 2006* (N = 1,176)			
		Caucasian/ White (n = 539)	Asian/ Pacific Islander (n = 243)	Other (n = 56)	Omitted (n = 97)
Race/ Ethnicity July 2005* (N = 1,176)	Caucasian/ White (n = 534)			1	
	Asian/ Pacific Islander (n = 243)			1	
	Black/ African American (n = 166)			2	
	Hispanic/ Latino (n = 66)	1			
	Other (n = 52)	1	1		
	Omitted (n = 103)	4	1	1	

* Racial/Ethnic groups that were not recorded differently across July 2005 and February 2006 are not included in this table.

In addition to gender, we examined other demographic information reported across July 2005 and February 2006 for inconsistencies. There were no changes in gender recorded between July 2005 and February 2006. Two candidates had different educational origins recorded; in one case the country of education could be identified as "U.K.", so the candidate was coded as foreign-educated. The other candidate's educational origin was not resolvable so we used the July 2005 value (domestic-educated). One candidate's law school graduation age differed by one year and this discrepancy could not be resolved. In general, if a discrepancy could not be resolved, we used the July 2005 value.

1.3 Note on Updating of Original Data Base for July 2005

In the original analyses of the performance of the candidates taking the July 2005 NY bar exam, the designation of candidates as being either domestic-educated or

foreign-educated was based on information provided by the candidates on a demographic survey. Because some candidates failed to complete the survey, this information was missing in some records when the analyses for the 2006 report were completed. Subsequently, the New York Board of Law Examiners was able to provide essentially complete information on this variable, and this more complete information was used for the analyses in this report. As a result, the sample sizes for domestic and foreign educated candidates and some summary statistics reported here for these two groups are somewhat different from those in the 2006 report.

In particular, in the original data base, 961 of the 10,175 candidates who took the NY bar exam in July 2005, were not designated as either domestic-educated or foreign-educated, and were therefore not included in analyses reported separately for these two groups. Of the 961 candidates without information on their origin of education, 642 were first-time takers and 319 were repeaters.

When the additional information on origin of education was added to the data base, the number of candidates identified as domestic-educated first-time takers increased from 6,585 to 7,156. The number of candidates identified as domestic-educated repeaters increased from 667 to 852. The number of candidates identified as foreign-educated first-time takers increased from 1,386 to 1,457. The number of candidates identified as foreign-educated repeaters increased from 576 to 710.

Notes

1. Jurisdictions differ in how they identify candidates, but there is a lot of overlap in the information used for such identification. We identified 93 candidates who failed the NY bar exam in July 2005 and repeated a bar exam in 2006 in a jurisdiction other than NY and did not repeat in New York. We estimate that if we had perfectly consistent identifying information on all candidates in all jurisdictions, we would probably identify 5 - 10 more candidates as having retaken a bar exam in 2006 in some jurisdiction other than New York. This would increase the persistence rate by a half percentage point to one percentage point.

2. Repeat Test-taking Patterns from July 2005 to July 2006

Before examining changes in scores from one test date to another, we will examine the rates at which various groups of first-time failing candidates (candidates who failed the New York Bar Examination (NY bar exam) for the first time in July 2005) retook the bar exam in February 2006 or July 2006 as functions of various demographic variables. We will focus mainly on the domestic-educated first-time failing candidates, but we will also report results for foreign-educated first-time failing candidates and for candidates with two or more previous attempts (i.e., those who had failed multiple times).

2.1 Persistence Patterns as a Function of Number of Bar Attempts

Table 2.1 reports the extent to which the domestic-educated candidates who failed in July 2005 repeated the examination in February 2006 and/or July 2006 as a function of the number of times they had taken the NY bar exam as of July 2005. Each row in Table 2.1 corresponds to the number of bar attempts as of July 2005, and the number in parentheses below the row label indicates the number of failing candidates who had that number of attempts as of July 2005. As indicated in the previous section, there were 1,241 domestic-educated candidates who failed the NY bar exam for the first time in July 2005. A total of 1,917 domestic-educated candidates failed the NY bar exam in July 2005.

The first column in Table 2.1 indicates the percentages (and in parentheses, the number) of domestic-educated candidates with different numbers of previous attempts who took the NY bar exam in February 2006. The second column indicates the percentages and numbers of domestic-educated candidates who were identified as taking a bar examination in some other jurisdiction in February 2006, and the third column provides the corresponding percentages and numbers of candidates who repeated a bar examination in February 2006 regardless of where they took it. The fourth to sixth columns provide the corresponding results for domestic-educated candidates who took a bar examination in either or both February 2006 or July 2006.

For example, the first row in the table (corresponding to 1 attempt as of July 2005) lists the percentages repeating the bar examinations at various points for 1,241 candidates taking the NY bar exam for the first time and failing in July 2005. The first column shows that 69.6% (or 864) of these candidates (i.e., of the 1,241) repeated the NY bar exam in February 2006. The second column shows that 5.7% (or 71) of these candidates repeated in another jurisdiction. The third column shows that 75.3% (or 935) of these candidates repeated in February 2006 (864 + 71). The fourth column shows that 77.9% (or 967) of the July 2005 failers repeated the NY bar exam in February 2006 or July 2006. The fifth column shows that 7.2% (or 89) candidates repeated the bar exam in another jurisdiction in February 2006 or July 2006. The sixth column shows that, as of July 2006, 85.1% of candidates who took the NY bar exam for the first time in July 2005 and failed had repeated the bar exam in some jurisdiction.

Table 2.1
Domestic-Educated Failing Candidates in July 2005
Percentages Repeating in February 2006 or by July 2006
Versus Number of Bar Attempts as of July 2005

Number of Bar Attempts as of July 2005 (Number and % of Failing Candidates in July 2005)	Feb 2006 NY % Retaking (Number)	Feb 2006 Outside NY % Retaking (Number)	Feb 2006 All % Retaking (Number)	Feb 2006 or July 2006 NY % Retaking (Number)	Feb 2006 or July 2006 Outside NY % Retaking (Number)	Feb 2006 or July 2006 All % Retaking (Number)
1 (1,241, 64.7%)	69.6% (864)	5.7% (71)	75.3% (935)	77.9% (967)	7.2% (89)	85.1% (1,056)
2 (173, 9.0%)	47.4% (82)	4.6% (8)	52.0% (90)	57.2% (99)	6.4% (11)	63.6% (110)
3 (193, 10.1%)	54.9% (106)	0.5% (1)	55.4% (107)	65.3% (126)	1.6% (3)	66.8% (129)
4 (97, 5.1%)	50.5% (49)	2.1% (2)	52.6% (51)	57.7% (56)	2.1% (2)	59.8% (58)
5 (70, 3.7%)	55.7% (39)		55.7% (39)	65.7% (46)	2.9% (2)	68.6% (48)
6 (31, 1.6%)	48.4% (15)		48.4% (15)	61.3% (19)		61.3% (19)
7 (27, 1.4%)	51.9% (14)		51.9% (14)	70.4% (19)		70.4% (19)
8 (12, 0.6%)	50.0% (6)		50.0% (6)	58.3% (7)		58.3% (7)
9 (18, 0.9%)	55.6% (10)		55.6% (10)	55.6% (10)		55.6% (10)
10 (8, 0.4%)	50.0% (4)		50.0% (4)	62.5% (5)		62.5% (5)
> 10 (47, 2.5%)	53.2% (25)		53.2% (25)	61.7% (29)	2.1% (1)	63.8% (30)
Total (1,917)	63.3% (1,214)	4.3% (82)	67.6% (1,296)	72.1% (1,383)	5.6% (108)	77.8% (1,491)

Note: Domestic-educated refers to candidates who graduated from a law school in the United States.

The results in Table 2.1 suggest an interesting pattern. The percentages repeating a bar examination in February 2006 or July 2006 after failing in July 2005 drops from about 85% for the first time takers to about 60-70% for the candidates who had failed two or more times as of July 2005. With some fluctuations, the percentages repeating in February 2006 or July 2006 does not decline very much as the number of previous attempts increases from two previous attempts up to the ninth category (9 previous attempts), and then it seems to increase a bit. The persistence rate in terms of making another attempt within a year after failing seems to decrease sharply from the first to the second try (from about 85 % to about 64%) and then decreases slowly, if at all, for candidates with multiple previous attempts. Looking at it from the opposite point of view, the attrition rate seems to increase substantially from the first to the second try (from about 15 % to about 36%) and then increases slowly, if at all, for subsequent attempts.

Note that the number of candidates in each category tends to decrease as the number of previous attempts increases. This is due in part to the fact that some of the repeaters pass the exam on any given administration and therefore would not repeat the bar examination, and in part to the loss of some candidates by attrition after failing.

In one sense, it seems that many of the failing candidates are quite persistent. Even after 10 previous attempts, over half of those who failed in July 2005 repeated a bar examination in February or July 2006. However, as noted earlier, it also seems that up to 36% percent of the candidates who failed for the second time in July 2005 did not retake a bar examination in 2006; given the investment that the candidates have made in their legal education, this is not a negligible attrition rate. However, this attrition rate may be somewhat overestimated, because it would be possible for a candidate who failed the NY Bar Exam in July 2005 to take a bar exam in a jurisdiction other than New York in 2006 without being identified as having done so, and it is also possible for such a candidate to retake the bar exam more than a year after failing in July 2005.

Table 2.2 reports the percentages of the foreign-educated candidates who failed in July 2005 and repeated in February 2006 and/or July 2006 as a function of the number of times they had taken the NY bar exam as of July 2005. The results here are a bit surprising in that the attrition rate seems to decrease as the number of prior attempts increases. Just under 50% of the first-time takers who failed in July 2005 retook a bar examination in February 2006 or July 2006, but for almost all of the other categories, including candidates who had taken the New York bar exam two or more times when they failed in July 2005, well over 50% tried again in 2006. Over 85% of the foreign-educated candidates who had taken the exam over ten times when they failed in July 2005 repeated it in 2006.

From these data, it appears that the foreign-educated candidates fall into two distinct persistence patterns. About half quit after failing once. Others are very persistent, continuing to take the examination after failing multiple times.

Table 2.2
Foreign-Educated Failing Candidates in July 2005
Percentages Repeating in February 2006 or by July 2006
Versus Number of Bar Attempts as of July 2005

Number of Bar Attempts in July 2005	Feb 2006 NY	Feb 2006 Outside NY	Feb 2006 All	Feb 2006 or July 2006 NY	Feb 2006 or July 2006 Outside NY	Feb 2006 or July 2006 All
(Number and % of Failing Candidates in July 2005)	% Retaking (Number)	% Retaking (Number)	% Retaking (Number)	% Retaking (Number)	% Retaking (Number)	% Retaking (Number)
1 (831, 57.3%)	37.6% (312)	0.5% (4)	38.0% (316)	48.7% (405)	0.6% (4)	49.2% (409)
2 (214, 14.8%)	35.1% (75)	0.5% (1)	35.5% (76)	53.3% (114)	1.9% (4)	55.1% (118)
3 (154, 10.6%)	40.9% (63)	0.7% (1)	41.6% (64)	53.9% (83)	1.3% (2)	55.2% (85)
4 (89, 6.1%)	39.3% (35)		39.3% (35)	55.1% (49)	2.3% (2)	57.3% (51)
5 (50, 3.5%)	54.0% (27)	2.0% (1)	56.0% (28)	62.0% (31)	2.0% (1)	64.0% (32)
6 (27, 1.9%)	40.7% (11)	3.7% (1)	44.4% (12)	63.0% (17)	3.7% (1)	66.7% (18)
7 (16, 1.1%)	37.5% (6)		37.5% (6)	68.8% (11)	6.3% (1)	75.0% (12)
8 (12, 0.8%)	66.7% (8)		66.7% (8)	91.7% (11)		91.7% (11)
9 (12, 0.8%)	58.3% (7)		58.3% (7)	66.7% (8)		66.7% (8)
10 (10, 0.7%)	40.0% (4)		40.0% (4)	50.0% (5)		50.0% (5)
> 10 (34, 2.3%)	58.8% (20)		58.8% (20)	85.3% (29)		85.3% (29)
Total (1,449)	39.2% (568)	0.6% (8)	39.8% (576)	52.7% (763)	1.0% (15)	53.7% (778)

Note: Foreign-educated refers to candidates who graduated from a law school outside of the United States.

2.2 Persistence as a Function of Race/Ethnicity

Table 2.3 reports the percentages of the domestic-educated first-time failing candidates who repeated in February 2006 and/or July 2006 as a function of race/ethnicity. Except for a few categories with very small *sample sizes*, the attrition rates are similar across the racial/ethnic groups with the Caucasian/White and Black/African American groups both exhibiting a persistence rate of about 85%, the Asian/Pacific Islander group coming in at about 86%, and the Hispanic/Latino group coming in at about 91%. The "Other" group had a persistence rate of just over 83%. The standard error due to sampling for these percentages is about 3.5% (3.6% for a sample size of 100, and an observed persistence rate of 85%), so most of these results are within a standard error of the overall persistence rate of 85.1%.

Table 2.3
Domestic-Educated First-Time Failing Candidates in July 2005
Percentages Repeating in February 2006 or by July 2006
Versus Race/Ethnicity

Race/ Ethnicity (Number and % of Failing Candidates in July 2005)	Feb 2006 NY	Feb 2006 Outside NY	Feb 2006 All	Feb 2006 or July 2006 NY	Feb 2006 or July 2006 Outside NY	Feb 2006 or July 2006 All
	% Retaking (Number)	% Retaking (Number)	% Retaking (Number)	% Retaking (Number)	% Retaking (Number)	% Retaking (Number)
Caucasian/ White (649, 52.3%)	68.3% (443)	6.5% (42)	74.7% (485)	77.2% (501)	8.0% (52)	85.2% (553)
Asian/ Pacific Islander (146, 11.8%)	69.2% (101)	5.5% (8)	74.7% (109)	77.4% (113)	8.2% (12)	85.6% (125)
Black/ African American (200, 16.1%)	72.0% (144)	5.0% (10)	77.0% (154)	80.0% (160)	5.0% (10)	85.0% (170)
Hispanic/ Latino (65, 5.2%)	76.9% (50)	4.6% (3)	81.5% (53)	83.1% (54)	7.7% (5)	90.8% (59)
Other (54, 4.4%)	66.7% (36)	7.4% (4)	74.1% (40)	74.1% (40)	9.3% (5)	83.3% (45)
Total* (1,241)	69.6% (864)	5.7% (71)	75.3% (935)	77.9% (967)	7.2% (89)	85.1% (1,056)

*Total includes racial/ethnic groups not separately listed in the table.
Note: Domestic-educated refers to candidates who graduated from a law school in the United States.

Table 2.4 provides the percentages of the foreign-educated first-time failing candidates who repeated in 2006 as a function of race/ethnicity The persistence rates for the foreign-educated candidates, at about 50%, are lower than for the domestic-educated candidates. However, they are also fairly consistent across racial/ethnic groups.

Table 2.4
Foreign-Educated First-Time Failing Candidates in July 2005
Percentages Repeating in February 2006 or by July 2006
Versus Race/Ethnicity

Race/ Ethnicity (Number and % of Failing Candidates in July 2005)	Feb 2006 NY % Retaking (Number)	Feb 2006 Outside NY % Retaking (Number)	Feb 2006 All % Retaking (Number)	Feb 2006 or July 2006 NY % Retaking (Number)	Feb 2006 or July 2006 Outside NY % Retaking (Number)	Feb 2006 or July 2006 All % Retaking (Number)
Caucasian/ White (252, 30.3%)	37.7% (95)	1.2% (3)	38.9% (98)	46.8% (118)	1.2% (3)	48.0% (121)
Asian/ Pacific Islander (359, 43.2%)	39.8% (143)	0.3% (1)	40.1% (144)	50.1% (180)	0.3% (1)	50.4% (181)
Black/ African American (60, 7.2%)	36.7% (22)		36.7% (22)	55.0% (33)		55.0% (33)
Hispanic/ Latino (56, 6.7%)	28.6% (16)		28.6% (16)	48.2% (27)		48.2% (27)
Other (60, 7.2%)	28.3% (17)		28.3% (17)	36.7% (22)		36.7% (22)
Total* (831)	37.5% (312)	0.5% (4)	38.0% (316)	48.7% (405)	0.5% (4)	49.2% (409)

*Total includes 44 candidates who did not record their races/ethnicities. None of the foreign-educated candidates categorized themselves as Chicano/Mexican American or American Indian/Alaskan Native.
Note: Foreign-educated refers to candidates who graduated from a law school outside of the United States.

2.3 Persistence as a Function of Gender

Table 2.5 reports the percentages of the domestic-educated first-time failing candidates who repeated in February 2006 and/or July 2006 as a function of gender. Females who failed in July 2005 were slightly more likely to repeat a bar examination in 2006 than males. Table 2.6 provides the corresponding results for the foreign-educated candidates, for whom the males have slightly higher persistence rates in 2006 than the females.

Table 2.5
Domestic-Educated First-Time Failing Candidates in July 2005
Percentages Repeating in February 2006 or by July 2006
Versus Gender

Gender (Number and % of Failing Candidates in July 2005)	Feb 2006 NY	Feb 2006 Outside NY	Feb 2006 All	Feb 2006 or July 2006 NY	Feb 2006 or July 2006 Outside NY	Feb 2006 or July 2006 All
	% Retaking (Number)	% Retaking (Number)	% Retaking (Number)	% Retaking (Number)	% Retaking (Number)	% Retaking (Number)
Female (596, 48.0%)	70.5% (420)	5.5% (33)	76.0% (453)	79.0% (471)	6.9% (41)	85.9% (512)
Male (540, 43.5%)	67.6% (365)	6.7% (36)	74.3% (401)	75.7% (409)	8.3% (45)	84.1% (454)
Total* (1,241)	69.6% (864)	5.7% (71)	75.3% (935)	77.9% (967)	7.2% (89)	85.1% (1,056)

* Total includes 105 candidates who did not record their genders.
Note: Domestic-educated refers to candidates who graduated from a law school in the United States.

Table 2.6
Foreign-Educated First-Time Failing Candidates
Percentages Repeating in February 2006 or by July 2006
Versus Gender

Gender (Number and % of Failing Candidates in July 2005)	Feb 2006 NY	Feb 2006 Outside NY	Feb 2006 All	Feb 2006 or July 2006 NY	Feb 2006 or July 2006 Outside NY	Feb 2006 or July 2006 All
	% Retaking (Number)	% Retaking (Number)	% Retaking (Number)	% Retaking (Number)	% Retaking (Number)	% Retaking (Number)
Female (367, 44.2%)	38.7% (142)	0.5% (2)	39.2% (144)	47.7% (175)	0.5% (2)	48.2% (177)
Male (424, 51.0%)	35.8% (152)	0.5% (2)	36.3% (154)	48.8% (207)	0.5% (2)	49.3% (209)
Total* (831)	37.5% (312)	0.5% (4)	38.0% (316)	48.7% (405)	0.5% (4)	49.2% (409)

* Total includes 40 candidates who did not record their genders.
Note: Foreign-educated refers to candidates who graduated from a law school outside of the United States.

2.4 Persistence as a Function of Age at Graduation

Table 2.7 reports the percentages of the domestic-educated first-time failing candidates in July 2005 who repeated in 2006 as a function of age at graduation from law school. It appears that persistence declines somewhat as the age at law-school graduation increases, at least up to about age 50.

Table 2.8 reports the percentages of the domestic-educated first-time failing candidates from July 2005 who repeated in 2006 as a function of age when taking the bar examination in July 2005. Persistence seems to decline somewhat as the age when taking the bar increases, at least up to about age 50. Age when taking the bar exam is confounded with the number of previous attempts.

Table 2.7
Domestic-Educated First-Time Failing Candidates in July 2005
Percentages Repeating in February 2006 or by July 2006
Versus Age at Law School Graduation

Age at Law School Graduation (Number and % of Failing Candidates in July 2005)	Feb 2006 NY % Retaking (Number)	Feb 2006 Outside NY % Retaking (Number)	Feb 2006 All % Retaking (Number)	Feb 2006 or July 2006 NY % Retaking (Number)	Feb 2006 or July 2006 Outside NY % Retaking (Number)	Feb 2006 or July 2006 All % Retaking (Number)
<27 (570, 45.9%)	72.3% (412)	5.6% (32)	77.9% (444)	80.7% (460)	6.8% (39)	87.5% (499)
27-28 (251, 20.2%)	69.3% (174)	6.4% (16)	75.7% (190)	76.1% (191)	7.6% (19)	83.7% (210)
29-30 (132, 10.6%)	59.8% (79)	9.1% (12)	68.9% (91)	70.5% (93)	12.1% (16)	82.6% (109)
31-35 (149, 12.0%)	71.8% (107)	2.7% (4)	74.5% (111)	80.5% (120)	4.0% (6)	84.6% (126)
36-40 (61, 4.9%)	59.0% (36)	8.2% (5)	67.2% (41)	72.1% (44)	9.8% (6)	82.0% (50)
41-45 (36, 2.9%)	72.2% (26)	2.8% (1)	75.0% (27)	75.0% (27)	5.6% (2)	80.6% (29)
46-50 (23, 1.9%)	52.2% (12)	4.3% (1)	56.5% (13)	56.5% (13)	4.3% (1)	60.9% (14)
> 50 (16, 1.2%)	93.8% (15)		93.8% (15)	100% (16)		100% (16)
Total* (1,241)	69.6% (864)	5.7% (71)	75.3% (935)	77.9% (967)	7.2% (89)	85.1% (1,056)

*Total includes 3 candidates who did not record their age at law school graduation.
Note: Domestic-educated refers to candidates who graduated from a law school in the United States.

Table 2.8
Domestic-Educated First-Time Failing Candidates in July 2005
Percentages Repeating in February 2006 or by July 2006
Versus Age at July 2005 Bar Attempt

Age at Bar Attempt (Number and % of Failing Candidates in July 2005)	Feb 2006 NY	Feb 2006 Outside NY	Feb 2006 All	Feb 2006 or July 2006 NY	Feb 2006 or July 2006 Outside NY	Feb 2006 or July 2006 All
	% Retaking (Number)	% Retaking (Number)	% Retaking (Number)	% Retaking (Number)	% Retaking (Number)	% Retaking (Number)
<27 (530, 42.7%)	73.8% (391)	5.8% (31)	79.6% (422)	82.3% (436)	7.2% (38)	89.4% (474)
27-28 (257, 20.7%)	69.6% (179)	6.2% (16)	75.9% (195)	76.3% (196)	7.4% (19)	83.7% (215)
29-30 (140, 11.3%)	59.3% (83)	8.6% (12)	67.9% (95)	70.0% (98)	11.4% (16)	81.4% (114)
31-35 (154, 12.4%)	68.2% (105)	3.2% (5)	71.4% (110)	76.6% (118)	4.5% (7)	81.2% (125)
36-40 (62, 5.0%)	64.5% (40)	6.5% (4)	71.0% (44)	75.8% (47)	8.1% (5)	83.9% (52)
41-45 (48, 3.9%)	62.5% (30)	4.2% (2)	66.7% (32)	68.8% (33)	6.3% (3)	75.0% (36)
46-50 (25, 2.0%)	60.0% (15)	4.0% (1)	64.0% (16)	64.0% (16)	4.0% (1)	68.0% (17)
> 50 (25, 2.0%)	84.0% (21)		84.0% (21)	92.0% (23)		92.0% (23)
Total (1,241)	69.6% (864)	5.7% (71)	75.3% (935)	77.9% (967)	7.2% (89)	85.1% (1,056)

Note: Domestic-educated refers to candidates who graduated from a law school in the United States.

Table 2.9 reports the percentages of the foreign-educated first-time failing candidates in July 2005 who repeated in 2006 as a function of age when taking the bar examination in July 2005 (data on age at graduation were generally not available for foreign-educated candidates). It appears that persistence remains fairly stable as the age at bar attempt increases, at least up to age 50.

Table 2.9
Foreign-Educated First-Time Failing Candidates in July 2005
Percentages Repeating in February 2006 or by July 2006
Versus Age at July 2005 Bar Attempt

Age at Bar Attempt (Number and % of Failing Candidates in July 2005)	Feb 2006 NY	Feb 2006 Outside NY	Feb 2006 All	Feb 2006 or July 2006 NY	Feb 2006 or July 2006 Outside NY	Feb 2006 or July 2006 All
	% Retaking (Number)	% Retaking (Number)	% Retaking (Number)	% Retaking (Number)	% Retaking (Number)	% Retaking (Number)
<27 (237, 28.5%)	37.6% (89)	0.4% (1)	38.0% (90)	47.3% (112)	0.4% (1)	47.7% (113)
27-28 (128, 15.4%)	37.5% (48)	0.8% (1)	38.3% (49)	46.1% (59)	0.8% (1)	46.9% (60)
29-30 (128, 15.4%)	39.8% (51)	0.8% (1)	40.6% (52)	53.1% (68)	0.8% (1)	53.9% (69)
31-35 (180, 21.7%)	39.4% (71)	0.6% (1)	40.0% (72)	47.8% (86)	0.6% (1)	48.3% (87)
36-40 (98, 11.8%)	27.6% (27)		27.6% (27)	45.9% (45)		45.9% (45)
41-45 (40, 4.8%)	32.5% (13)		32.5% (13)	52.5% (21)		52.5% (21)
46-50 (13, 1.6%)	61.5% (8)		61.5% (8)	61.5% (8)		61.5% (8)
> 50 (7, 0.8%)	71.4% (5)		71.4% (5)	85.7% (6)		85.7% (6)
Total (831)	37.5% (312)	0.5% (4)	38.0% (316)	48.7% (405)	0.5% (4)	49.2% (409)

Note: Foreign-educated refers to candidates who graduated from a law school outside of the United States.

2.5 Persistence as a Function of July 2005 NY Bar Exam Score Ranges

Table 2.10 reports the percentages of the domestic-educated first-time failing candidates in July 2005 who repeated in 2006 as a function of July 2005 NY bar exam score ranges. It appears that candidates with higher initial NY bar exam scores tend to be somewhat more persistent. The persistence rates as of July 2006 were as high as 88.4% in the upper score ranges and as low as 66.7% in the lower score ranges.

Table 2.10
Domestic-Educated First-Time Failing Candidates in July 2005
Percentages Repeating in February 2006 or by July 2006
Versus NY Bar Exam Score Range in July 2005

NY Bar Exam Score Range (Number and % of Failing Candidates in July 2005)	Feb 2006 NY	Feb 2006 Outside NY	Feb 2006 All	Feb 2006 or July 2006 NY	Feb 2006 or July 2006 Outside NY	Feb 2006 or July 2006 All
	% Retaking (Number)	% Retaking (Number)	% Retaking (Number)	% Retaking (Number)	% Retaking (Number)	% Retaking (Number)
< 525 (15, 1.2%)	46.7% (7)		46.7% (7)	73.3% (11)		73.3% (11)
525 – 544 (18, 1.5%)	44.4% (8)	11.1% (2)	55.6% (10)	55.6% (10)	11.1% (2)	66.7% (12)
545 – 564 (36, 2.9%)	69.4% (25)	2.8% (1)	72.2% (26)	75.0% (27)	2.8% (1)	77.8% (28)
565 – 584 (73, 5.9%)	61.6% (45)	8.2% (6)	69.9% (51)	75.3% (55)	11.1% (8)	86.3% (63)
585 – 604 (133, 10.7%)	57.9% (77)	7.5% (10)	65.4% (87)	65.4% (87)	9.8% (13)	75.2% (100)
605 – 624 (211, 17.0%)	65.4% (138)	4.7% (10)	70.1% (148)	77.7% (164)	6.2% (13)	83.9% (177)
625 – 644 (323, 26.0%)	73.4% (237)	5.9% (19)	79.3% (256)	80.5% (260)	7.1% (23)	87.6% (283)
645 – 664 (432, 34.8%)	75.7% (327)	5.3% (23)	81.0% (350)	81.7% (353)	6.7% (29)	88.4% (382)
Total (1,241)	69.6% (864)	5.7% (71)	75.3% (935)	77.9% (967)	7.2% (89)	85.1% (1,056)

Note: Domestic-educated refers to candidates who graduated from a law school in the United States.

Table 2.11 reports the percentages of the domestic-educated repeat falling candidates who had failed at least twice by July 2005 who repeated in 2006 as a function of their July 2005 NY bar exam score ranges. As of February 2006, candidates with higher NY bar exam scores in July 2005 tend to be somewhat more persistent than candidates with lower July 2005 scores. Persistence in upper score ranges is as high as 67.3% and persistence in lower score ranges is as low as 44.0%. As of July 2006, candidates with higher July 2005 NY bar exam scores also tend to be more persistent than those with lower scores, with persistence in upper score ranges as high as 70.8% and persistence in lower score ranges as low as 44.0%. However, most of this difference is accounted for by the 25 candidates with the lowest scores in July 2005.

Table 2.11
Domestic-Educated Repeat Failing Candidates in July 2005
Percentages Repeating in February 2006 or by July 2006
Versus NY Bar Exam Score Range in July 2005

NY Bar Exam Score Range (Number and % of Failing Candidates in July 2005)	Feb 2006 NY	Feb 2006 Outside NY	Feb 2006 All	Feb 2006 or July 2006 NY	Feb 2006 or July 2006 Outside NY	Feb 2006 or July 2006 All
	% Retaking (Frequency)	% Retaking (Frequency)	% Retaking (Frequency)	% Retaking (Frequency)	% Retaking (Frequency)	% Retaking (Frequency)
< 525 (25, 3.7%)	40.0% (10)	4.0% (1)	44.0% (11)	40.0% (10)	4.0% (1)	44.0% (11)
525 – 544 (19, 2.8%)	47.4% (9)		47.4% (9)	68.4% (13)		68.4% (13)
545 – 564 (44, 6.5%)	54.5% (24)		54.5% (24)	61.4 (27)	4.5 (2)	65.9% (29)
565 – 584 (60, 8.9%)	38.3% (23)	1.7% (1)	40.0% (24)	51.7% (31)	5.0% (3)	56.7% (34)
585 – 604 (116, 17.2%)	48.3% (56)	1.7% (2)	50.0% (58)	65.5% (76)	1.7% (2)	67.2% (78)
605 – 624 (139, 20.6%)	50.4% (70)	2.2% (3)	52.5% (73)	61.2% (85)	2.9% (4)	64.0% (89)
625 – 644 (160, 23.7%)	51.3% (82)	2.5% (4)	53.8% (86)	58.8% (94)	4.4% (7)	63.1% (101)
645 – 664 (113, 16.7%)	67.3% (76)		67.3% (76)	70.8% (80)		70.8% (80)
Total (676)	51.8% (350)	1.6% (11)	53.4% (361)	61.5% (416)	2.8% (19)	64.3% (435)

Note: Domestic-educated refers to candidates who graduated from a law school in the United States.

Figures 2.1 and 2.2 present the data in Tables 2.10 to 2.11 in a different way by plotting the relationship between July 2005 NY bar exam scores and proportion of candidates repeating the bar exam as of February 2006 (Figure 2.1) and as of July 2006 (Figure 2.2). An increase in persistence for higher bar exam scores is evident in both lines in Figure 2.1 (persistence as of February 2006 for first-time and repeat takers in July 2005) and in the solid line in Figure 2.2 (persistence as of July 2006 for first-time and repeat takers in July 2005). These figures show that, while persistence rates in 2006 fluctuate to a certain extent across scores, persistence rates tend to increase or remain flat as a function of NY bar exam scores from July 2005 for candidates who failed the exam. In particular, first-time takers who fail in July 2005 are somewhat more likely to repeat the bar exam the closer they are to the passing score of 665.

Figure 2.1
Domestic-Educated Candidates Failing in July 2005
Proportions Repeating in February 2006
Versus NY Bar Exam Score Range in July 2005

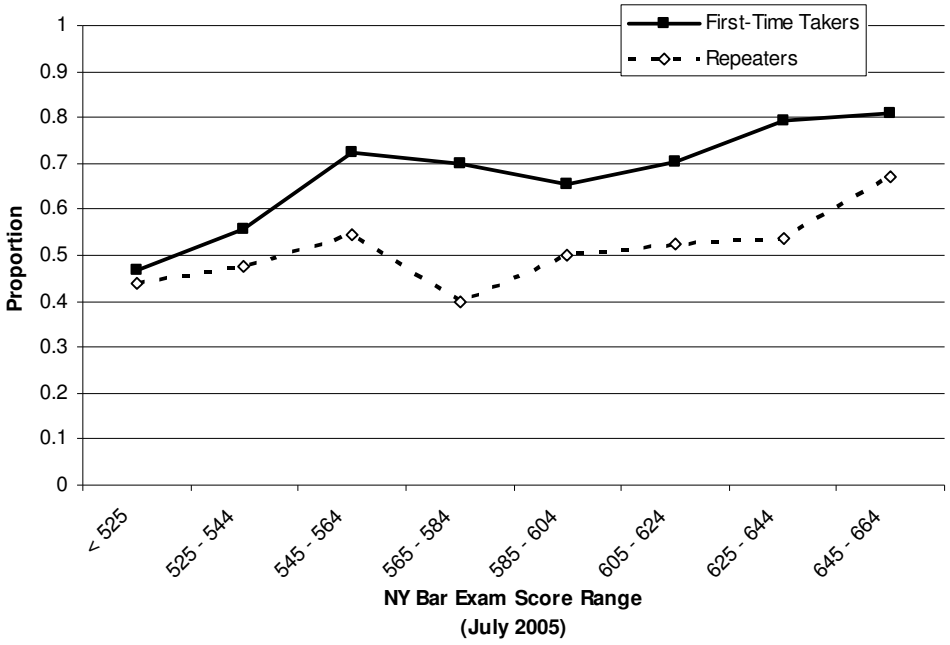


Figure 2.2
Domestic-Educated Candidates Failing in July 2005
Proportions Repeating in February 2006 or July 2006
Versus NY Bar Exam Score Range in July 2005

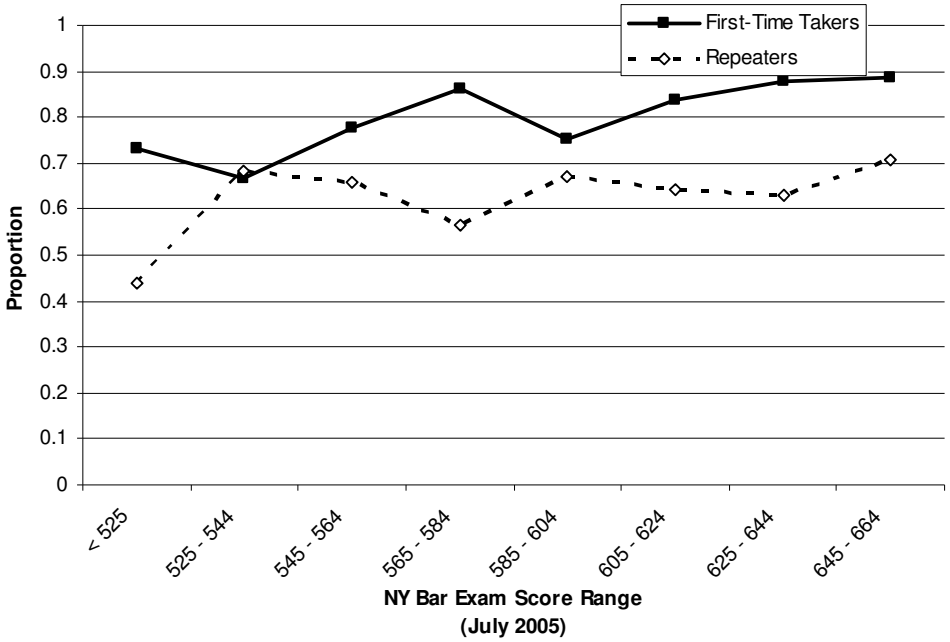


Table 2.12 reports the percentages of the foreign-educated first-time failing candidates in July 2005 who repeated in 2006 as a function of July 2005 NY bar exam score ranges. While the persistence rates fluctuate, it appears that there is a slight increase in persistence as of February 2006 and an inconsistent pattern of persistence across NY bar exam scores as of July 2006 (see the solid lines in Figures 2.3 and 2.4) as functions of NY bar exam scores in July 2005.

Table 2.12
Foreign-Educated First-Time Failing Candidates in July 2005
Percentages Repeating in February 2006 or by July 2006
Versus NY Bar Exam Score Range in July 2005

NY Bar Exam Score Range (Number and % of Failing Candidates in July 2005)	Feb 2006 NY	Feb 2006 Outside NY	Feb 2006 All	Feb 2006 or July 2006 NY	Feb 2006 or July 2006 Outside NY	Feb 2006 or July 2006 All
	% Retaking (Number)	% Retaking (Number)	% Retaking (Number)	% Retaking (Number)	% Retaking (Number)	% Retaking (Number)
< 505 (88, 10.6%)	28.4% (25)		28.4% (25)	44.3% (39)		44.3% (39)
505 – 524 (59, 7.1%)	27.1% (16)		27.1% (16)	35.6% (21)		35.6% (21)
525 – 544 (72, 8.7%)	37.5% (27)	1.4% (1)	38.9% (28)	50.0% (36)	1.4% (1)	51.4% (37)
545 – 564 (80, 9.6%)	36.3% (29)	1.3% (1)	37.5% (30)	55.0% (44)	1.3% (1)	56.3% (45)
565 – 584 (83, 10.0%)	43.4% (36)	1.2% (1)	44.6% (37)	50.6% (42)	1.2% (1)	51.8% (43)
585 – 604 (82, 9.9%)	34.1% (28)		34.1% (28)	42.7% (35)		42.7% (35)
605 – 624 (122, 14.7%)	37.7% (46)	0.8% (1)	38.5% (47)	48.4% (59)	0.8% (1)	49.2% (60)
625 – 644 (106, 12.8%)	43.4% (46)		43.4% (46)	51.9% (55)		51.9% (55)
645 – 664 (139, 16.7%)	42.4% (59)		42.4% (59)	53.2% (74)		53.2% (74)
Total (831)	37.5% (312)	0.5% (4)	38.0% (316)	48.7% (405)	0.5% (4)	49.2% (409)

Note: Foreign-educated refers to candidates who graduated from a law school in the United States.

Table 2.13 reports the percentages of the foreign-educated repeat falling candidates in July 2005 who repeated in 2006 as a function of July 2005 NY bar exam score ranges. Again, there is some fluctuation in persistence rates, but it appears that persistence increases slightly as NY bar exam scores increase (see the dotted lines in Figures 2.3 and 2.4). Note that the overall persistence rate is higher for the foreign-educated repeat takers who failed in July 2005 than it is for the foreign-educated first-time takers who failed in July 2005.

Table 2.13
Foreign-Educated Repeat Failing Candidates in July 2005
Percentages Repeating in February 2006 or by July 2006
Versus NY Bar Exam Score Range in July 2005

NY Bar Exam Score Range (Number and % of Failing Candidates in July 2005)	Feb 2006 NY	Feb 2006 Outside NY	Feb 2006 All	Feb 2006 or July 2006 NY	Feb 2006 or July 2006 Outside NY	Feb 2006 or July 2006 All
	% Retaking (Number)	% Retaking (Number)	% Retaking (Number)	% Retaking (Number)	% Retaking (Number)	% Retaking (Number)
< 505 (59, 9.5%)	16.9% (10)		16.9% (10)	42.4% (25)	5.1% (3)	47.5% (28)
505 – 524 (41, 6.6%)	43.9% (18)		43.9% (18)	61.0% (25)	2.4% (1)	63.4% (26)
525 – 544 (47, 7.6%)	23.4% (11)		23.4% (11)	46.8% (22)		46.8% (22)
545 – 564 (48, 7.8%)	50.0% (24)		50.0% (24)	62.5% (30)		62.5% (30)
565 – 584 (85, 13.8%)	31.8% (27)	1.2% (1)	32.9% (28)	45.9% (39)	3.5% (3)	49.4% (42)
585 – 604 (82, 13.3%)	50.0% (41)		50.0% (41)	68.3% (56)		68.3% (56)
605 – 624 (89, 14.4%)	49.4% (44)	1.1% (1)	50.6% (45)	64.0% (57)	2.2% (2)	66.3% (59)
625 – 644 (87, 14.1%)	42.5% (37)	2.3% (2)	44.8% (39)	57.5% (50)	2.3% (2)	59.8% (52)
645 – 664 (80, 12.9%)	55.0% (44)		55.0% (44)	67.5% (54)		67.5% (54)
Total (618)	41.4% (256)	0.6% (4)	42.1% (260)	57.9% (358)	1.8% (11)	59.7% (369)

Note: Foreign-educated refers to candidates who graduated from a law school in the United States.

Figure 2.3
Foreign-Educated Candidates Failing in July 2005
Percentages Repeating in February 2006
Versus NY Bar Exam Score Range in July 2005

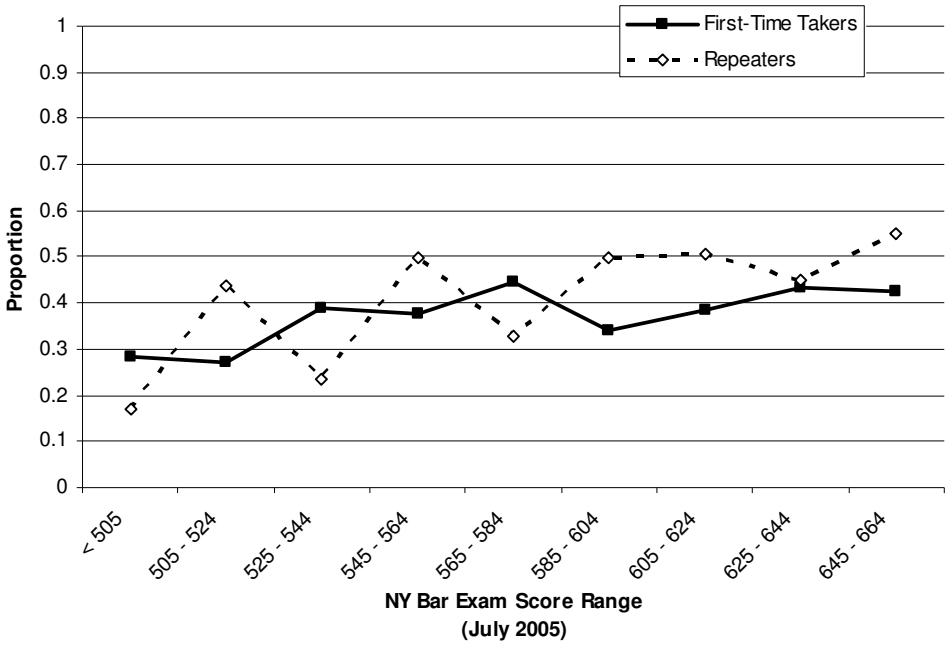
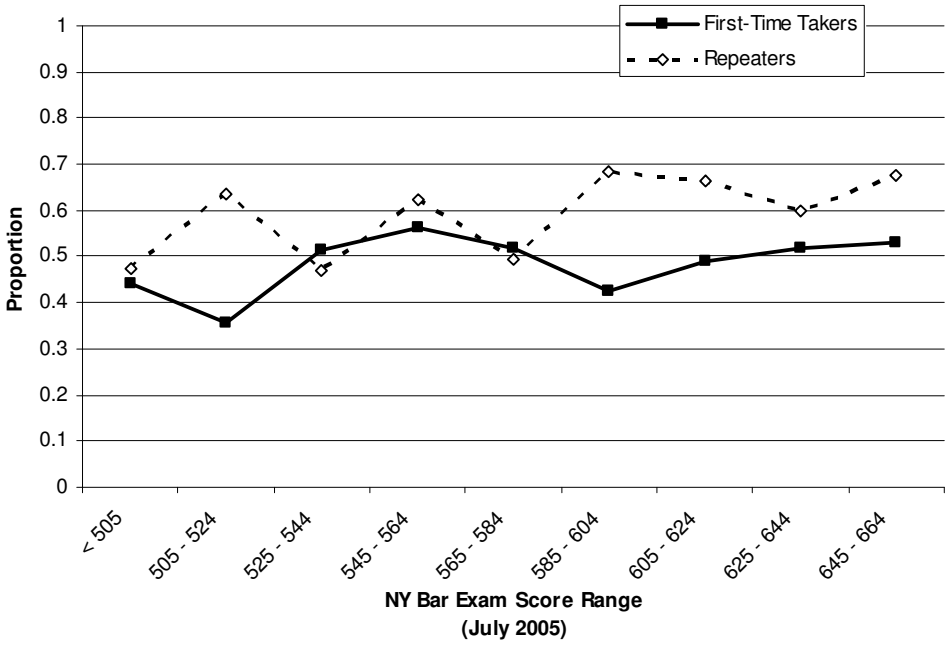


Figure 2.4
Foreign-Educated Candidates Failing in July 2005
Percentages Repeating in February 2006 or July 2006
Versus NY Bar Exam Score Range in July 2005



3. Analyses of Score Changes for First-time Takers in July 2005 who Repeated the Exam in February 2006

In this section, we examine the changes in scores of first-time failing candidates (candidates who failed the bar examination for the first time in July 2005) who retook the New York Bar Examination (NY bar exam) in February 2006 or July 2006.

3.1 Technical Note on Standard Errors in Estimating Group Mean Scores

We have tried to make this report as non-technical and therefore as accessible as possible, but the accurate interpretation of many of the results in this section requires at least a general understanding of what is called the *standard error of the mean* (SEM). SEMs are intended to provide an indication of the uncertainty in an estimated value of the *mean* or average score in a population based on a sample from the population being analyzed. Standard errors provide an explicit caveat about the potential for over-interpreting small differences.

The analyses in this report are based on data for over 90% of the candidates who took the NY bar exam in July 2005, and therefore they provide good estimates of group means for the total population of candidates who failed the exam in July 2005 and retook it in February 2006 and/or July 2006, and for various subgroups in that population. However, in extending the interpretation to future administrations, the inference must be more tentative. The results are likely to be fairly representative of those that will result from future NY bar exam administrations, assuming that the tests remain the same, and the educational system and candidate population do not change too much. But, even if everything stays the same, the results are likely to vary somewhat, just because the sample of specific individuals taking the examination will be different. This sampling variability tends to have an especially large impact if the number of candidates in the group being examined, the *sample size*, is small. For example, if the sample size is 5, the addition of one candidate with an especially high or low score would have a major impact on the average score; if the sample size were 5,000, the addition of one candidate with an especially high or low score would have little impact on the group average. Results tend to be more variable from one sample to another if the sample size is small.

The formulas used to estimate standard errors are based on statistical sampling theory, and reflect the variability associated with the sampling of individuals on any given test date. They do not include any systematic variability due to changes in the population over time.

The theory used to develop formulas for estimating the standard error is quite complicated, but the final result is fairly simple. The standard error in estimating the mean (or average) score for a group is equal to the observed *standard deviation* (SD) for the sample over the square root of the sample size (i.e., the number of candidates

included in the estimate), and therefore, as the sample size gets larger, the standard error of the mean (SEM) gradually gets smaller. The decrease in the standard error as the sample size increases is gradual because the SEM is inversely proportional to the *square root* of the sample size. As a result, in order to cut the SEM in half, the sample size has to be made four times as large. So, if the SEM is based on a sample of 100, the sample size would have to be increased to 400 to cut the SEM in half and to 1,600 to cut it by three quarters. A law of diminishing returns operates for standard errors, and the standard error never reaches zero.

Thus, the standard error for a group mean depends on the SD within the sample for the group and the sample size for the group. SDs represent the spread of scores; the larger the SD, the less homogeneous the sample is. All else being equal, if the SD is large, the SEM will be large. The SDs for the various groups considered in this section vary somewhat (from about 20 to almost 80), but the sample sizes vary much more (from a few individuals to sample sizes of over 1,000). Therefore, the sample size tends to be the dominant factor in determining the standard error.

Assuming a typical SD of about 50, a sample size of 100 would yield a SEM of about 5 ($50/\sqrt{100} = 5$), and a sample size of 49 would yield a SEM of about 7 ($50/\sqrt{49}$). For a sample size of about 25, the SEM would be about 10. As a rule of thumb, we will not place much emphasis on mean (average) scores based on fewer than 50 candidates. In this and subsequent sections, we will generally not report group means for groups with fewer than 20 candidates. As the sample size gets small (e.g., below 20), the group mean says more about the particular individuals in the sample than it does about the group as a whole or about what might be found in future bar examination administrations. Note that we did, however, report group counts and percentages in Section 2 for groups with fewer than 20 candidates to provide information regarding the characteristics (e.g., race/ethnicity) of the candidate sample.

3.2 Note on Confidence Intervals

Confidence intervals are often used to indicate the uncertainty in a reported statistic. Assuming that the main source of uncertainty in a reported statistic is sampling variability, confidence intervals can be defined in terms of standard errors. In particular, a 68% confidence interval covers the range from one standard error below the mean, or average, to one standard error above the mean. It is called a “68% confidence interval” because such intervals are expected to include the true value of the mean about 68% of the time. Similarly, a 95% confidence interval includes the range from two standard errors below the mean to two standard errors above the mean and is expected to include the true value of the mean about 95% of the time.[1]

Standard errors are reported in many of the tables in this report and can be used to construct approximate confidence intervals if the reader wishes to do so. Alternately, they can be taken simply as cautionary notes not to over interpret relatively small differences (i.e., differences that are not much bigger than the standard errors involved in the comparison) in generalizing the result across future bar administrations.[2]

3.3 Domestic-Educated First-Time Failing Candidates in July 2005 Who Repeated in February 2006

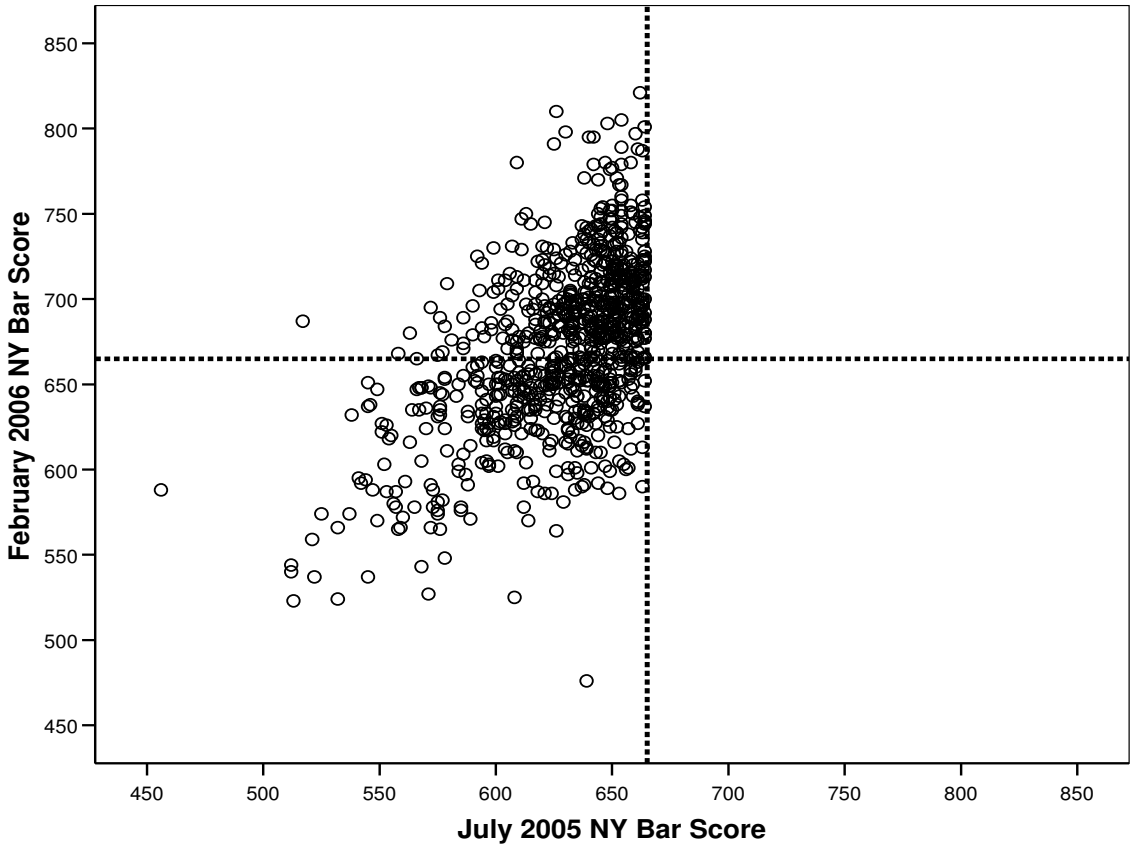
Figure 3.1a provides an overall indication of how performance changed for domestic-educated first-time failing candidates. For each candidate, his or her July 2005 NY bar exam score is plotted along with their February 2006 NY bar exam score. The horizontal axis represents the candidate's score in July 2005. All of the candidates represented in Figure 3.1 failed in July 2005, and therefore there are no points to the right of the vertical dotted line corresponding to a July 2005 score of 665, the passing score in July 2005. The vertical axis in Figure 3.1a represents the candidate's score when they repeated the examination in February 2006.

Note that the February 2006 scores are generally different from the July 2005 scores, and although it is not quite so obvious in the figure, the February 2006 scores are generally a bit higher than the July 2005 scores. The horizontal dotted line corresponds to a score of 665 in February 2006, and it is clear that many of the candidates who failed in July 2005 had February 2006 scores above the dotted line and therefore passed in February 2006.

We will examine these differences in more detail below, but as we do so, it will be useful to keep Figure 3.1a in mind or to refer back to it, because it indicates the variability in the relationship between scores in July 2005 and February 2006. The scores went up on average when the July 2006 candidates who failed retook the examination in February 2006, and candidates with relatively higher scores in July 2005 also tended to have relatively higher scores in February 2006, but the relationship is far from perfect. Many of the candidates with scores near 665 in July 2005 enjoyed score increases and passed in February 2006, but some suffered score declines and failed again in February 2006. Most of the candidates with scores below 600 in July 2005 also failed in February 2006, but some candidates with scores below 600 in July 2005 passed in February 2006. There are clear patterns in the data, but there is also a lot of variability. Examinees who passed in February 2006 are shown in the upper left quadrant.

The *correlation* coefficient represents the degree of linear relationship between two variables and has values between -1.0 and 1.0. The correlation between the July 2005 scores and the February 2006 scores represented in Figure 3.1a is .53. This correlation tends to be decreased by the fact that the range of scores in July 2005 is limited to scores under 665. This *restriction of range* systematically reduces the correlation.

Figure 3.1a
First-Time Failing Candidates in July 2005 Repeating in February 2006
NY Bar Exam Scores in February 2006 versus Scores in July 2005
Domestic-Educated Candidates



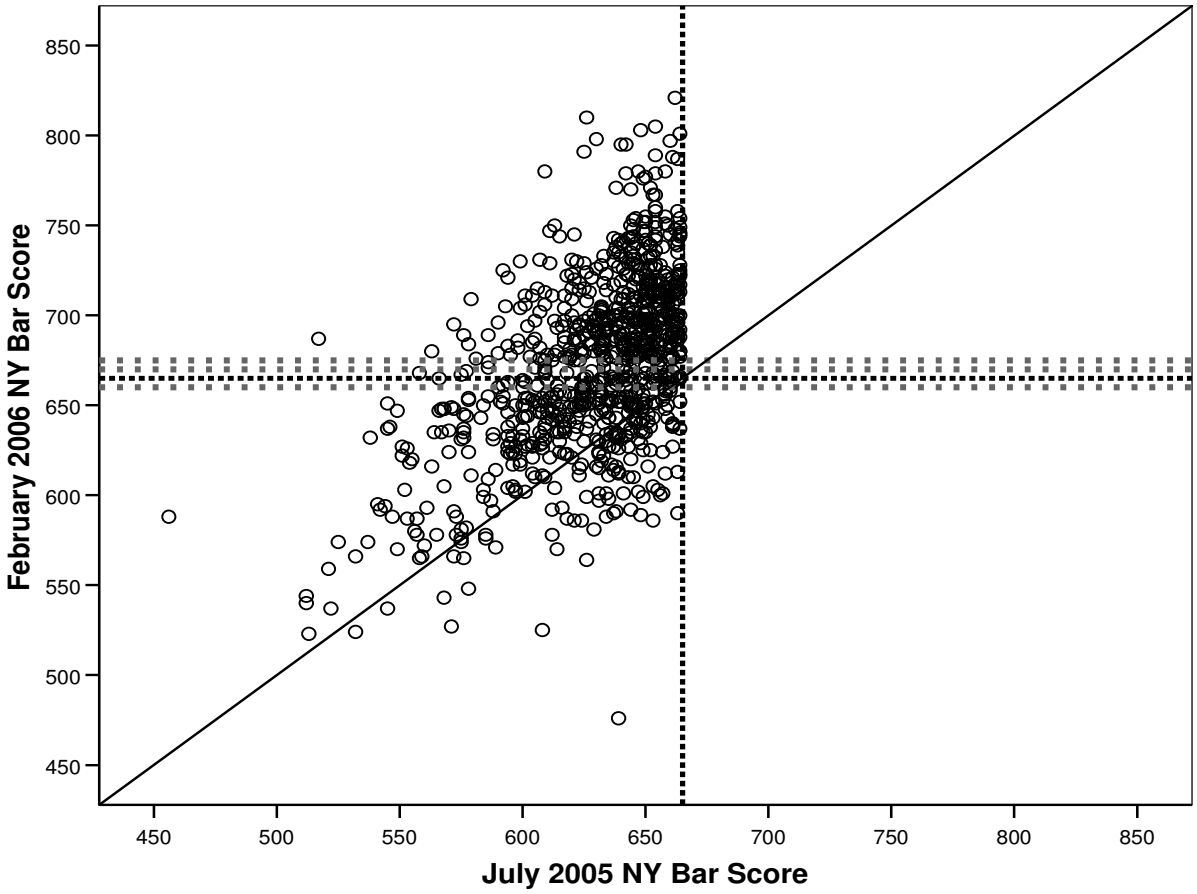
Note: The vertical dashed line indicates the passing score of 665 in July 2005. The horizontal dashed line indicates the passing score of 665 in February 2006.

Figure 3.1b is the same as Figure 3.1a, but has some additional reference information superimposed. The diagonal line in Figure 3.1b indicates where the points would fall if the candidates got exactly the same scores in July 2005 and February 2006. With this line included, it may be easier to see that most of the candidates who failed the NY bar exam for the first time in July 2005 got higher scores when they repeated the examination in February 2006, and in many cases, the increases were quite substantial. However, the scores for some candidates were lower in February 2006 than they were in July 2005, and some candidates increased their scores but not enough to pass in February 2006.

The dotted horizontal lines in Figure 3.1b represent the potential impact of adopting alternate passing scores (660, 665, 670, and 675) in February 2006, assuming that the score distributions remain the same. Under this assumption, the use of an

alternate passing score in February 2006 does not have any impact on the outcome for most candidates but would change the outcome for some candidates whose scores are between passing scores (in the range of 660 to 675). For example, a candidate with a score of 667 would pass if the passing score were 660 or 665 but fail if it were 670 or 675.

Figure 3.1b
First-Time Failing Candidates in July 2005 Repeating in February 2006
NY Bar Exam Scores in February 2006 versus Scores in July 2005
Domestic-Educated Candidates



Note: The diagonal line indicates the location of points for candidates with the same scores in July 2005 and February 2006. Points above this diagonal line indicate candidates whose score improved between July 2005 and February 2006, and points below this diagonal indicate candidates whose scores decreased. The dotted line just below the dashed line representing the current passing score of 665 corresponds to a passing score of 660, and the two dotted lines above the dashed line correspond to projected passing scores of 670 and 675.

Table 3.1 reports on average scores (means) and SDs (standard deviations) in July 2005 and February 2006 for the total group of domestic-educated first-time failing candidates and for the female and male candidates in this group. Means and SDs are reported for the NY MBE score (the MBE score x 5), the essay score and the NYMC score, as well as the total NY bar exam score. For example, the first row of numbers in the table reports the means (and SDs) for female candidates, for whom means on the total NY bar exam were 627.75 in July 2005 and 670.15 in February 2006.

Table 3.1
First-Time Failing Candidates in July 2005 Repeating in February 2006
Score Means, Standard Deviations, and Standard Errors
Domestic-Educated Candidates: Females and Males

Gender		July 2005				February 2006			
		MBE x 5	Essay	NY MC	NY Bar	MBE x 5	Essay	NY MC	NY Bar
Female (n = 420; SEM ≈ 2.5)	Mean	614.60	636.85	634.84	627.75	655.69	682.55	665.88	670.15
	(SD)	(44.91)	(42.77)	(62.01)	(31.27)	(56.82)	(61.60)	(65.73)	(49.54)
Male (n = 365; SEM ≈ 2.7)	Mean	635.72	622.70	630.22	628.65	677.30	673.38	667.75	674.38
	(SD)	(46.53)	(45.22)	(65.88)	(30.93)	(57.44)	(59.29)	(63.14)	(49.30)
Total* (N = 864; SEM ≈ 1.8)	Mean	624.82	630.34	632.66	628.36	666.02	678.00	666.48	672.06
	(SD)	(46.73)	(44.17)	(62.92)	(30.59)	(57.76)	(60.82)	(64.48)	(49.17)

*Total includes 79 candidates in the sample of domestic-educated first-time test takers who did not record their genders.
Note: The standard error of the mean (SEM) is equal to the SD divided by the square root of the sample size, and is given in the table after the sample size (n or N).

Table 3.2 summarizes the main results in Table 3.1 by listing the means and SDs of the differences in candidate scores between July 2005 and February 2006. For example, similar to Table 3.1 the first row of numbers lists means (and SDs) for female candidates, with a mean difference on the bar exam of 42.40. This number is obtained by subtracting the mean July 2005 NY bar exam score from the mean February 2006 NY bar exam score (670.15 - 627.75 = 42.40).

As indicated in Table 3.1 and 3.2, all of the scores increase on average for both females and males and for the total group. Although the increase for the total group tends to be largest for the essay scores (about 48 points) and smallest for the NYMC test (about 34 points), all of the increases are substantial (almost as large as the standard deviation of scores in February 2006), and they are ten to twenty times as large as the corresponding standard errors. Consistent with previous findings, the results in Table 3.1 indicate that the females had higher means on the Essay test, the males had higher means on the MBE, and the two groups had similar means on the

NYMC in both July 2005 and February 2006. The results in Table 3.2 indicate that the males improved more on average than the females between July 2005 and February 2006 on all three of the component tests, with the largest differences for the NYMC and the Essay test and a negligible change for the MBE.

Table 3.2
First-Time Failing Candidates in July 2005 Repeating in February 2006
Difference Scores for February 2006 minus July 2005
Means, Standard Deviations, and Standard Errors
Domestic-Educated Candidates: Females and Males

Gender		MBE x 5 Difference	Essay Score Difference	NYMC Score Difference	Total NY Bar Score Difference
Female (n = 420; SEM ≈ 2.7)	Mean	41.09	45.69	31.05	42.40
	(SD)	(46.39)	(60.69)	(74.31)	(40.92)
Male (n = 365; SEM ≈ 3.0)	Mean	41.58	50.68	37.53	45.73
	(SD)	(48.70)	(62.15)	(74.25)	(42.39)
Total* (N = 864; SEM ≈ 1.9)	Mean	41.20	47.66	33.82	43.70
	(SD)	(47.57)	(61.84)	(73.52)	(41.80)

*Total includes 79 candidates in the sample of domestic-educated first-time test takers who did not record their genders.

Tables 3.3 and 3.4 report on changes in NY bar exam scores (means, SDs and SEMs) for candidates who failed for the first time in July 2005 as a function of race/ethnicity. The differences between groups in Table 3.3 are relatively small compared to the standard errors for the estimates of the group means (which are quite large for groups with small sample sizes) and are much smaller than the corresponding differences that were found in the earlier (2006) study for all domestic-educated first-time takers in July 2005.[3]

Table 3.3
First-Time Failing Candidates in July 2005 Repeating in February 2006
Score Means, Standard Deviations, and Standard Errors
Domestic-Educated Candidates: Racial/Ethnic Groups

Race/ Ethnicity		July 2005				February 2006			
		MBE x 5	Essay	NY MC	NY Bar	MBE x 5	Essay	NY MC	NY Bar
Caucasian/ White (n = 443; SEM ≈ 2.5)	Mean	624.40	632.63	631.82	629.26	667.51	681.70	668.56	674.72
	(SD)	(45.31)	(44.06)	(64.71)	(29.33)	(56.46)	(60.45)	(65.07)	(49.02)
Asian/ Pacific Islander (n = 101; SEM ≈ 5.6)	Mean	621.63	620.83	638.04	622.87	661.75	665.78	663.45	663.91
	(SD)	(51.21)	(48.80)	(73.14)	(37.41)	(61.66)	(60.40)	(65.33)	(48.90)
Black/ African American (n = 144; SEM ≈ 4.3)	Mean	626.96	628.75	625.55	627.68	663.38	677.43	667.15	670.78
	(SD)	(46.77)	(44.75)	(59.52)	(32.73)	(60.41)	(59.11)	(64.28)	(49.24)
Hispanic/ Latino (n = 50; SEM ≈ 7.5)	Mean	613.05	634.41	640.21	626.40	657.74	673.86	659.13	665.94
	(SD)	(45.60)	(43.06)	(52.13)	(29.42)	(59.25)	(67.63)	(70.16)	(55.17)
Other (n = 36; SEM ≈ 8.2)	Mean	637.74	627.81	640.84	633.03	682.94	687.30	668.36	683.75
	(SD)	(54.91)	(38.32)	(57.12)	(29.85)	(61.83)	(57.42)	(47.74)	(46.57)
Total* (N = 864; SEM ≈ 1.8)	Mean	624.82	630.34	632.66	628.36	666.02	678.00	666.48	672.06
	(SD)	(46.73)	(44.17)	(62.92)	(30.59)	(57.76)	(60.82)	(64.48)	(49.17)

*Total includes racial/ethnic groups with fewer than 20 candidates, which are not separately listed in the table.
Note: The SEM tends to be large for groups with small sample sizes. For example, for the Puerto Rican group (with 9 candidates) the SEM is about 12 points.

Table 3.4
First-Time Failing Candidates in July 2005 Repeating in February 2006
Difference Scores for February 2006 minus July 2005
Means, Standard Deviations, and Standard Errors
Domestic-Educated Candidates: Racial/Ethnic Groups

Race/ Ethnicity		MBE x 5 Difference	Essay Score Difference	NYMC Score Difference	Total NY Bar Score Difference
Caucasian/ White (n = 443; SEM ≈ 2.7)	Mean	43.11	49.07	36.74	45.46
	(SD)	(45.51)	(64.22)	(75.50)	(43.50)
Asian/ Pacific Islander (n = 101; SEM ≈ 5.5)	Mean	40.12	44.95	25.41	41.04
	(SD)	(45.33)	(60.22)	(78.97)	(37.76)
Black/ African American (n = 144; SEM ≈ 4.5)	Mean	36.42	48.68	41.60	43.10
	(SD)	(48.77)	(54.21)	(75.19)	(36.70)
Hispanic/ Latino (n = 50; SEM ≈ 8.0)	Mean	44.69	39.45	18.91	39.54
	(SD)	(59.59)	(60.21)	(59.43)	(46.48)
Other (n = 36; SEM ≈ 8.7)	Mean	45.21	59.49	27.51	50.72
	(SD)	(55.67)	(60.79)	(51.66)	(40.07)
Total* (N = 864; SEM ≈ 1.9)	Mean	41.20	47.66	33.82	43.70
	(SD)	(47.57)	(61.84)	(73.52)	(41.80)

*Total includes racial/ethnic groups with fewer than 20 candidates, which are not separately listed in the table.
Note: The SEM tends to be large for groups with small sample sizes.

Table 3.4 makes it especially clear that the different groups improved their average scores by similar amounts on the total NY bar exam score (about 44 points) and with somewhat less consistency on the three sub-scores (by about 41 points for the MBE, about 48 points for the essay, and about 33 points for the NYMC). There are some differences across groups but these differences are generally not large compared to the standard errors. For example, the Black/African American candidates' average increase on the MBE (SEM =4.5) was about 4.8 points lower than the average increase

for the total sample, and the increase in the average score on the NYMC test (SEM = 8.0) was almost 15 points less than that for the total sample. But on the whole, all of the racial/ethnic groups showed comparable increases in the total score and on the three sub-scores.

Figure 3.2
First-Time Failing Candidates in July 2005 Repeating in February 2006
Mean Difference Scores for February 2006 minus July 2005
Domestic-Educated Candidates: Racial/Ethnic Groups

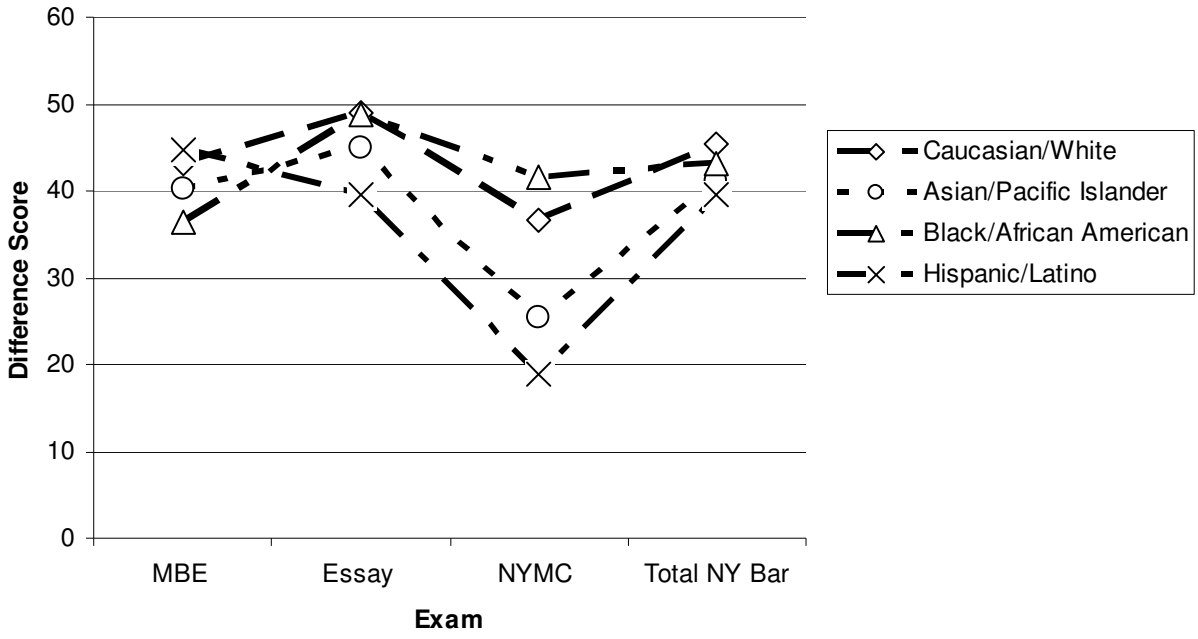


Figure 3.2 presents the average change scores for the racial/ethnic groups from Table 3.4 graphically. On the right side of Figure 3.2, the mean change scores for the total NY bar scores for the different groups are clustered quite closely, all showing an increase of about 40 to 45 points. The changes on the MBE and the essay are also tightly clustered. The largest differences are in the mean scores on the NYMC test.

The group differences in the average changes in the total NY bar exam scores are illustrated in Figure 3.3, which focuses on the mean changes in the total score for the racial/ethnic groups from July 2005 to February 2006. Figure 3.3 highlights several findings. First, the change in average scores from July 2005 to February 2006 for first-time failing candidates is quite large compared to the differences among sub-groups of first-time failing candidates defined by race/ethnicity in July 2005 or February 2006. Second, the average improvements in NY bar exam scores between July 2005 and February 2006 are similar across racial/ethnic groups.

Figure 3.3
First-Time Failing Candidates in July 2005 Repeating in February 2006
Mean NY Bar Exam Scores July 2005 to February 2006
Domestic-Educated Candidates: Racial/Ethnic Groups

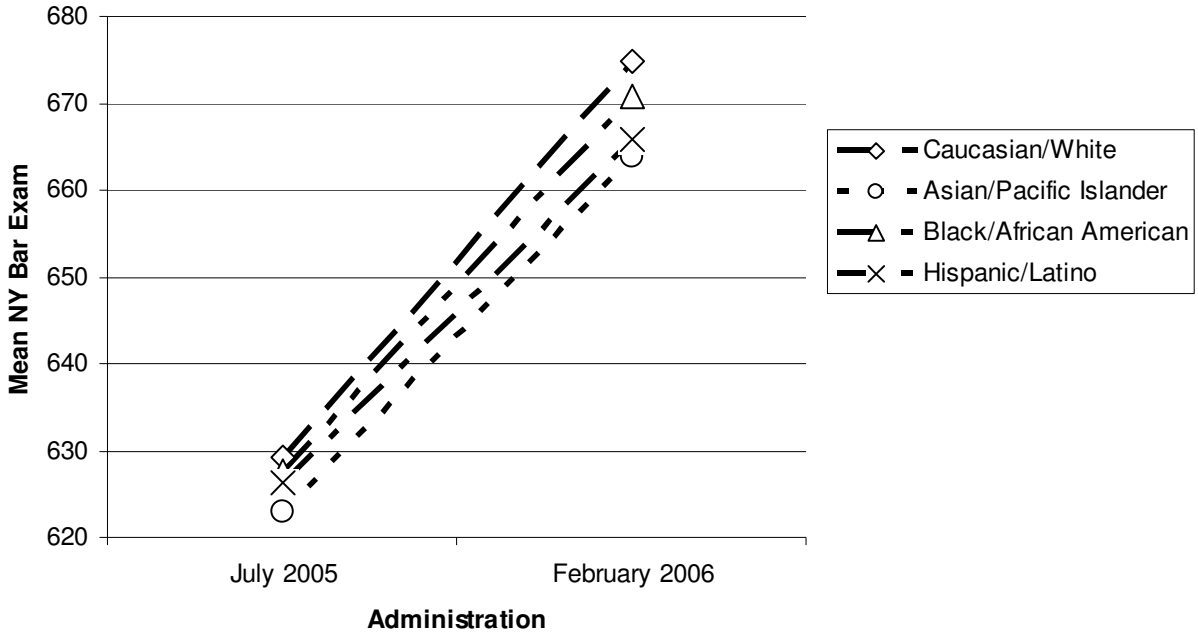
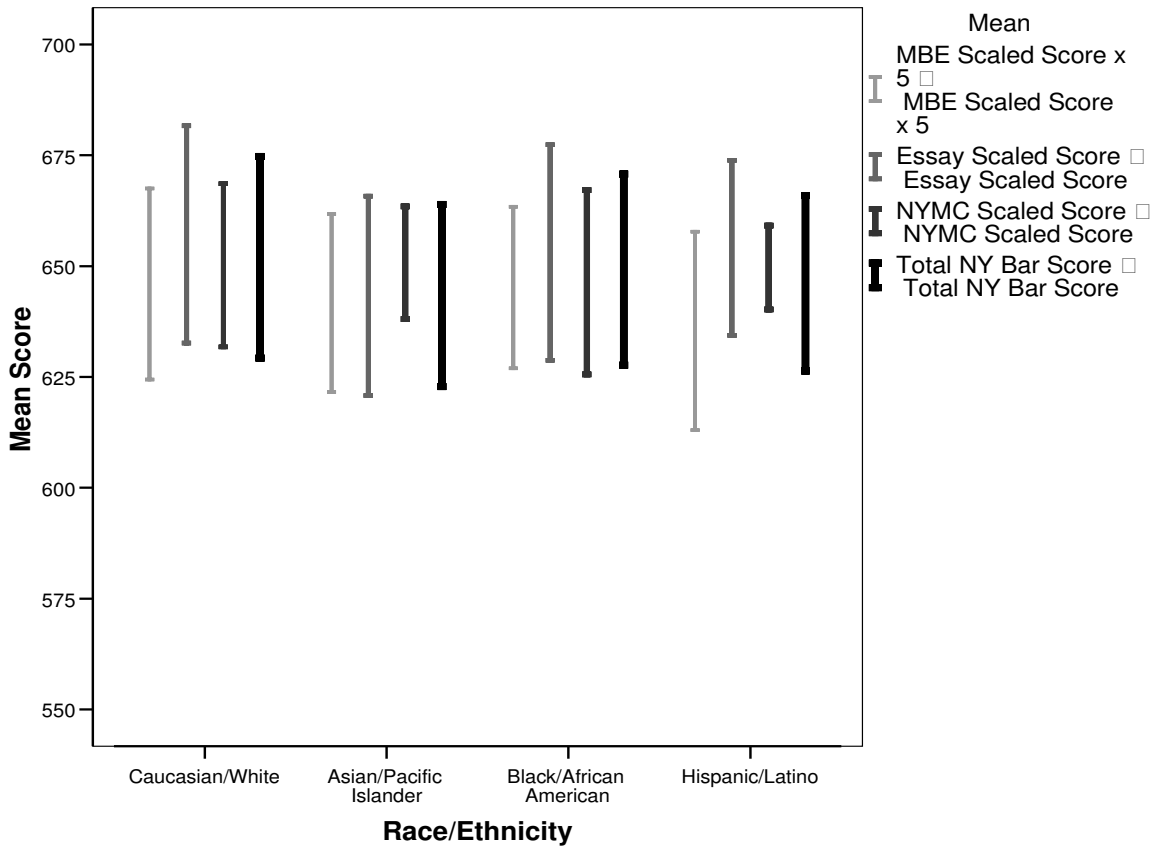


Figure 3.4 summarizes the changes in average scores on the three subtests using vertical bars representing the changes for the sub-scores and for the total score for each of the racial/ethnic groups. The bottom of each bar represents the average value of the sub-test score for the failing candidates in that group in July 2005, and the top of the bar represents the value for these candidates in February 2006. The heavy bar on the right for each group represents the change in the total score for that racial/ethnic group. Score patterns within each racial/ethnic group and between racial/ethnic groups are generally similar; there were large increases in all subtest scores between July 2005 and February 2006.

Figure 3.4
First-Time Failing Candidates in July 2005 Repeating in February 2006
Score Means for July 2005 (Low) to February 2006 (High)
Domestic-Educated Candidates: Racial/Ethnic Groups



Tables 3.5 and 3.6 report on the average scores in July 2005 and February 2006 and on changes in NY bar exam scores (means, SDs and SEMs) as a function of race/ethnicity for female domestic-educated first-time failing candidates. Again, the differences between groups are not very large compared to the standard errors for the estimates of the group means, which are quite large for most of the group means (especially for groups with small sample sizes). Consistent with previous findings, the female candidates had higher scores on the Essay test than they did on the MBE; this was true for every racial/ethnic group. The results in Table 3.6 indicate that, for the female candidates, each racial/ethnic group improved their mean scores by about the same amount in February 2006 after failing for the first time in July 2005. For all groups, the largest improvement occurred on the essay test and the smallest improvement occurred on the NYMC test. The standard errors are large because the subgroups have small sample sizes.

Table 3.5
First-Time Failing Candidates in July 2005 Repeating in February 2006
Score Means, Standard Deviations, and Standard Errors
Female Domestic-Educated Candidates: Racial/Ethnic Groups

Race/ Ethnicity		July 2005				February 2006			
		MBE x 5	Essay	NY MC	NY Bar	MBE x 5	Essay	NY MC	NY Bar
Caucasian/ White (n = 225; SEM ≈ 3.4)	Mean	616.00	639.02	633.76	629.31	656.55	684.47	666.88	671.56
	(SD)	(43.69)	(42.39)	(61.99)	(29.12)	(54.38)	(61.19)	(66.69)	(48.68)
Asian/ Pacific Islander (n = 53; SEM ≈ 7.4)	Mean	611.56	628.25	643.75	623.15	651.89	673.97	668.07	664.49
	(SD)	(45.81)	(48.32)	(72.49)	(35.77)	(58.48)	(63.07)	(57.54)	(48.99)
Black/ African American (n = 85; SEM ≈ 5.7)	Mean	615.65	636.38	625.91	626.98	655.68	680.43	659.97	668.48
	(SD)	(46.69)	(42.78)	(59.29)	(33.67)	(59.26)	(58.88)	(71.43)	(48.06)
Hispanic/ Latino (n = 27; SEM ≈ 10.7)	Mean	602.11	634.32	635.91	621.52	644.15	678.91	669.23	664.07
	(SD)	(43.45)	(43.80)	(50.93)	(35.05)	(62.34)	(77.36)	(69.90)	(62.66)
Other (n = 22; SEM ≈ 10.9)	Mean	614.25	638.52	648.87	629.82	669.18	697.40	669.14	683.45
	(SD)	(49.57)	(37.83)	(58.88)	(31.69)	(66.71)	(58.66)	(53.97)	(52.84)
Total* (N = 420; SEM ≈ 2.5)	Mean	614.60	636.85	634.84	627.75	655.69	682.55	665.88	670.15
	(SD)	(44.91)	(42.77)	(62.01)	(31.27)	(56.82)	(61.60)	(65.73)	(49.54)

*Total includes racial/ethnic groups with fewer than 20 candidates, which are not separately listed in the table.
Note: The SEM tends to be large for groups with small sample sizes.

Table 3.6
First-Time Failing Candidates in July 2005 Repeating in February 2006
Difference Scores for February 2006 minus July 2005
Means, Standard Deviations, and Standard Errors
Female Domestic-Educated Candidates: Racial/Ethnic Groups

Race/ Ethnicity		MBE x 5 Difference	Essay Score Difference	NYMC Score Difference	Total NY Bar Score Difference
Caucasian/ White (n = 225; SEM ≈ 3.8)	Mean	40.55	45.45	33.12	42.26
	(SD)	(43.27)	(63.34)	(75.78)	(42.60)
Asian/ Pacific Islander (n = 53; SEM ≈ 7.3)	Mean	40.33	45.72	24.32	41.34
	(SD)	(44.34)	(59.42)	(75.52)	(33.76)
Black/ African American (n = 85; SEM ≈ 5.9)	Mean	40.03	44.05	34.06	41.51
	(SD)	(48.88)	(55.37)	(76.83)	(37.28)
Hispanic/ Latino (n = 27; SEM ≈ 11.9)	Mean	42.04	44.59	33.32	42.56
	(SD)	(61.31)	(65.72)	(67.88)	(53.00)
Other (n = 22; SEM ≈ 10.7)	Mean	54.93	58.88	20.27	53.64
	(SD)	(58.57)	(55.05)	(47.27)	(39.47)
Total* (N = 420; SEM ≈ 2.7)	Mean	41.09	45.69	31.05	42.40
	(SD)	(46.39)	(60.69)	(74.31)	(40.92)

*Total includes racial/ethnic groups with fewer than 20 candidates, which are not separately listed in the table.
Note: The SEM tends to be large for groups with small sample sizes.

Tables 3.7 and 3.8 report comparisons between the majority Caucasian/White female group and a group of all racial/ethnic minority female candidates. The different racial/ethnic minority groups were combined for these analyses in order to increase the sample size, and thereby to reduce the standard error for the minority group. Table 3.7 indicates that the Caucasian/White females had a slightly higher mean score on the NY bar exam than the minority female candidates in both July 2005 and February 2006, and Table 3.8 indicates that there is very little difference between the two groups in the magnitudes of the mean changes between July 2005 and February 2006 (about 1 point compared to standard errors of about 4 points for each group).

Table 3.7
First-Time Failing Candidates in July 2005 Repeating in February 2006
Score Means, Standard Deviations, and Standard Errors
Female Domestic-Educated Candidates: Racial/Ethnic Groups

Race/ Ethnicity		July 2005				February 2006			
		MBE x 5	Essay	NY MC	NY Bar	MBE x 5	Essay	NY MC	NY Bar
Caucasian/ White (n = 225; SEM ≈ 3.4)	Mean	616.00	639.02	633.76	629.31	656.55	684.47	666.88	671.56
	(SD)	(43.69)	(42.39)	(61.99)	(29.12)	(54.38)	(61.19)	(66.69)	(48.68)
Minority Group** (n = 173; SEM ≈ 4.0)	Mean	612.84	633.83	634.45	625.46	652.86	678.16	664.17	666.62
	(SD)	(46.06)	(43.88)	(62.55)	(33.86)	(58.63)	(62.40)	(66.11)	(50.14)
Total* (N = 420; SEM ≈ 2.5)	Mean	614.60	636.85	634.84	627.75	655.69	682.55	665.88	670.15
	(SD)	(44.91)	(42.77)	(62.01)	(31.27)	(56.82)	(61.60)	(65.73)	(49.54)

*Total includes racial/ethnic groups that are not separately listed in the table.
**The minority group includes Asian/Pacific Islander, Black/African American, Puerto Rican, Chicano/Mexican American, and American Indian/Alaskan Native groups, but does not include the group “Other” or candidates who omitted their race/ethnicity.
Note: The SEM tends to be large for groups with small sample sizes.

Table 3.8
First-Time Failing Candidates in July 2005 Repeating in February 2006
Difference Scores for February 2006 minus July 2005
Means, Standard Deviations, and Standard Errors
Female Domestic-Educated Candidates: Racial/Ethnic Groups

Race/ Ethnicity		MBE x 5 Difference	Essay Score Difference	NYMC Score Difference	Total NY Bar Score Difference
Caucasian/ White (n = 225; SEM ≈ 3.8)	Mean	40.55	45.45	33.12	42.26
	(SD)	(43.27)	(63.34)	(75.78)	(42.60)
Minority Group** (n = 173; SEM ≈ 4.2)	Mean	40.02	44.33	29.73	41.17
	(SD)	(48.58)	(57.90)	(75.36)	(38.82)
Total* (N = 420; SEM ≈ 2.7)	Mean	41.09	45.69	31.05	42.40
	(SD)	(46.39)	(60.69)	(74.31)	(40.92)

*Total includes racial/ethnic groups that are not separately listed in the table.
**The minority Group includes Asian/Pacific Islander, Black/African American, Puerto Rican, Chicano/Mexican American, and American Indian/Alaskan Native groups, but does not include the group "Other" or candidates who omitted their race/ethnicity.
Note: The SEM tends to be large for groups with small sample sizes.

Tables 3.9 to 3.12 summarize the score changes between July 2005 and February 2006 for males as a function of race/ethnicity. For the male candidates who failed in July 2005 and repeated in February 2006 the differences between sub-group means and the overall mean were generally between 5 and 10 points (with SEMs up to 10 points). Table 3.10 indicates that, except for the Hispanic/Latino group (which had a small sample size and large standard error), the overall change in total NY bar exam scores were also similar, at about a 45 point increase. The results in Tables 3.11 and 3.12 suggest that the Caucasian/White males had somewhat larger gains on all three component tests and on the total NY bar exam than the minority males taken as a whole (although, this difference is slightly less than two SEMs).

As indicated in Table 3.9, the first-time failing males generally had higher mean scores on the MBE than they did on the Essay test in July 2005 (with the exception of the Hispanic/Latino group, which had a small sample size and large SEM). However, males improved their essay scores more than their MBE scores between July 2005 and February 2006 (again with the exception of the Hispanic/Latino group), and therefore did almost as well on the Essay test as the MBE in February 2006.

Table 3.9
First-Time Failing Candidates in July 2005 Repeating in February 2006
Score Means, Standard Deviations, and Standard Errors
Male Domestic-Educated Candidates: Racial/Ethnic Groups

Race/ Ethnicity		July 2005				February 2006			
		MBE x 5	Essay	NY MC	NY Bar	MBE x 5	Essay	NY MC	NY Bar
Caucasian/ White (n = 217; SEM ≈ 3.5)	Mean	632.66	626.26	629.32	629.12	678.33	679.06	670.02	677.86
	(SD)	(45.12)	(44.85)	(67.23)	(29.64)	(56.12)	(59.74)	(63.46)	(49.35)
Asian/ Pacific Islander (n = 48; SEM ≈ 8.3)	Mean	632.75	612.65	631.73	622.56	672.65	656.75	658.35	663.27
	(SD)	(54.94)	(48.52)	(74.09)	(39.53)	(63.83)	(56.58)	(73.25)	(49.31)
Black/ African American (n = 59; SEM ≈ 6.5)	Mean	643.25	617.76	625.03	628.69	674.47	673.12	677.49	674.10
	(SD)	(42.19)	(45.60)	(60.36)	(31.58)	(60.83)	(59.69)	(51.11)	(51.12)
Hispanic/ Latino (n = 23; SEM ≈ 10.1)	Mean	625.89	634.50	645.26	632.13	673.70	667.92	647.27	668.13
	(SD)	(45.62)	(43.16)	(54.21)	(20.30)	(52.27)	(55.19)	(70.13)	(46.13)
Total* (N = 365; SEM ≈ 2.7)	Mean	635.72	622.70	630.22	628.65	677.30	673.38	667.75	674.38
	(SD)	(46.53)	(45.22)	(65.88)	(30.93)	(57.44)	(59.29)	(63.14)	(49.30)

*Total includes racial/ethnic groups with fewer than 20 candidates, which are not separately listed in the table.
Note: The SEM tends to be large for groups with small sample sizes.

Table 3.10
First-Time Failing Candidates in July 2005 Repeating in February 2006
Difference Scores for February 2006 minus July 2005
Means, Standard Deviations, and Standard Errors
Male Domestic-Educated Candidates: Racial/Ethnic Groups

Race/ Ethnicity		MBE x 5 Difference	Essay Score Difference	NYMC Score Difference	Total NY Bar Score Difference
Caucasian/ White (n = 217; SEM ≈ 3.9)	Mean	45.67	52.80	40.70	48.74
	(SD)	(47.76)	(65.20)	(75.29)	(44.37)
Asian/ Pacific Islander (n = 48; SEM ≈ 8.4)	Mean	39.90	44.10	26.62	40.71
	(SD)	(46.87)	(61.72)	(83.39)	(42.10)
Black/ African American (n = 59; SEM ≈ 6.8)	Mean	31.23	55.35	52.46	45.41
	(SD)	(48.55)	(52.24)	(72.02)	(36.03)
Hispanic/ Latino (n = 23; SEM ≈ 10.1)	Mean	47.80	33.42	2.00	36.00
	(SD)	(58.73)	(53.85)	(43.21)	(38.31)
Total* (N = 365; SEM ≈ 3.0)	Mean	41.58	50.68	37.53	45.73
	(SD)	(48.70)	(62.15)	(74.25)	(42.39)

*Total includes racial/ethnic groups with fewer than 20 candidates, which are not separately listed in the table.
Note: The SEM tends to be large for groups with small sample sizes.

Table 3.11
First-Time Failing Candidates in July 2005 Repeating in February 2006
Score Means, Standard Deviations, and Standard Errors
Male Domestic-Educated Candidates: Racial/Ethnic Groups

Race/ Ethnicity		July 2005				February 2006			
		MBE x 5	Essay	NY MC	NY Bar	MBE x 5	Essay	NY MC	NY Bar
Caucasian/ White (n = 217; SEM ≈ 3.5)	Mean	632.66	626.26	629.32	629.12	678.33	679.06	670.02	677.86
	(SD)	(45.12)	(44.85)	(67.23)	(29.64)	(56.12)	(59.74)	(63.46)	(49.35)
Minority Group** (n = 134; SEM ≈ 4.6)	Mean	636.60	618.16	631.90	626.90	672.79	664.40	664.15	667.72
	(SD)	(47.67)	(46.50)	(65.19)	(33.27)	(59.94)	(58.41)	(64.88)	(49.90)
Total* (N = 365; SEM ≈ 2.7)	Mean	635.72	622.70	630.22	628.65	677.30	673.38	667.75	674.38
	(SD)	(46.53)	(45.22)	(65.88)	(30.93)	(57.44)	(59.29)	(63.14)	(49.30)

*Total includes racial/ethnic groups that are not separately listed in the table.
**The minority group includes Asian/Pacific Islander, Black/African American, Puerto Rican, Chicano/Mexican American, and American Indian/Alaskan Native groups, but does not include the group "Other" or candidates who omitted their race/ethnicity.
Note: The SEM tends to be large for groups with small sample sizes.

Table 3.12
First-Time Failing Candidates in July 2005 Repeating in February 2006
Difference Scores for February 2006 minus July 2005
Means, Standard Deviations, and Standard Errors
Male Domestic-Educated Candidates: Racial/Ethnic Groups

Race/ Ethnicity		MBE x 5 Difference	Essay Score Difference	NYMC Score Difference	Total NY Bar Score Difference
Caucasian/ White (n = 217; SEM ≈ 3.9)	Mean	45.67	52.80	40.70	48.74
	(SD)	(47.76)	(65.20)	(75.29)	(44.37)
Minority Group** (n = 134; SEM ≈ 4.7)	Mean	36.19	46.24	32.24	40.82
	(SD)	(49.82)	(55.99)	(74.23)	(38.85)
Total* (N = 365; SEM ≈ 3.0)	Mean	41.58	50.68	37.53	45.73
	(SD)	(48.70)	(62.15)	(74.25)	(42.39)

*Total includes racial/ethnic groups that are not separately listed in the table.
**The Minority group includes Asian/Pacific Islander, Black/African American, Puerto Rican, Chicano/Mexican American, and American Indian/Alaskan Native groups, but does not include the group "Other" or candidates who omitted their race/ethnicity.
Note: The SEM tends to be large for groups with small sample sizes.

Tables 3.13 and 3.14 report on changes in bar exam scores between July 2005 and February 2006 as a function of candidate age at graduation. Note that the sample sizes decrease and the standard errors increase as age at graduation increases. Although the trends are not very strong or consistent, the results in Table 3.13 suggest that, for the candidates who failed for the first time in July 2005, the total scores on the NY bar exam may decrease slightly as age at graduation increases in both July 2005 and February 2006.

As indicated in the analyses reported earlier, the scores for the candidates who failed for the first time in July 2005 and repeated in February 2006 were generally higher when the examination was repeated in February 2006, increasing by about 44 points on average. The results in Table 3.14 suggest the magnitude of the change tends to decrease as a function of age at graduation, but this trend is not very consistent from one age category to the next and is small compared to the 40-point average increase.

Table 3.13
First-Time Failing Candidates in July 2005 Repeating in February 2006
Score Means, Standard Deviations, and Standard Errors
Domestic-Educated Candidates: Age at Graduation

Age at Graduation		July 2005				February 2006			
		MBE x 5	Essay	NY MC	NY Bar	MBE x 5	Essay	NY MC	NY Bar
Less than 27 (n = 412; SEM ≈ 2.6)	Mean	623.29	634.41	629.26	629.42	663.60	683.17	664.54	673.46
	(SD)	(45.85)	(43.79)	(66.22)	(30.85)	(57.97)	(59.42)	(64.88)	(48.26)
27 - 28 (n = 174; SEM ≈ 4.0)	Mean	626.15	634.00	632.91	630.73	674.80	682.50	667.50	677.96
	(SD)	(47.83)	(42.77)	(58.20)	(29.35)	(61.93)	(67.32)	(60.32)	(54.75)
29 - 30 (n = 79; SEM ≈ 5.4)	Mean	626.33	630.97	627.80	628.81	659.19	674.17	664.58	667.28
	(SD)	(44.89)	(40.78)	(55.37)	(28.10)	(52.03)	(59.76)	(59.03)	(46.46)
31 - 35 (n = 107; SEM ≈ 4.8)	Mean	628.77	628.57	639.68	629.77	668.58	672.83	672.68	671.11
	(SD)	(49.13)	(39.86)	(65.27)	(28.40)	(53.84)	(54.63)	(60.20)	(43.22)
36 - 40 (n = 36; SEM ≈ 8.5)	Mean	632.24	611.81	649.30	623.78	666.92	669.77	670.98	668.72
	(SD)	(46.31)	(47.07)	(49.37)	(33.34)	(57.97)	(63.67)	(60.28)	(50.95)
41 - 45 (n = 26; SEM ≈ 9.3)	Mean	603.33	613.43	632.50	611.31	650.13	633.89	657.00	642.73
	(SD)	(39.78)	(49.52)	(49.24)	(34.38)	(46.18)	(50.58)	(63.89)	(45.12)
Total* (N = 864; SEM ≈ 1.8)	Mean	624.82	630.34	632.66	628.36	666.02	678.00	666.48	672.06
	(SD)	(46.73)	(44.17)	(62.92)	(30.59)	(57.76)	(60.82)	(64.48)	(49.17)

*Total includes age ranges with fewer than 20 candidates not separately listed in the table.

Table 3.14
First-Time Failing Candidates in July 2005 Repeating in February 2006
Difference Scores for February 2006 minus July 2005
Means, Standard Deviations, and Standard Errors
Domestic-Educated Candidates: Age at Graduation

Age at Graduation		MBE x 5 Difference	Essay Score Difference	NYMC Score Difference	Total NY Bar Score Difference
Less than 27 (n = 412; SEM ≈ 2.8)	Mean	40.31	48.77	35.28	44.04
	(SD)	(48.21)	(61.77)	(74.25)	(41.90)
27 - 28 (n = 174; SEM ≈ 4.4)	Mean	48.64	48.51	34.58	47.23
	(SD)	(48.02)	(66.87)	(70.35)	(47.91)
29 - 30 (n = 79; SEM ≈ 5.9)	Mean	32.86	43.21	36.78	38.47
	(SD)	(45.31)	(62.82)	(63.30)	(38.89)
31 - 35 (n = 107; SEM ≈ 5.3)	Mean	39.82	44.26	33.00	41.35
	(SD)	(46.01)	(56.59)	(80.99)	(36.95)
36 - 40 (n = 36; SEM ≈ 8.8)	Mean	34.68	57.96	21.68	44.94
	(SD)	(48.06)	(59.43)	(65.98)	(38.32)
41 - 45 (n = 25; SEM ≈ 8.2)	Mean	46.81	20.47	24.49	31.42
	(SD)	(37.06)	(40.45)	(63.23)	(26.01)
Total* (N = 864; SEM ≈ 1.9)	Mean	41.20	47.66	33.82	43.70
	(SD)	(47.57)	(61.84)	(73.52)	(41.80)

*Total includes age ranges with fewer than 20 candidates not separately listed in the table.

Figures 3.5 to 3.8 display the distributions (in the form of *histograms*) of change scores on the MBE, the Essay test, the NYMC test, and the total NY bar exam for the domestic-educated first-time failing candidates in July 2005 repeating in February 2006. As was already discussed in some detail, the scores on each test increased on average between July 2005 and February 2006, and as a result, most of the change scores in all four of the distributions are above zero, although some of the change scores are negative (i.e., some of the candidates got lower scores on their second try).

All four of the distributions of change scores have shapes that approximate a *normal distribution* (a "bell-shaped" curve) typical of test scores in fairly homogeneous samples. That is, they have a concentration of change scores (a central peak) around the mean of the change scores, with fewer and fewer change scores in any interval as we move away from the mean in either direction. The distributions do not have any gaps, any secondary peaks, or any substantial set of outliers.

Figure 3.5
First-Time Failing Candidates in July 2005 Repeating in February 2006
MBE Score Differences
Domestic-Educated Candidates

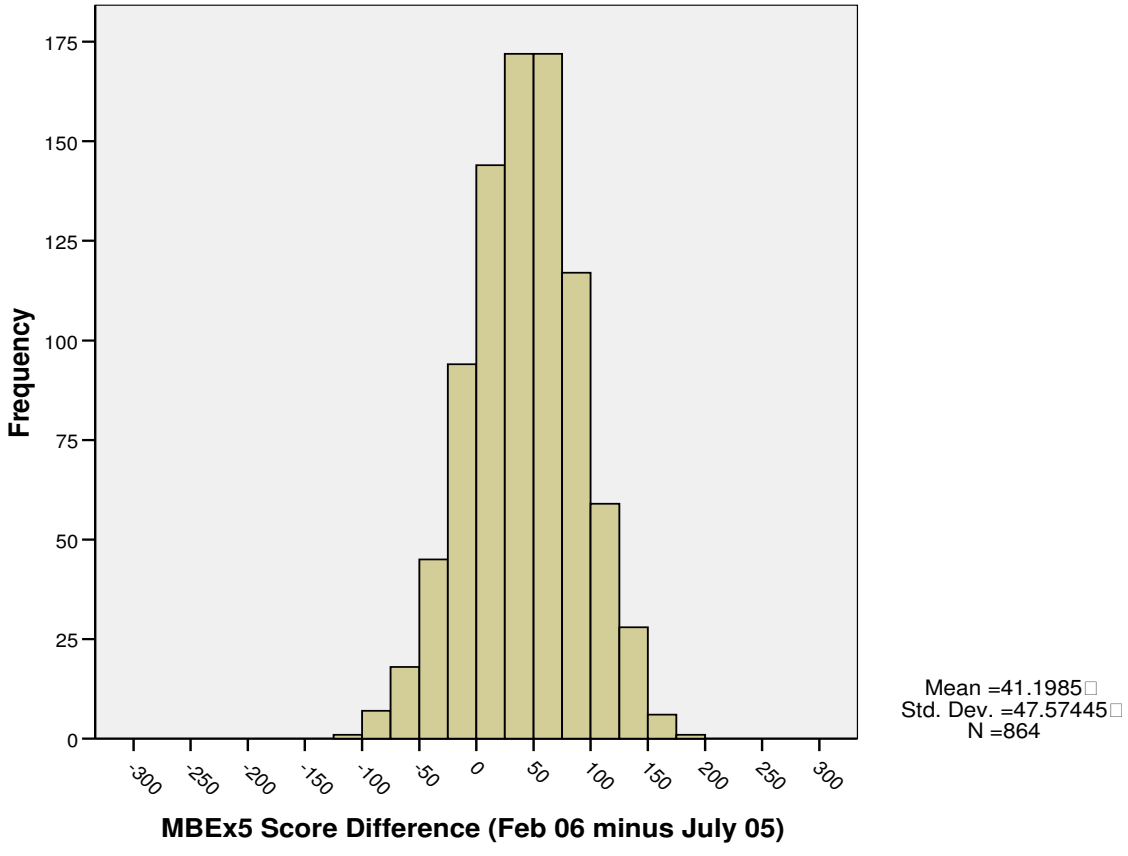


Figure 3.6
First-Time Failing Candidates in July 2005 Repeating in February 2006
Essay Score Differences
Domestic-Educated Candidates

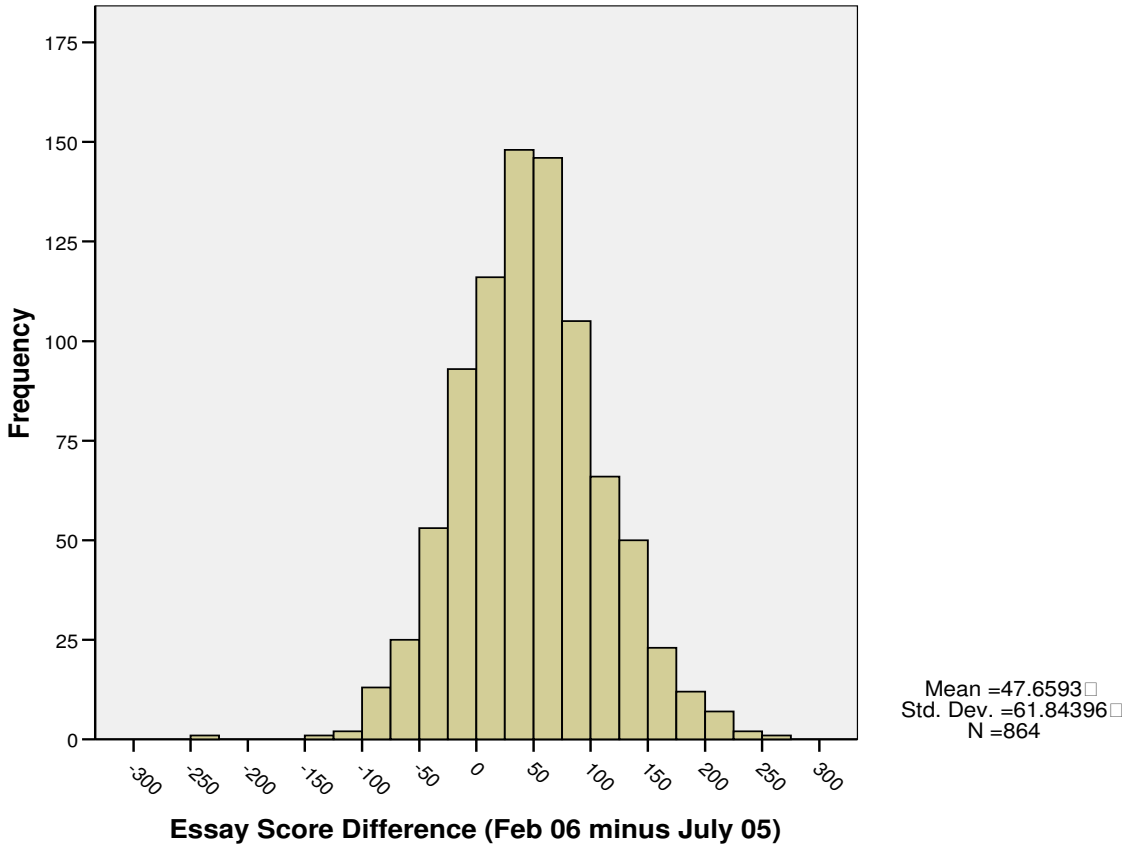


Figure 3.7
First-Time Failing Candidates in July 2005 Repeating in February 2006
NYMC Score Differences
Domestic-Educated Candidates

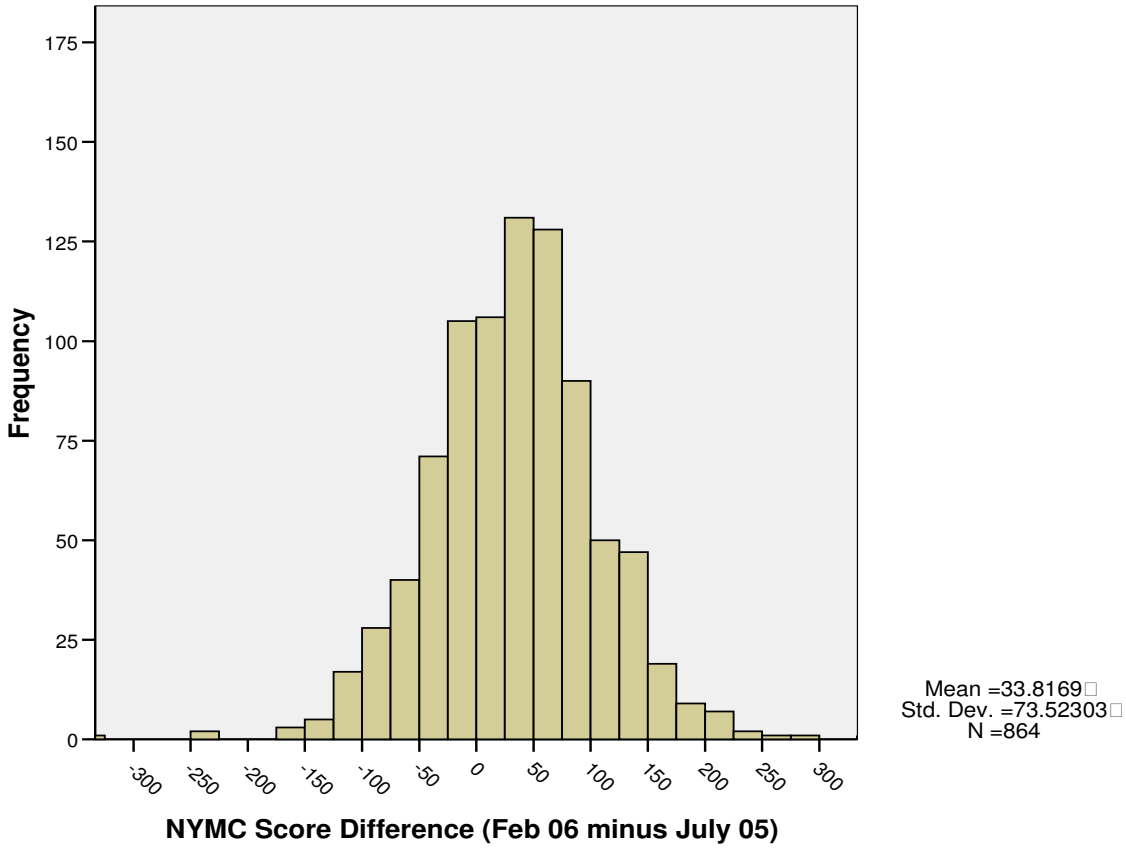
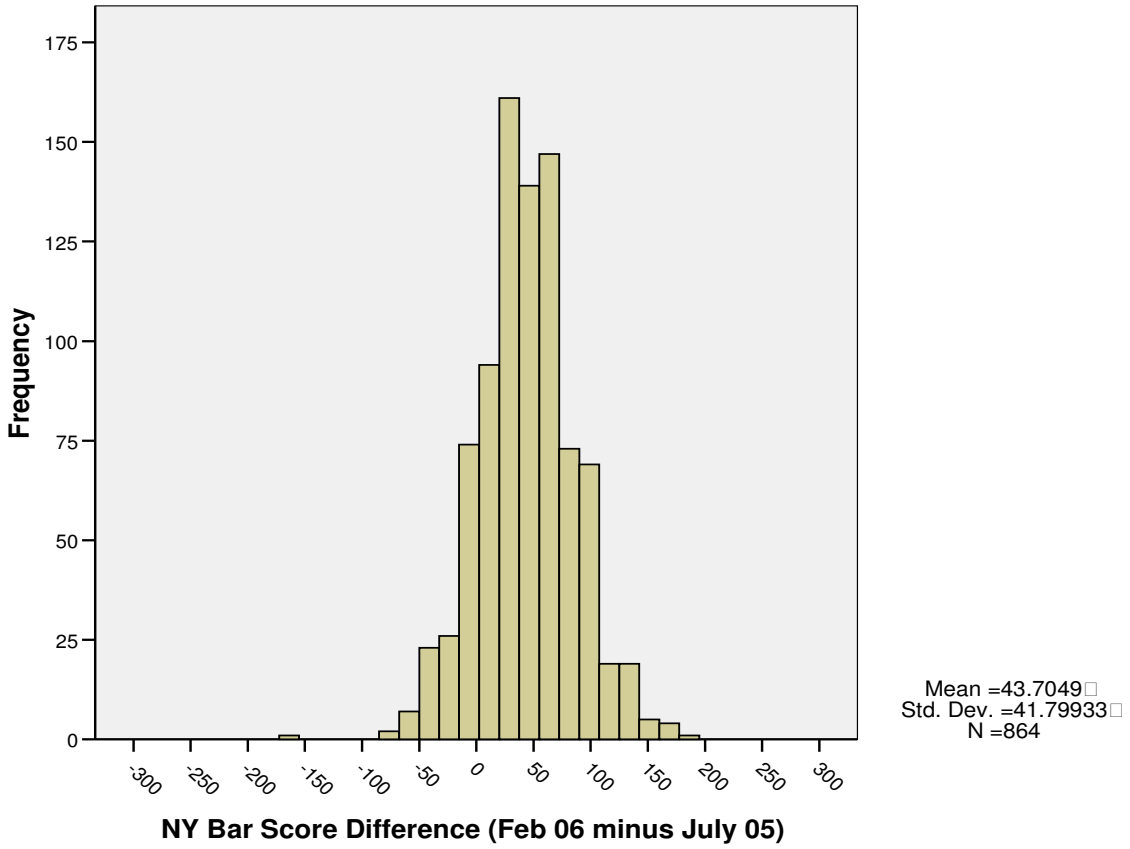


Figure 3.8
First-Time Failing Candidates in July 2005 Repeating in February 2006
NY Bar Exam Score Differences
Domestic-Educated Candidates



3.4 Foreign-Educated First-Time Failing Candidates in July 2005 Who Repeated for the First time in February 2006

The analyses presented in this section are for the foreign-educated candidates. In most cases the layout of this section is the same as the previous section for the domestic-educated candidates. However, the sample sizes for the foreign-educated first-time failing candidates are not large enough to justify separate analyses as a function of race/ethnicity for females and males, and therefore analyses comparable to those in Tables 3.9 - 3.12 for domestic-educated candidates are not included in this section. As indicated in Section 1, we did not have information on the foreign-educated candidate's age at graduation and therefore, the analyses of average scores as a function of age at graduation reported in Tables 3.13 and 3.14 (for domestic-educated candidates) could not be performed for the foreign-educated candidates.

Figure 3.9a provides an overall indication of how scores changed for the foreign-educated first-time failing candidates repeating in February 2006. The horizontal axis represents the candidate's score in July 2005. All of the candidates represented in Figure 3.9a failed in July 2005, and therefore there are no points to the right of the vertical dotted line corresponding to the July 2005 passing score of 665.

The vertical axis in Figure 3.9a represents the candidate's score in February 2006. Note that the February 2006 scores are generally different from the July 2005 scores, and the February 2006 scores are, on average, about 45 points higher than the July 2005. The horizontal dotted line corresponds to the passing score of 665 in February 2006, and it is clear that many of the candidates who failed in July 2005 passed in February 2006, and it is also clear the candidates with July 2005 scores near the passing score (e.g., above 640 or at least 600) had the best chance of passing when they retook the examination in February 2006.

The scores went up on average when the foreign-educated first-time failing candidates in July 2005 repeated in February 2006, and the scores in July 2005 are positively correlated with those in February 2006, but the relationship is far from perfect (the correlation is .78). The correlation between the July 2005 and February 2006 scores for the foreign-educated first-time failers in July 2005 is substantially larger than that for the domestic-educated, first-time failers in July 2005 (0.78 versus 0.53). This difference is due in large part to the fact that the July 2005 foreign-educated first-time failers have a substantially larger standard deviation than the domestic-educated first-time failers in July 2005 (about 57 versus 31), who were more concentrated at near the passing score. Most of the candidates with scores near 665 in July 2005 enjoyed score increases and passed in February 2006, but some suffered score declines and failed again in February 2006. Most of the candidates with scores below 600 in July 2005 also failed in February 2006, but some passed in February 2006.

Figure 3.9a
First-Time Failing Candidates in July 2005 Repeating in February 2006
NY Bar Exam Scores in February 2006 versus Scores in July 2005
Foreign-Educated Candidates

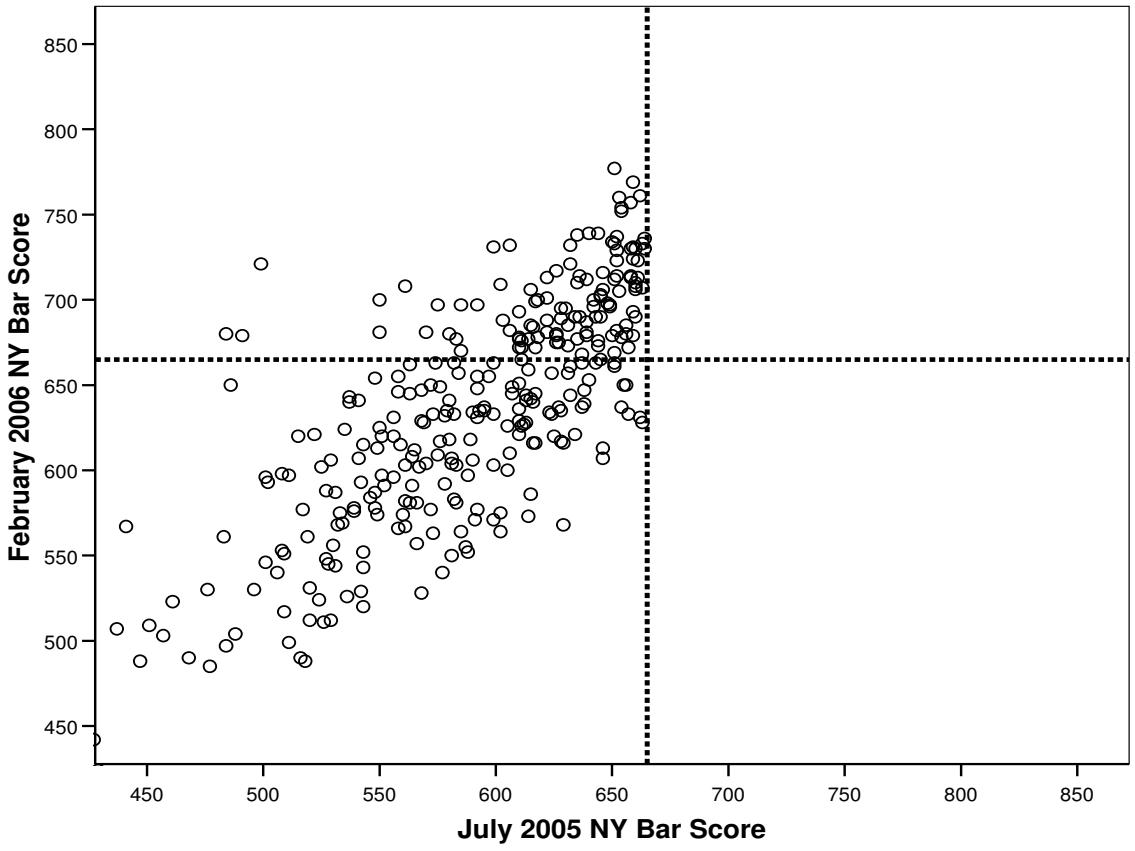
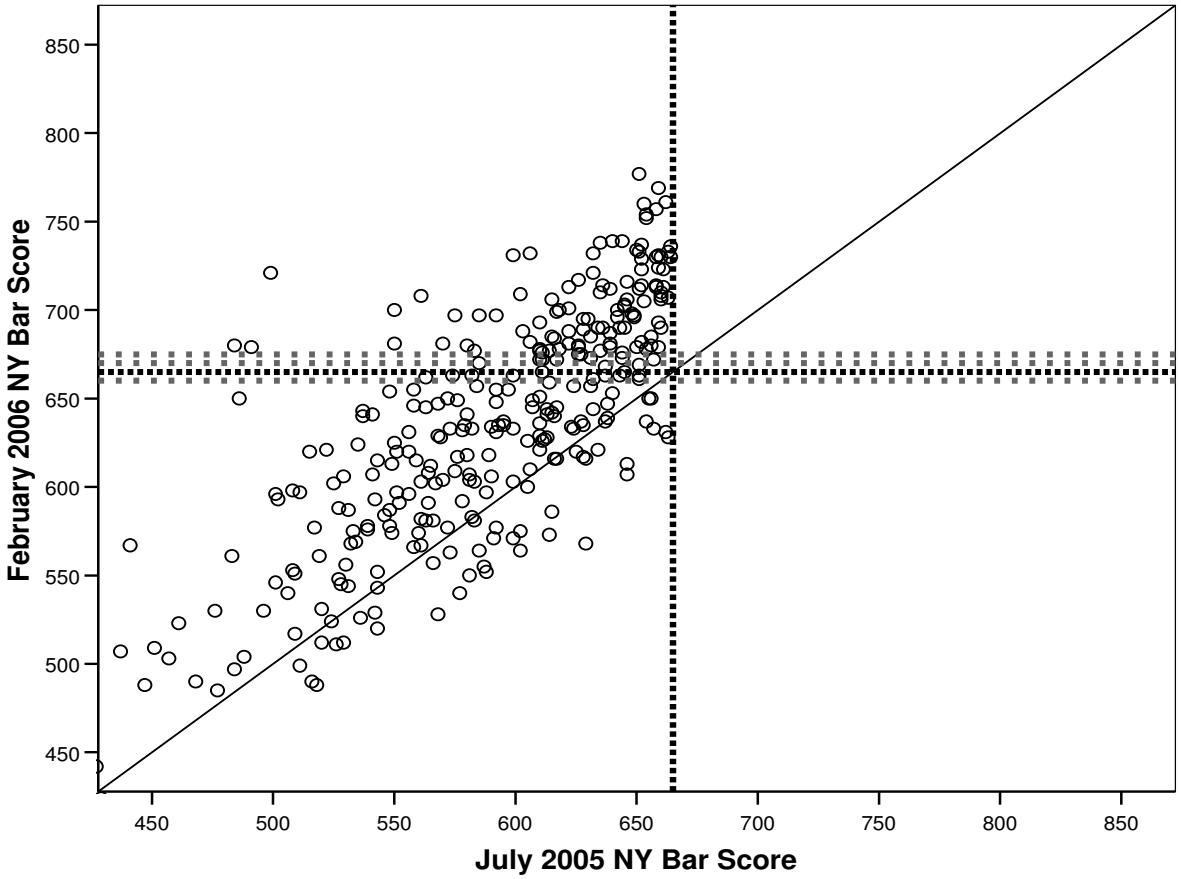


Figure 3.9b is the same as Figure 3.9a, but has some additional reference information superimposed. The diagonal line in Figure 3.9b indicates where the points would fall if the candidates got exactly the same scores in July 2005 and February 2006. With this line included, it may be easier to see that most of the candidates who failed the NY bar exam for the first time in July 2006 got higher scores when they repeated the examination in February 2006, and in many cases, the increases were quite substantial.

The dotted horizontal lines in Figure 3.9b represent the potential impact of adopting alternate passing scores (660, 665, 670, and 675) in February 2006. It is clear that the use of an alternate passing score in February 2006 would not have any impact on the outcome for most candidates but would change the outcome for some candidates whose scores are between passing scores (in the range of 660 to 675).

Figure 3.9b
First-Time Failing Candidates in July 2005 Repeating in February 2006
NY Bar Exam Scores in February 2006 versus Scores in July 2005
Foreign-Educated Candidates



Tables 3.15 and 3.16 summarize the score changes for the foreign-educated first-time failing candidates in July 2005 repeating in February 2006 assuming that the score distributions remain the same. Table 3.15 reports the means, SDs, and standard errors for the total group of foreign-educated first-time failing candidates and for the female and male candidates in this group. Means and SDs are reported for the MBE score, the NY essay score, the NYMC score, and the total NY bar exam score for July 2005 and February 2006. The mean scores on the total NY bar exam were quite similar for the female and male candidates for both July 2005 and February 2006. The mean scores on the sub-tests showed larger differences, with males getting higher average scores on the MBE and the NYMC test, and the females getting higher average scores on the essay test.

Table 3.15
First-Time Failing Candidates in July 2005 Repeating in February 2006
Score Means, Standard Deviations, and Standard Errors
Foreign-Educated Candidates: Females and Males

Gender		July 2005				February 2006			
		MBE x 5	Essay	NY MC	NY Bar	MBE x 5	Essay	NY MC	NY Bar
Female (n = 142; SEM ≈ 5.7)	Mean	577.61	594.09	606.05	588.70	634.27	635.09	633.23	634.59
	(SD)	(61.19)	(62.35)	(71.71)	(52.26)	(75.85)	(72.38)	(80.47)	(64.62)
Male (n = 152; SEM ≈ 5.9)	Mean	602.18	572.26	626.95	589.72	647.56	619.79	648.21	633.76
	(SD)	(73.02)	(69.56)	(74.79)	(61.38)	(81.22)	(68.99)	(82.72)	(69.01)
Total* (N = 312; SEM ≈ 4.0)	Mean	589.93	582.95	615.56	589.02	640.92	627.94	640.67	634.42
	(SD)	(68.34)	(66.22)	(74.08)	(56.77)	(79.42)	(71.90)	(82.24)	(67.78)

*Total includes 18 candidates in the sample of foreign-educated first-time test takers who did not record their genders.

Table 3.16 summarizes the means, SDs and SEMs of the score differences between July 2005 and February 2006 for foreign-educated female and male first-time failing candidates. As indicated in Table 3.16, the average values tend to go up for the total score and for each of the sub-scores for the females, the males, and the total group. The increases tend to be largest for the MBE scores (about 51 points) and smallest for the NYMC test (about 25 points), but all of the average increases are substantial and much larger than the corresponding SEMs. Consistent with previous results, the females generally had higher average scores on the Essay test and the males had higher average scores on the MBE. However, the females showed larger increases on the MBE than on the essay test, while the males showed slightly larger average increases on the essay test than on the MBE.

The smallest increases occurred for the NYMC test. As indicated in Table 3.15 the first-time failing foreign-educated candidates did particularly well on the NYMC test in July 2005, and those who retook the exam in February 2006 may have focused less attention on this test as they prepared to take the bar exam for the second time.

Table 3.16
First-Time Failing Candidates in July 2005 Repeating in February 2006
Difference Scores for February 2006 minus July 2005
Means, Standard Deviations, and Standard Errors
Foreign-Educated Candidates: Females and Males

Gender		MBE x 5 Difference	Essay Score Difference	NYMC Score Difference	Total NY Bar Score Difference
Female (n = 142; SEM ≈ 4.8)	Mean	56.66	41.00	27.17	45.89
	(SD)	(51.04)	(58.35)	(77.77)	(40.58)
Male (n = 152; SEM ≈ 4.5)	Mean	45.38	47.54	21.26	44.04
	(SD)	(52.19)	(56.57)	(70.12)	(42.93)
Total* (N = 312; SEM ≈ 3.2)	Mean	50.98	44.99	25.11	45.40
	(SD)	(51.49)	(58.26)	(73.34)	(42.30)

*Total includes 18 candidates in the sample of domestic-educated repeaters who did not record their genders.

Tables 3.17 and 3.18 report on changes in NY bar exam scores (means, SDs and SEMs) for the foreign-educated candidates who failed for the first time in July 2005 as a function of race/ethnicity. The differences in Table 3.17 are relatively small compared to the differences that were found between racial/ethnic groups for the foreign-educated candidates taking the NY bar exam for the first time in July 2005, but, as indicated in Table 3.17 for the first-time failers in July 2005, the Caucasian/White group did score about 20 points higher than the Asian/Pacific Islander group and the Black/African American group (note that the SEM for the Black/African American group is quite large) in both July 2005 and February 2006.

Table 3.17
First-Time Failing Candidates in July 2005 Repeating in February 2006
Score Means, Standard Deviations, and Standard Errors
Foreign-Educated Candidates: Racial/Ethnic Group

Race/ Ethnicity		July 2005				February 2006			
		MBE x 5	Essay	NY MC	NY Bar	MBE x 5	Essay	NY MC	NY Bar
Caucasian/ White (n = 95 SEM ≈ 6.5)	Mean	596.57	605.24	620.00	603.25	649.91	646.53	642.41	647.44
	(SD)	(63.36)	(55.10)	(67.31)	(48.06)	(74.34)	(64.68)	(76.58)	(60.58)
Asian/ Pacific Islander (n = 143 SEM ≈ 6.0)	Mean	592.55	564.42	616.52	580.88	642.88	613.44	644.84	628.41
	(SD)	(72.70)	(69.06)	(74.56)	(60.70)	(79.75)	(70.68)	(83.47)	(67.80)
Black/ African American (n = 22 SEM ≈ 15.7)	Mean	564.02	583.78	613.33	578.95	613.68	628.62	617.10	621.45
	(SD)	(56.50)	(75.65)	(80.33)	(57.60)	(70.99)	(82.01)	(92.09)	(72.61)
Total* (N = 312 SEM ≈ 4.0)	Mean	589.93	582.95	615.56	589.02	640.92	627.94	640.67	634.42
	(SD)	(68.34)	(66.22)	(74.08)	(56.77)	(79.42)	(71.90)	(82.24)	(67.78)

*Total includes racial/ethnic groups with fewer than 20 candidates not separately listed in the table.

Table 3.18 makes it especially clear that the different groups of foreign-educated candidates improved their average scores by similar amounts on the total NY bar exam, about 45 points, and with less consistency on the three sub-scores, which increase by about 51 points for the MBE, about 45 points for the essay, and about 25 points for the NYMC. As noted earlier, the foreign-educated candidates did relatively well on the NYMC test when they took it for the first time in July 2005.

The one exception to the consistency in average score improvement across groups was for the Black/African American foreign-educated group, which had similar average scores on the NYMC test in July 2005 and February 2006, with only a 3.8 point increase. But on the whole, the three racial/ethnic groups included in Table 3.18 showed comparable increases in their mean total NY bar exam score.

Table 3.18
First-Time Failing Candidates in July 2005 Repeating in February 2006
Difference Scores for February 2006 minus July 2005
Means, Standard Deviations, and Standard Errors
Foreign-Educated Candidates: Racial/Ethnic Group

Race/Ethnicity		MBE x 5 Difference	Essay Score Difference	NYMC Score Difference	Total NY Bar Score Difference
Caucasian/ White (n = 95; SEM ≈ 5.9)	Mean	53.33	41.29	22.41	44.19
	(SD)	(54.69)	(56.99)	(75.66)	(41.93)
Asian/ Pacific Islander (n = 143; SEM ≈ 4.8)	Mean	50.34	49.03	28.32	47.52
	(SD)	(52.41)	(58.63)	(73.14)	(43.09)
Black/ African American (n = 22; SEM ≈ 11.4)	Mean	49.66	44.84	3.78	42.50
	(SD)	(43.83)	(53.15)	(77.78)	(38.21)
Total* (N = 312; SEM ≈ 3.2)	Mean	50.98	44.99	25.11	45.40
	(SD)	(51.49)	(58.26)	(73.34)	(42.30)

*Total includes racial/ethnic groups with fewer than 20 candidates not separately listed in the table.

Figure 3.10 presents the results on average change scores for the racial/ethnic groups graphically. On the right side of Figure 3.10, the mean scores for the different groups are clustered quite closely, all showing an increase of over 40 points on the NY bar exam. The largest differences between racial/ethnic groups are in the mean scores on the NYMC test.

Figure 3.10
First-Time Failing Candidates in July 2005 Repeating in February 2006
Mean Difference Scores for February 2006 minus July 2005
Foreign-Educated Candidates: Racial/Ethnic Groups

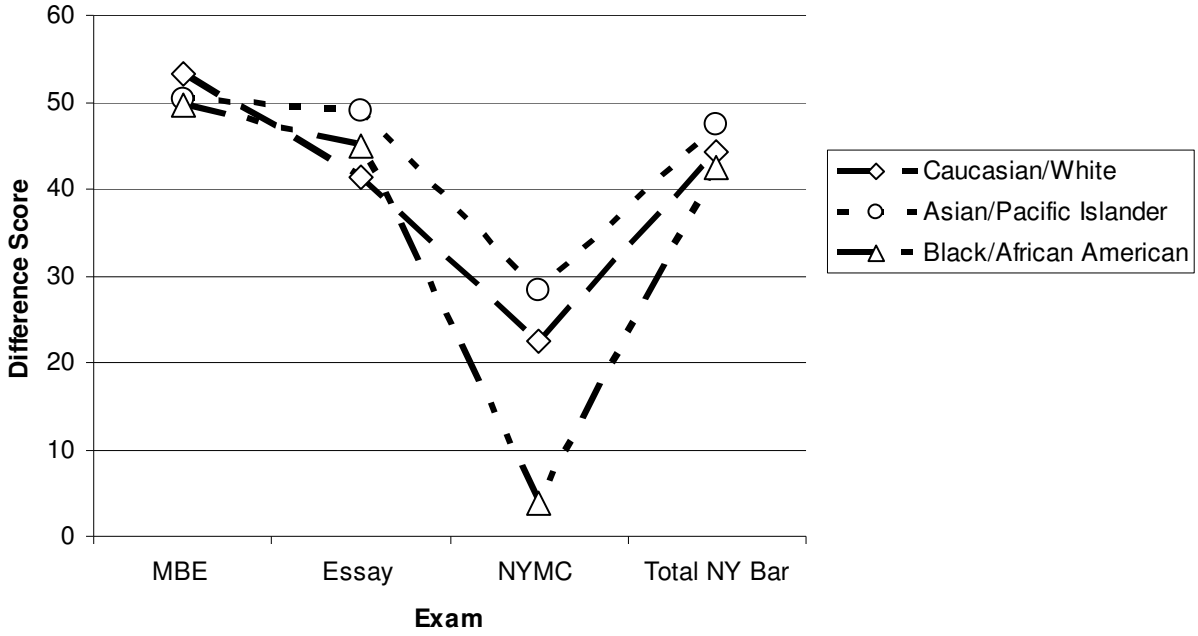
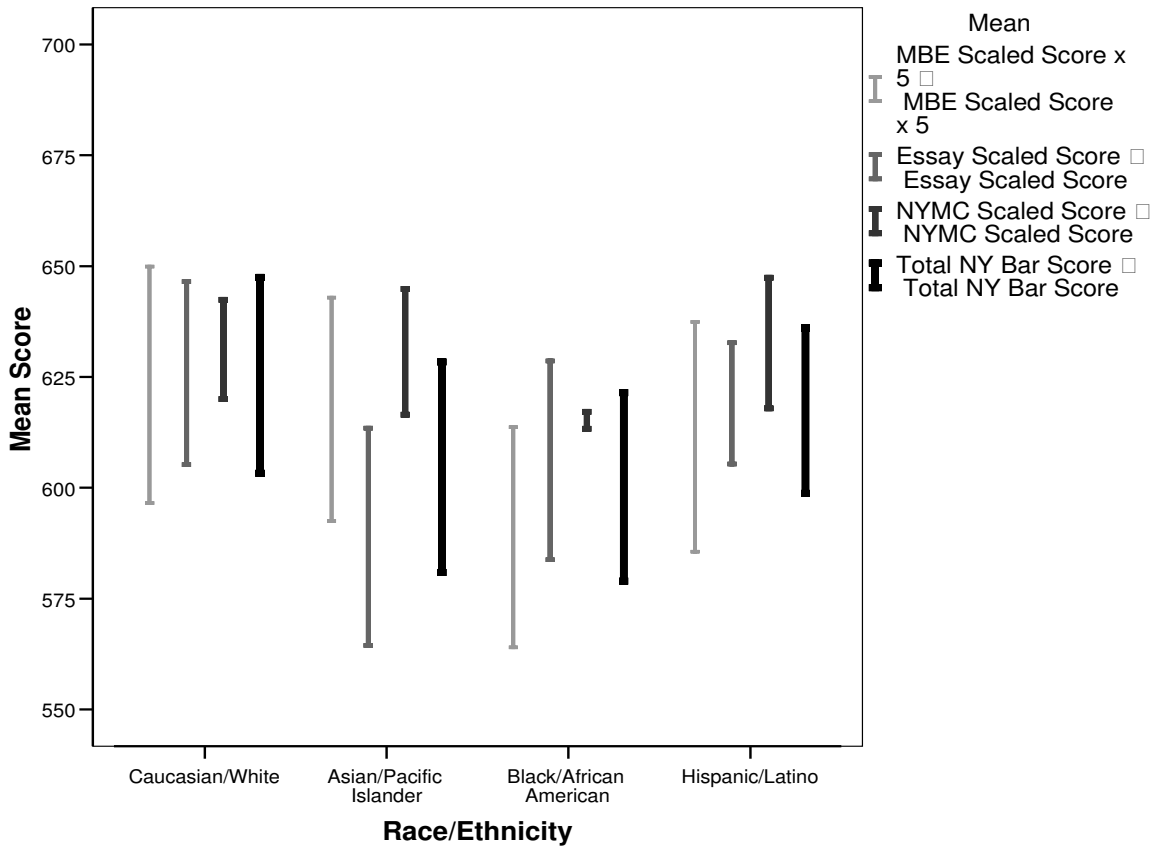


Figure 3.11 summarizes the changes in average scores on the three subtests using vertical bars representing the changes for the sub-scores and for the total score for each of the racial/ethnic groups. The bottom of each bar represents the average value of the sub-score for the group in July 2005, and the top of the bar represents the average score in February 2006. The heavy bar on the right for each group represents the change in the total score for that racial/ethnic group. These results are less consistent across sub-tests and across sub-groups than was the case for the domestic-educated candidates (see Figure 3.4).

Figure 3.11
July 2005 First-Time Failers Repeating the NY Bar Exam in February 2006
Score Means for July 2005 (Low) to February 2006 (High)
Foreign-Educated Candidates: Racial/Ethnic Groups



Figures 3.12 to 3.15 display the distributions of change scores on the MBE, the Essay test, the NYMC test, and the total NY bar exam for the foreign-educated first-time takers who failed in July 2005 and repeated the NY bar exam in February 2006. As indicated earlier, the scores on each test increased on average between July 2005 and February 2006, and as a result, most of the change scores in all four of the distributions are above zero, although some of the change scores are negative (i.e., some of the candidates got lower scores on their second try).

All four of the distributions of change scores have shapes that approximate a normal distribution (a “bell-shaped” curve) typical of test scores in fairly homogeneous samples. The distributions do not have any gaps, any secondary peaks, or any substantial set of outliers.

Figure 3.12
First-Time Failing Candidates in July 2005 Repeating in February 2006
MBE Score Differences
Foreign-Educated Candidates

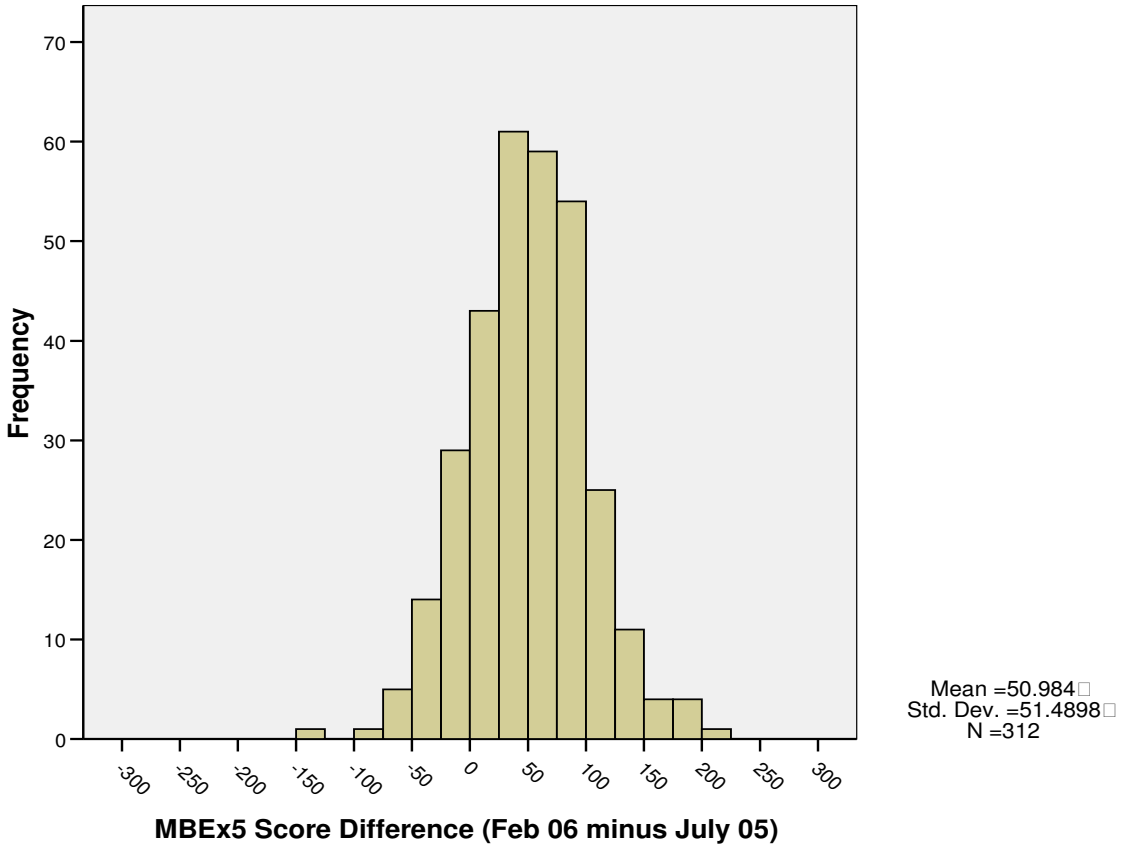


Figure 3.13
First-Time Failing Candidates in July 2005 Repeating in February 2006
Essay Score Differences
Foreign-Educated Candidates

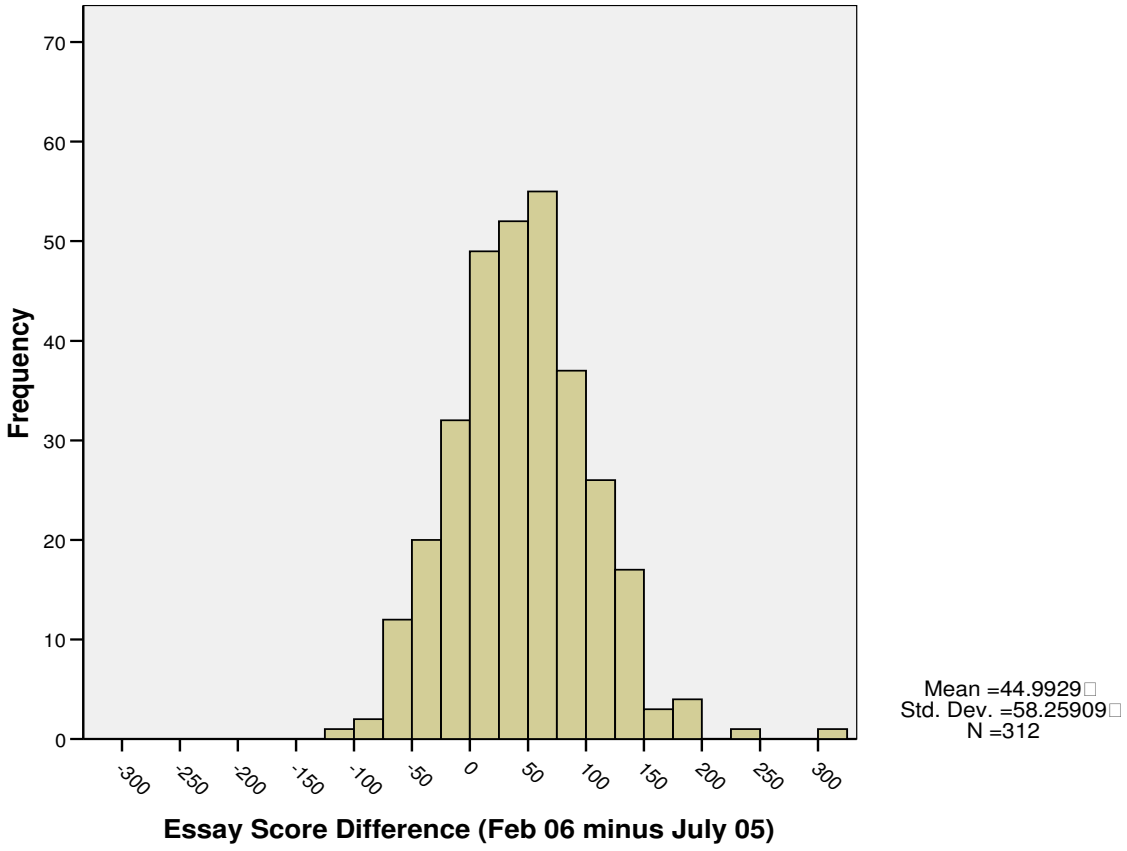


Figure 3.14
First-Time Failing Candidates in July 2005 Repeating in February 2006
NYMC Score Differences
Foreign-Educated Candidates

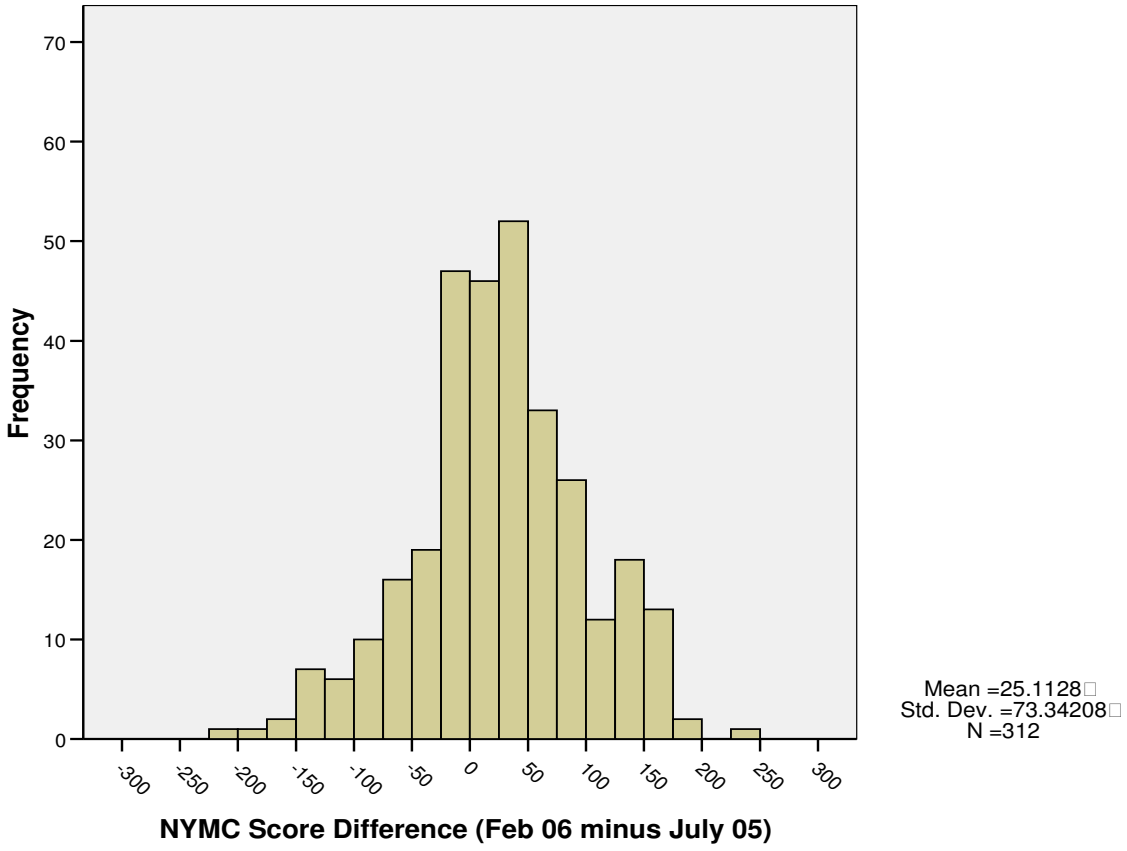
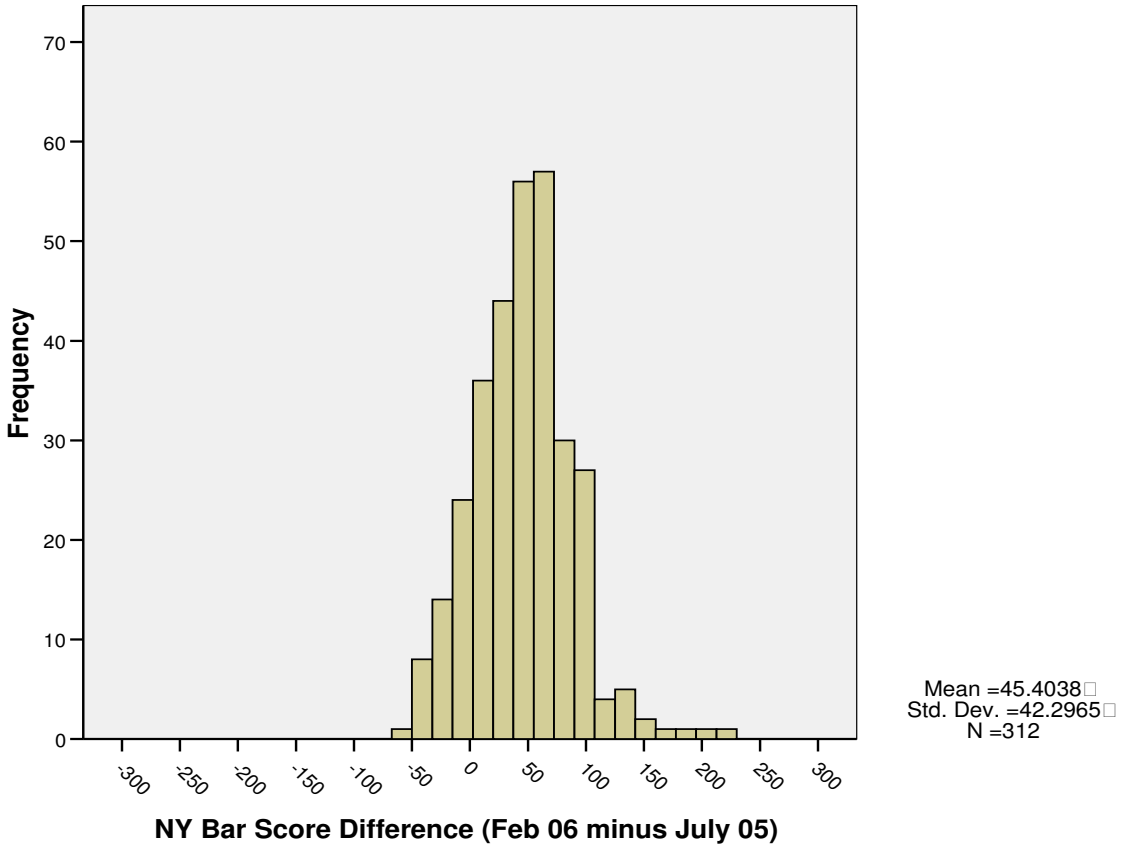


Figure 3.15
First-Time Failing Candidates in July 2005 Repeating in February 2006
NY Bar Exam Score Differences
Foreign-Educated Candidates



Notes:

1. The standard error in the difference between the mean scores for two groups depends on the standard error in the two mean scores. If the standard error for the mean of one group is much larger than the standard error of the mean for the other group (usually because the first group is much smaller than the second), the standard error of the difference is essentially the same as the larger of the two standard errors. If the standard errors for the two groups are about the same size, the standard error of the difference will be about 1.4 times the average of the two standard errors.

2. Tests of statistical significance are often used in studies like this to decide whether an observed difference was due to sampling variation or represents a real difference between the populations being sampled. We have decided not to include such tests for three reasons:
    a. First, in interpreting the results as an indication of what happened for candidates failing in July 2005, significance testing is not appropriate, because the database includes over 90% of the relevant population, making sampling error a minor concern.
    b. Second, in extending the interpretation to future July administrations, sampling variability is a concern, but it is not the main concern. Except in cases where sample sizes are small, systematic changes over time are probably more serious threats to the validity of the inference.
    c. Third, if a test of statistical significance of the difference between two mean scores is needed, it can be derived from the standard error of the difference between the mean scores. If the difference between the two mean scores is greater than two times the standard error of the difference, the observed difference is statistically significant.

    The discussions in this section tend to focus on patterns in the data, rather than on differences between specific groups. Specific differences between groups are discussed mainly as a way of examining the more general patterns.

3. For a description of this group, see Section 3 of Kane, M., Mroch, A., Ripkey, D., & Case, S. (2006). *Impact of the Increase in the Passing Score on the New York Bar Examination.* Madison, WI: National Conference of Bar Examiners. See http://www.nybarexam.org/NCBEREP.htm.

4. Analyses of Cumulative New York Pass Rates from July 2005 to July 2006

The analyses reported in this section examine the changes in pass rates in different sub-groups of the candidates who took the New York Bar Examination (NY bar exam) for the first time in July 2005 and failed. Because these candidates had opportunities to retake the NY bar exam in February 2006 and July 2006, the pass rates necessarily increase or remain the same.

4.1 Cumulative Pass Rates for Domestic-Educated Candidates as a Function of Gender

Table 4.1 summarizes the cumulative pass rates for the domestic-educated first-time takers in July 2005 as a group, and separately for females and males. The first column in Table 4.1 reports the percentages of the domestic-educated first-time takers who passed in July 2005. The second column indicates the percentage of those repeating the exam in February 2006 who passed at that administration. The third column indicates the percentage of those repeating the exam for the first time in July 2006 who passed at that administration, and the fourth column indicates the percentage of those repeating the exam for the second time in July 2006 who passed at that administration. The last two columns report the cumulative pass rates in New York as of February 2006 and July 2006.

Because we did not have information about the pass/fail status of candidates who took a bar examination in a jurisdiction other than New York, the percentages in this table count these candidates as not repeating the exam. We know that some candidates who failed the NY bar exam in July 2005 took bar examinations in other jurisdictions in 2006 and not in New York (see Table 1.4), so these cumulative percentages are underestimates of the percentages of candidates passing a bar exam by February 2006 or July 2006. Therefore, candidates in Table 4.1 who did not repeat may have passed a bar exam outside of New York. For example, if we assume that all 93 candidates who we know repeated in another jurisdiction passed the bar exam in that jurisdiction, the pass rate as of July 2006 would increase from 91.1% to 92.4%.

As an illustration of the data contained in Table 4.1, in the first row, which reports results for the female first-time takers in July 2005, we see that 2,745 of 3,341, or 82.2% passed on their first attempt, and of those who failed in July 2005, 230 (or 54.8%) of the 420 candidates who repeated in February 2006 passed, and 56 (or 30.6%) of the 183 candidates who repeated in July 2006 passed (15 of 56 who pass in July 2006 were taking it for the second time and 41 were taking it for the third time). As a result, of the female domestic-educated candidates who took the NY Bar exam for the first time in July 2005, 82.2% passed on their first try, 89.0% had passed by February 2006 and 90.7% had passed by July 2006. For the males, 84.0% passed on the first try, 90.4% had passed by February 2006, and 91.7% had passed by July 2006.

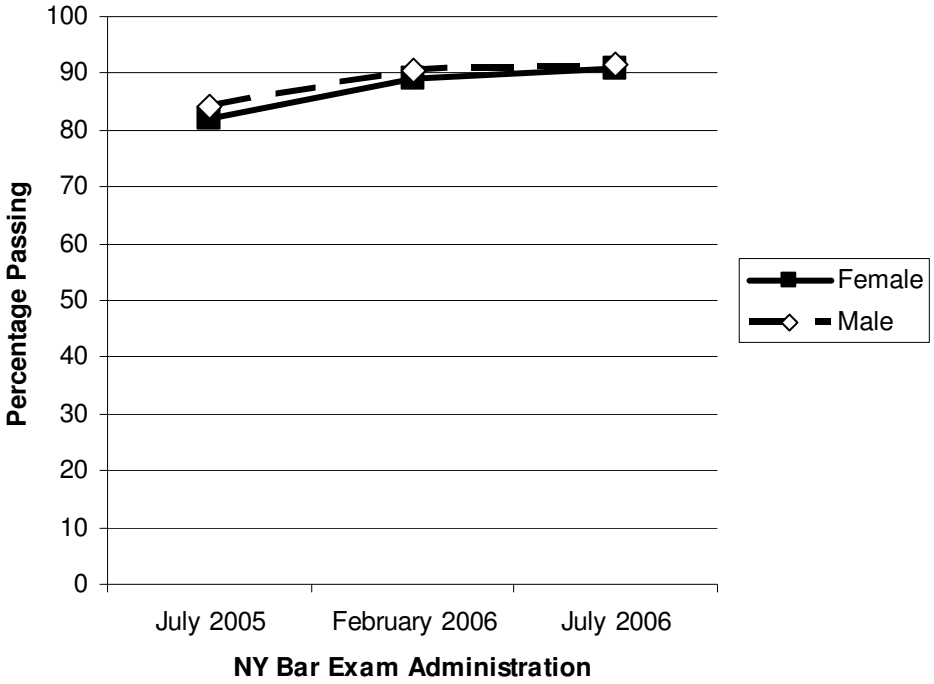
Table 4.1
Pass Rates for July 2005, February 2006, July 2006, and Total as of February 2006 and July 2006
Domestic-Educated Candidates: Females and Males

	First Time Takers Pass in July 2005	First Time Repeaters Pass in Feb. 2006	First Time Repeaters Pass in July 2006	Second Time Repeaters Pass in July 2006	Total Pass as of Feb. 2006	Total Pass as of July 2006
Gender	% pass (# pass/ # total)	% pass (# pass/ # repeat)	% pass (# pass/ # repeat)	% pass (# pass/ # repeat)	% pass (# total pass/ # total)	% pass (# total pass/ # total)
Female	82.2% (2,745/ 3,341)	54.8% (230/420)	29.4% (15/51)	31.1% (41/132)	89.0% (2,975/ 3,341)	90.7% (3,031/ 3,341)
Male	84.0% (2,824/ 3,364)	59.5% (217/365)	31.8% (14/44)	32.3% (31/96)	90.4% (3,041/ 3,364)	91.7% (3,086/ 3,364)
Total*	82.7% (5,915/ 7,156)	56.6% (489/864)	32.0% (33/103)	32.8% (83/253)	89.5% (6,404/ 7,156)	91.1% (6,520/ 7,156)

*Total includes candidates who did not record their genders.

Figure 4.1 displays the increases in the cumulative pass rates for male and female domestic-educated first-time takers between July 2005 and July 2006. The patterns are quite similar for females and males, with pass rates increasing from about 83% in July 2005 to about 90% in February 2006 and to about 91% in July 2006.

Figure 4.1
Domestic-Educated First-Time Takers in July 2005
Eventual Pass Rates: July 2005 to July 2006
Gender



4.2 Cumulative Pass Rates for Domestic-Educated Candidates as a Function of Race/Ethnicity

Table 4.2a reports on cumulative pass rates as a function of race/ethnicity for the domestic-educated candidates who took the NY bar exam for the first time in July 2005. The initial pass rates for the different racial/ethnic groups were quite variable in July 2005, ranging from 86.8% for the Caucasian/White group to 54.2% for the Black/African American group. As noted earlier, the persistence rates in February 2006 were similar across the racial/ethnic groups, and as indicated in the second column of Table 4.2a, the pass rates in February 2006 were not very disparate; in particular, the pass rates for the Black/African American group and the Caucasian/White group were fairly close (54.9% vs. 59.1%). As a result, for domestic-educated first-time takers, the pass rate for the Black/African American group increased to 72.3% as of February 2006 (from 54.2% in July 2005), an increase of 18.1 percentage points, while the pass rate for the Caucasian/White group increased to 92.1% as of February 2006 (up from 86.8% in July 2005), an increase of 5.3 percentage points. However, even though the pass rate for the Black/African American domestic-educated first-time takers in July 2005 increased much more between July 2005 and February 2006 than it did for the Caucasian/White group, the pass rate for the Black/African American group as of February 2006 was still

much lower than that of the Caucasian/White group in February 2006 (72.3% vs. 92.1%). The difference in pass rates between the highest and the lowest group dropped from 32.6 percentage points (86.8% to 54.2%) in July 2005 to 19.8 percentage points (92.1% to 72.3%) in February 2006, but the gap was still large as of February 2006.

Table 4.2a
Pass Rates for July 2005, February 2006, July 2006, and Total as of February 2006 and July 2006
Domestic-Educated Candidates: Racial/Ethnic Groups

	First Time Takers Pass in July 2005	First Time Repeaters Pass in Feb. 2006	First Time Repeaters Pass in July 2006	Second Time Repeaters Pass in July 2006	Total Pass as of Feb. 2006	Total Pass as of July 2006
Race/ Ethnicity	% pass (# pass/ # total)	% pass (# pass/ # repeat)	% pass (# pass/ # repeat)	% pass (# pass/ # repeat)	% pass (# total pass/ # total)	% pass (# total pass/ # total)
Caucasian/ White	86.8% (4,259/ 4,908)	59.1% (262/443)	37.9% (22/58)	32.0% (40/125)	92.1% (4,521/ 4,908)	93.4% (4,583/ 4,908)
Asian/ Pacific Islander	80.6% (606/752)	49.5% (50/101)	33.3% (4/12)	40.5% (15/37)	87.2% (656/ 752)	89.8% (675/ 752)
Black/ African American	54.2% (237/437)	54.9% (79/144)	12.5% (2/16)	21.3% (10/47)	72.3% (316/ 437)	75.1% (328/ 437)
Hispanic/ Latino	70.1% (152/217)	52.0% (26/50)	0.0% (0/4)	46.2% (6/13)	82.0% (178/ 217)	84.8% (184/ 217)
Other	80.4% (221/275)	69.4% (25/36)	25.0% (1/4)	25.0% (1/4)	89.5% (246/ 275)	90.2% (248/ 275)
Total*	82.7% (5,915/ 7,156)	56.6% (489/864)	32.0% (33/103)	32.8% (83/253)	89.5% (6,404/ 7,156)	91.1% (6,520/ 7,156)

*Total includes candidates who did not record their races/ethnicities.

Compared to the increases in the overall pass rates between July 2005 and February 2006, the additional increases from February 2006 to July 2006 were modest. The Caucasian/White pass rate increased by 1.3 percentage points to 93.4% as of July 2006, and the Black/African American pass rate increased by 2.8 percentage points to 75.1%. The Asian/Pacific Islander pass rate, which was 80.6% on their first try in July 2005 increased to 87.2% as of February 2006, and to 89.8% as of July 2006. The

Hispanic/Latino pass rate, which was 70.1% on their first try in July 2005, increased to 82.0% in February 2006, and to 84.8%, as of July 2006. The pass rate for the "Other" group which was 80.4% on their first try in July 2005 increased to 89.5% in February 2006, and to 90.2% as of July 2006.

The overall pass rates for all groups of domestic-educated candidates who took the NY bar exam for the first time in July 2005 increased substantially between July 2005 and July 2006, and except for a small switch between the Asian/Pacific Islander group and the "Other" group, the rank order of the group pass rates remained the same. Furthermore, although the pass rate improvement from July 2005 to July 2006 led to smaller differences between groups (see Table 4.2a, Table 4.3, and Figure 4.2), some of the differences were still substantial as of July 2006.

Note that the pass rates in Table 4.2a and in other tables in this section can be considered underestimates because the candidates who failed in July 2005 and did not persist in New York (for whatever reason) are counted as failing (or not passing) as of February 2006 and July 2006. They are included in the denominators in computing the pass rates, but they have no chance of contributing to the numerators, because they did not take the New York bar exam in 2006. Some of these candidates were identified as taking a bar examination in a different jurisdiction. Some may have already been admitted to the bar in another jurisdiction in July 2005. Some may have decided not to practice law in the United States. If the non-persisters were removed from the calculations, the denominators would get smaller, and the pass rates would increase. The total pass rate as of February 2006, which was 89.5%, would increase to 93.1%, if the non-persisters were excluded from the analysis. The total pass rate as of July 2006, which was 91.1%, would increase to 94.7%. The pass rates increase by about 3.6 percentage points if the non-persisters are excluded from the analysis.

The various subgroups all exhibited significant increases when the non-persisters were removed from the calculations of the cumulative pass rates as of February 2006 and July 2006. The Caucasian/White pass rate as of July 2006 increased from 93.4% to 96.3%. The Asian/Pacific Islander pass rate as of July 2006 increased from 89.8% to 93.9%. The Black/African American pass rate as of July 2006 increased from 75.1% to 82.6%. The Hispanic/Latino pass rate as of July 2006 increased from 84.8% to 89.3%, and the "Other" pass rate as of July 2006 increased from 90.2% to 95.0%.

Since some of the candidates who did not take the NY bar exam in 2006 are known to have taken the bar exam in another jurisdiction in 2006 and the other non-persisters took themselves out of the pool of candidates in New York in 2006 for various reasons, the pass rates computed with the non-persisters included in the analysis may be thought of as lower bounds on the actual pass rates, and the pass rates with the non-persisters excluded from the analysis may be thought of as upper bounds on the actual pass rates.

Projected Pass Rates for Alternate Passing Scores

The cumulative pass rates would also be influenced by changes in the passing score.[1] Note that projecting pass rates across administrations can be somewhat problematic for a number of reasons. First, a change in passing score may influence candidate behavior. For example, an increase in the passing score may cause some candidates to prepare more thoroughly, and it may cause other candidates to give up and not retake the bar exam. Either of these phenomena could lead to increases in score distributions and therefore increases in pass rates. The projected pass rates outlined below assume that the distribution of scores on each test date remain the same as the passing score is changed, implying that the pass rates must decrease or remain the same as the passing score is increased.

Second, the passing score on a particular administration can determine whether or not a candidate will repeat the bar exam. If a candidate achieves a score of 665 with a passing score of 660 or 665, the candidate would not repeat the bar exam, and we would not know if he or she would have eventually passed if the passing score were 670 or 675.

In considering eventual pass rates for projected passing scores on the February 2006 and July 2006 administrations, we counted candidates as passing if they achieved scores of 665 on prior administrations. That is, in developing the projections for passing scores of 670 or 675 in February 2006, we assumed that the passing score in July 2005 was 665. In developing the projections for passing scores of 670 or 675 in July 2006, we assumed that the passing score in July 2005 and February 2006 was 665. The eventual pass rate in this analysis is the projected pass rate if the passing score were increased between test administrations (e.g., from 665 to 670). This makes it possible to examine projected pass rates across administrations without the limitation mentioned in the paragraph above.

Table 4.2b summarizes the pass rates in July 2005, as of February 2006, and as of July 2006, assuming that the passing score had remained at 660, as well as the corresponding results for the actual passing score of 665 to facilitate comparisons. If the passing score had remained at 660, the overall pass rate in July 2005 would have been 84.1%, and would have increased to 91.3% as of February 2005 and to 93.0% as of July 2006.[2] The results are about 1.4 to 1.9 percentage points higher than the actual values of 82.7%, 89.5%, and 91.1% (for the actual passing score of 665). As indicated in Table 4.2b, the Caucasian/White pass rates would have been about 1.1 to 1.4 percentage points higher if the passing score had remained at 660, the Asian/Pacific Islander pass rates would have been about 2.3 to 3.0 percentage points higher if the passing score had remained at 660, the Black/African American pass rates would have been about 3.9 to 5.9 percentage points higher if the passing score had remained at 660, and the Hispanic/Latino pass rates would have been about 0.9 to 3.7 percentage points higher if the passing score had remained at 660.

Table 4.2b
Pass Rates* in July 2005, as of February 2006, and as of July 2006
For Passing Scores of 660 and 665
Domestic-Educated Candidates: Racial/Ethnic Groups**

	First Time Takers Pass at 660 in July 2005	Total Pass at 660 as of February 2006	Total Pass at 660 as of July 2006	First Time Takers Pass at 665 in July 2005	Total Pass at 665 as of Feb. 2006	Total Pass at 665 as of July 2006
Race/ Ethnicity	% pass (# pass/ # total)	% pass (# pass/ # total)	% pass (# pass/ # total)	% pass (# pass/ # total)	% pass (# total pass/ # total)	% pass (# total pass/ # total)
Caucasian/ White	87.9% (4,312/ 4,908)	93.4% (4,585/ 4,908)	94.7% (4,648/ 4,908)	86.8% (4,259/ 4,908)	92.1% (4,521/ 4,908)	93.4% (4,583/ 4,908)
Asian/ Pacific Islander	82.9% (623/ 752)	90.2% (678/ 752)	92.8% (698/ 752)	80.6% (606/ 752)	87.2% (656/ 752)	89.8% (675/ 752)
Black/ African American	58.1% (254/ 437)	77.6% (339/ 437)	81.0% (354/ 437)	54.2% (237/ 437)	72.3% (316/ 437)	75.1% (328/ 437)
Hispanic/ Latino	71.0% (154/ 217)	84.3% (183/ 217)	88.5% (192/ 217)	70.1% (152/ 217)	82.0% (178/ 217)	84.8% (184/ 217)
Other	81.5% (224/ 275)	90.9% (250/ 275)	92.0% (253/ 275)	80.4% (221/ 275)	89.5% (246/ 275)	90.2% (248/ 275)
Total***	84.1% (6,017/ 7,156)	91.3% (6,533/ 7,156)	93.0% (6,658/ 7,156)	82.7% (5,915/ 7,156)	89.5% (6,404/ 7,156)	91.1% (6,520/ 7,156)

* Pass rates at 660 are projected pass rates. Pass rates at 665 are observed pass rates.
** As indicated earlier, the pass rates reported here for the July 2005 administration are slightly different from those reported in the 2006 report, because of better identification of domestic- and foreign-educated candidates for the analyses reported here.
***Total includes candidates who did not record their races/ethnicities.

Table 4.2c summarizes the observed pass rates in July 2005, at a passing score of 665, and the observed and projected pass rates as of February 2006, at passing scores of 665, 670, and 675 (assuming a passing score of 665 in July 2005 and assuming that the score distributions do not change). If the passing score had been 665 in July 2005 (as it was) and had been raised to 670 or 675 in February 2006, the pass rates for the first-time repeaters and the cumulative pass rates as of February 2006 would decrease compared to what they actually were with the passing score of

665. If the passing score had been raised to 670 in February 2006, the pass rates for first-time repeaters in February 2006 would decrease from 56.6% to 53.1%, and if the passing score had been raised to 675 in February 2006, the pass rates for first-time repeaters would decrease to 51.6%. If the passing score were raised to 670 or 675, the cumulative pass rate as of February 2006 would decrease from 89.5% (for a passing score of 665) to 89.1% (for 670) or 88.9% (for 675).

Table 4.2c
Pass Rates* in July 2005, February 2006, and Total as of February 2006
For Passing Scores of 665, 670, and 675 in February 2006
Domestic-Educated Candidates: Racial/Ethnic Groups

	First Time Takers Pass at 665 in July 2005	First Time Repeaters Pass at 665 in Feb. 2006	First Time Repeaters Pass at 670 in Feb. 2006	First Time Repeaters Pass at 675 in Feb. 2006	Total Pass at 665 as of Feb. 2006	Total Pass at 670 as of Feb. 2006	Total Pass at 675 as of Feb. 2006
Race/ Ethnicity	% pass (# pass/ # total)	% pass (# pass/ # repeat)	% pass (# pass/ # repeat)	% pass (# pass/ # repeat)	% pass (# pass/ # total)	% pass (# pass/ # total)	% pass (# pass/ # total)
Caucasian/ White	86.8% (4,259/ 4,908)	59.1% (262/ 443)	54.4% (241/ 443)	52.8% (234/ 443)	92.1% (4,521/ 4,908)	91.7% (4,500/ 4,908)	91.5% (4,493/ 4,908)
Asian/ Pacific Islander	80.6% (606/ 752)	49.5% (50/ 101)	46.5% (47/ 101)	44.6% (45/ 101)	87.2% (656/ 752)	86.8% (653/ 752)	86.6% (651/ 752)
Black/ African American	54.2% (237/ 437)	54.9% (79/ 144)	54.9% (79/ 144)	52.8% (76/ 144)	72.3% (316/ 437)	72.3% (316/ 437)	71.6% (313/ 437)
Hispanic/ Latino	70.1% (152/ 217)	52.0% (26/ 50)	48.0% (24/ 50)	48.0% (24/ 50)	82.0% (178/ 217)	81.1% (176/ 217)	81.1% (176/ 217)
Other	80.4% (221/ 275)	69.4% (25/ 36)	63.9% (23/ 36)	61.1% (22/ 36)	89.5% (246/ 275)	88.7% (244/ 275)	88.4% (243/ 275)
Total**	82.7% (5,915/ 7,156)	56.6% (489/ 864)	53.1% (459/ 864)	51.6% (446/ 864)	89.5% (6,404/ 7,156)	89.1% (6,374/ 7,156)	88.9% (6,361/ 7,156)

* Pass rates for July 2005 and at 665 for February 2006 are observed pass rates. Pass rates at 670 and 675 for February 2006 are projected pass rates.
**Total includes candidates who did not record their races/ethnicities.

If the passing score had been raised from 665 to 670 or 675 in February 2006, the pass rates would tend to decline for all subgroups, assuming that the distributions of scores do not change. For example, the Caucasian/White pass rate as of February

2006 would decrease from 92.1% (at 665) to 91.7% (at 670) or to 91.5% (at 675). The Asian/Pacific Islander pass rate as of February 2006 would decrease from 87.2% (at 665) to 86.8% (at 670) or to 86.6% (at 675). The Black/African American pass rate would remain the same, at 72.3%, for February passing scores of 665 or 670 and would decrease to 71.6% (at 675). The Hispanic/Latino pass rate would decrease from 82.0% (at 665) to 81.1% (at 670 or 675). The pass rate for the "Other" group would decrease from 89.5% (at 665) to 88.7% (at 670) or to 88.4% (at 675).

Table 4.2d
Pass Rates* in July 2005, July 2006, and Total as of July 2006
For Passing Scores of 665, 670, and 675 in July 2006
Domestic-Educated Candidates: Racial/Ethnic Groups

	First Time Takers Pass at 665 in July 2005	First Time Repeaters Pass at 665 in July 2006	First Time Repeaters Pass at 670 in July 2006	First Time Repeaters Pass at 675 in July 2006	Total Pass at 665 as of July 2006**	Total Pass at 670 as of July 2006**	Total Pass at 675 as of July 2006**
Race/ Ethnicity	% pass (# pass/ # total)	% pass (# pass/ # repeat)	% pass (# pass/ # repeat)	% pass (# pass/ # repeat)	% pass (# pass/ # total)	% pass (# pass/ # total)	% pass (# pass/ # total)
Caucasian/ White	86.8% (4,259/ 4,908)	33.9% (62/ 183)	29.0% (53/ 183)	27.9% (51/ 183)	93.4% (4,583/ 4,908)	93.2% (4,574/ 4,908)	93.2% (4,572/ 4,908)
Asian/ Pacific Islander	80.6% (606/ 752)	38.8% (19/ 49)	34.7% (17/ 49)	28.6% (14/ 49)	89.8% (675/ 752)	89.5% (673/ 752)	89.1% (670/ 752)
Black/ African American	54.2% (237/ 437)	19.0% (12/ 63)	15.9% (10/ 63)	14.3% (9/ 63)	75.1% (328/ 437)	74.6% (326/ 437)	74.4% (325/ 437)
Hispanic/ Latino	70.1% (152/ 217)	35.3% (6/ 17)	29.4% (5/ 17)	17.7% (3/ 17)	84.8% (184/ 217)	84.3% (183/ 217)	83.4% (181/ 217)
Other	80.4% (221/ 275)	25.0% (2/ 8)	25.0% (2/ 8)	25.0% (2/ 8)	90.2% (248 /275)	90.2% (248/ 275)	90.2% (248/ 275)
Total***	82.7% (5,915/ 7,156)	32.6% (116/ 356)	28.4% (101/ 356)	25.8% (92/ 356)	91.1% (6,520/ 7,156)	90.9% (6,505/ 7,156)	90.8% (6,496/ 7,156)

* Pass rates for July 2005 and July 2006 at 665 and are observed pass rates. Pass rates at 670 and 675 for July 2006 are projected pass rates.
** Total pass includes those passing at a score of 665 in July 2005 and February 2006.
***Total includes candidates who did not record their races/ethnicities.

Table 4.2d summarizes the observed pass rates in July 2005, at a passing score of 665, and the observed and projected pass rates as of July 2006, at passing scores of 665, 670, and 675 (assuming passing scores of 665 in July 2005 and February 2006, and assuming that the score distributions do not change). If the passing score had been 665 in July 2005 and February 2006 (as it was) and had been raised to 670 or 675 in July 2006, the pass rates for the first-time repeaters and the cumulative pass rates as of July 2006 would decrease, compared to what they actually were with the passing score of 665. If the passing score had been raised to 670 in July 2006, the pass rates for first-time repeaters in July 2006 would decrease from 32.6% to 28.4%, and if the passing score had been raised to 675 in July 2006, the pass rates for first-time repeaters would decrease to 25.8%. If the passing score were raised to 670 or 675, the cumulative pass rate as of July 2006 would decrease from 91.1% (for a passing score of 665) to 90.9% (for 670) or 90.8% (for 675).

If the score distributions do not change, and the passing score were raised from 665 to 670 or 675 in July 2006, the pass rates would tend to decline for all subgroups. For example, the Caucasian/White pass rate as of July 2006 would decrease from 93.4% (at 665) to 93.2% (at 670 or 675). The Asian/Pacific Islander pass rate as of July 2006 would decrease from 89.8% (at 665) to 89.5% (at 670) or to 89.1% (at 675). The Black/African American pass rate would decrease from 75.1% (at 665) to 74.6% (at 670) or to 74.4% (at 675). The Hispanic/Latino pass rate would decrease from 84.8% (at 665) to 84.3% (at 670) or to 83.4% (at 675). The pass rate for the “Other” group would remain at 90.2% (at 665, 670, or 675).

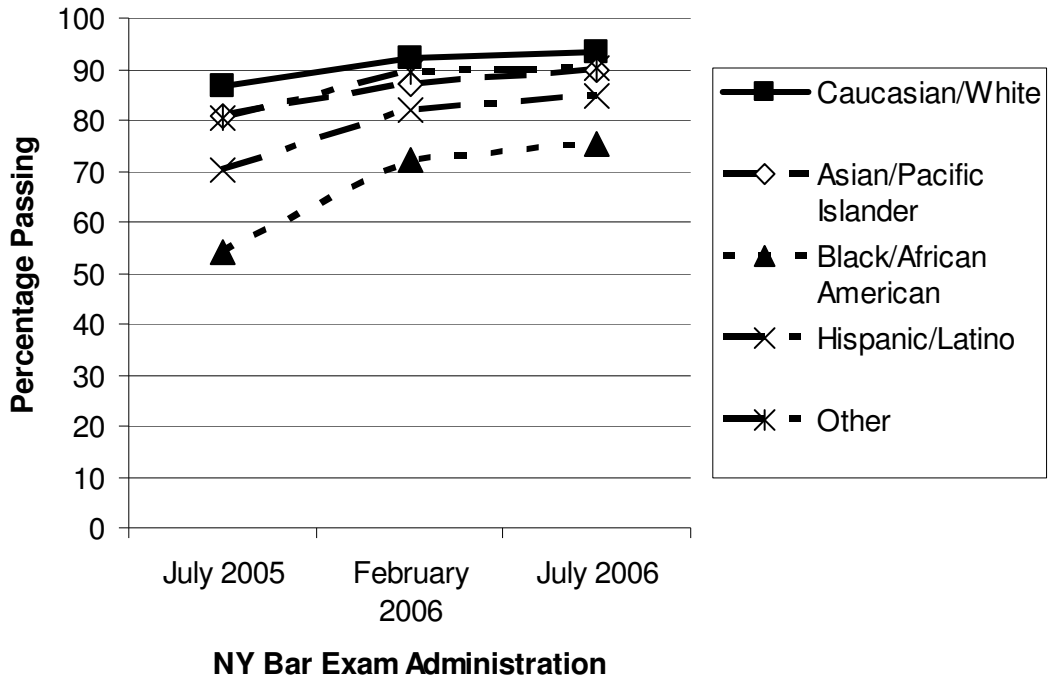
Returning to our standard definition of pass rates, with the non-persisters taken as not passing and a passing score of 665, Figure 4.2 displays the increases in the cumulative pass rates for the domestic-educated first-time takers between July 2005 and July 2006 for the different racial/ethnic groups. The patterns for the different groups are similar in that they all increase fairly substantially between July 2005 and February 2006, and they increase more slowly between February 2006 and July 2006. Table 4.3 summarizes the improvements in pass rates as a function of the racial/ethnic groups. The sub-groups that had the lowest pass rates in July 2005 (Black/African American and Hispanic/Latino) showed the largest increases in February 2006 and July 2006, but these groups still had lower pass rates in July 2006 than Caucasian/White candidates. So, while the disparity in pass rates between groups decreased, it was not eliminated when candidates repeated the NY bar exam as of July 2006 after failing for the first time in July 2005.

Table 4.3
Improvement in Pass Rates from July 2005 through July 2006,
Domestic-Educated Candidates: Racial/Ethnic Groups

Race/ Ethnicity	Pass Rate Improvement July 2005 – July 2006 (in percentage points)
Caucasian/White	6.6
Asian/Pacific Islander	9.2
Black/African American	20.9
Hispanic/Latino	14.7
Other	9.8
Total*	8.4

*Total includes candidates who did not record their races/ethnicities.

Figure 4.2
Domestic-Educated First-Time Takers in July 2005
Eventual Pass Rates: July 2005 to July 2006
Racial/Ethnic Groups



4.3 Cumulative Pass Rates for Domestic-Educated Candidates as a Function of Age at Law School Graduation

Table 4.4 reports on the cumulative pass rates for the domestic-educated candidates who took the NY bar exam for the first time in July 2005 as a function of their age at graduation from law school. The initial pass rate is highest for the youngest category, and it declined fairly regularly as a function of age at graduation, at least up to about 50. The cumulative pass rates for all age groups increased by February 2006 and again by July 2006, but the cumulative pass rates continued to be a decreasing function of age at graduation. However, the magnitude of the differences between the youngest group at graduation (under 27) and the groups between 41 and 50 decrease as we move from July 2005 to February 2006 and July 2006. In July 2005, the difference between the highest and lowest passing percentages was about 30 percentage points, while it was about 20 percentage points as of February 2006, and about 18 percentage points as of July 2006.

Table 4.4
Pass Rates for July 2005, February 2006, July 2006, and Total as of February 2006 and July 2006
Domestic-Educated Candidates: Age at Law School Graduation

	First Time Takers Pass in July 2005	First Time Repeaters Pass in Feb. 2006	First Time Repeaters Pass in July 2006	Second Time Repeaters Pass in July 2006	Total Pass as of Feb. 2006	Total Pass as of July 2006
Age at Law School Grad.	% pass (# pass/ # total)	% pass (# pass/ # repeat)	% pass (# pass/ # repeat)	% pass (# pass/ # repeat)	% pass (# total pass/ # total)	% pass (# total pass/ # total)
<27	86.0% (3,493/ 4,063)	56.3% (232/412)	31.3% (15/48)	34.4% (42/122)	91.7% (3,725/ 4,063)	93.1% (3,782/ 4,063)
27-28	83.0% (1,222/ 1,473)	60.9% (106/174)	29.4% (5/17)	42.2% (19/45)	90.2% (1,328/ 1,473)	91.8% (1,352/ 1,473)
29-30	79.5% (512/644)	51.9% (41/79)	28.6% (4/14)	25.9% (7/27)	85.9% (553/644)	87.6% (564/644)
31-35	75.1% (449/598)	58.9% (63/107)	30.8% (4/13)	37.9% (11/29)	85.6% (512/598)	88.1% (527/598)
36-40	66.1% (119/180)	61.1% (22/36)	37.5% (3/8)	0.0% (0/7)	78.3% (141/180)	80.0% (144/180)
41-45	61.7% (58/94)	30.8% (8/26)	100.0% (1/1)	23.1% (3/13)	70.2% (66/94)	74.5% (70/94)
46-50	55.8% (29/52)	75.0% (9/12)	0.0% (0/1)	33.3% (1/3)	73.1% (38/52)	75.0% (39/52)
51-55	60.7% (17/28)	54.6% (6/11)		0.0% (0/4)	82.1% (23/28)	82.1% (23/28)
Total*	82.7% (5,915/ 7,156)	56.6% (489/864)	32.0% (33/103)	32.8% (83/253)	89.5% (6,404/ 7,156)	91.1% (6,520/ 7,156)

*Total includes candidates who did not record their ages.

4.4 Pass Rates for Foreign-Educated Candidates as a Function of Gender

Table 4.5 summarizes the cumulative pass rates for the July 2005 foreign-educated first-time takers and separately for the female and male foreign-educated first-time takers. The pattern is fairly similar for these three groups. The pass rate in July 2005 was much lower for the first-time-taking foreign-educated candidates (at about 43%) than it was for the domestic-educated first-time takers (at about 83%). The cumulative percentage for the foreign-educated first-time takers increased to about 51% as of February 2006 and to about 54% by July 2006, but was still much lower than that for the domestic-educated first-time takers.

Table 4.5
Pass Rates for July 2005, February 2006, July 2006, and Total as of February 2006 and July 2006
Foreign-Educated Candidates: Females and Males

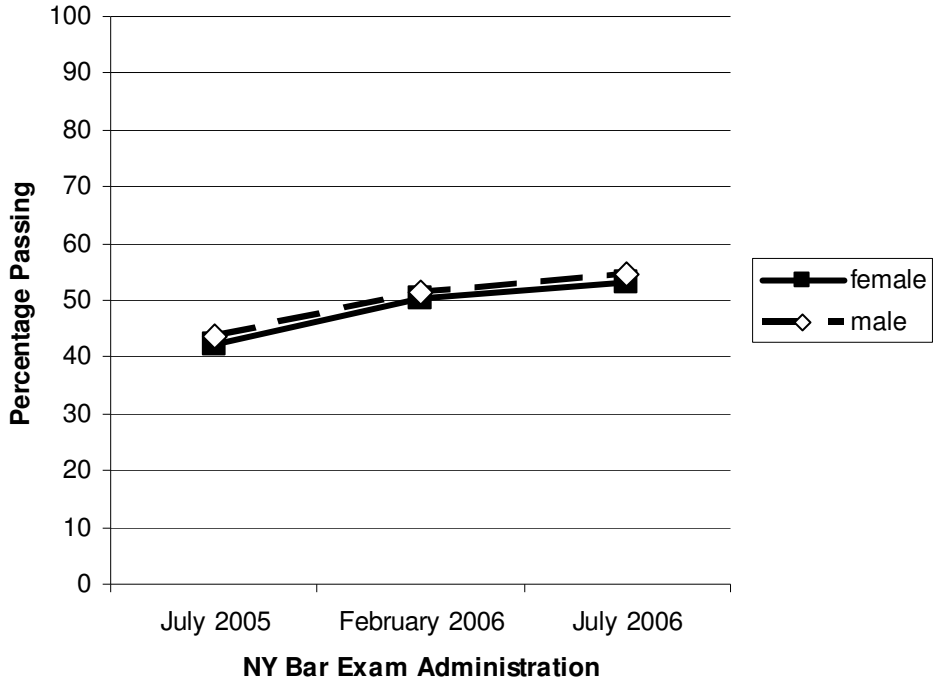
	First Time Takers Pass in July 2005	First Time Repeaters Pass in Feb. 2006	First Time Repeaters Pass in July 2006	Second Time Repeaters Pass in July 2006	Total Pass as of Feb. 2006	Total Pass as of July 2006
Gender	% pass (# pass/ # total)	% pass (# pass/ # repeat)	% pass (# pass/ # repeat)	% pass (# pass/ # repeat)	% pass (# total pass/ # total)	% pass (# total pass/ # total)
Female	42.3% (269/636)	35.2% (50/142)	24.2% (8/33)	20.4% (11/54)	50.2% (319/636)	53.1% (338/636)
Male	43.8% (331/755)	38.2% (58/152)	25.5% (14/55)	20.4% (10/49)	51.5% (389/755)	54.7% (413/755)
Total*	43.0% (626/1457)	37.2% (116/312)	25.8% (24/93)	21.0% (22/105)	50.9% (742/1457)	54.1% (788/1457)

*Total includes candidates who did not record their genders.

As indicated earlier, the persistence rates (percentages of failing candidates in July 2005 who retook the examination in February 2006 or July 2006) were lower for the foreign-educated candidates than they were for the domestic-educated candidates. In addition, the pass rates for the foreign-educated candidates retaking the examination in February 2006 or July 2006 were considerably lower than they were for the domestic-educated candidates. As a result, the increases in cumulative pass rates from July 2005 to July 2006 were not as large for the foreign-educated candidates as they were for the domestic-educated candidates.

Figure 4.3 displays the increases in the cumulative pass rates for the foreign-educated first-time takers between July 2005 and July 2006 for females and males. The patterns are quite similar for females and males, increasing from about 43% in July 2005 to about 51% in February 2006 and to a little over 54% in July 2006.

Figure 4.3
Foreign-Educated First-Time Takers in July 2005
Eventual Pass Rates: July 2005 to July 2006
Gender



4.5 Pass Rates for Foreign-Educated Candidates as a Function of Race/Ethnicity

Table 4.6 summarizes the cumulative pass rates for the foreign-educated candidates who took the NY bar exam for the first time in July 2005 as a function of race/ethnicity. Although the initial pass rates are low compared to the domestic-educated candidates for all of the racial/ethnic groups among the foreign-educated candidates, they are highest for the Caucasian/White group (54.9%) and lowest for the Black/African American group (10.5%). As noted above, the persistence rates for the foreign-educated candidates were relatively low, and their pass rates when retaking the examination in February 2006 or July 2006 were lower than the pass rates for the domestic-educated candidates. As a result, the increases in cumulative pass rates from July 2005 to July 2006 were not generally as large for the foreign-educated candidates as they were for the domestic-educated candidates (Table 4.7 versus Table 4.3). The Caucasian/White group's pass rate increased from 54.9% in July 2005 to a cumulative

pass rate of 64.8% in July 2006. The pass rate for the Asian/Pacific Islander group (the largest group among the foreign-educated candidates) increased from 39.4% in July 2005 to 51.5% as of July 2006. The Hispanic/Latino group increased from 24.3% to 32.4% and the Black/African American group increased from 10.5% to 25.4% between July 2005 and July 2006.

Table 4.6
Pass Rates for July 2005, February 2006, July 2006, and Total as of February 2006 and July 2006
Foreign-Educated Candidates: Racial/Ethnic Groups

	First Time Takers Pass in July 2005	First Time Repeaters Pass in Feb. 2006	First Time Repeaters Pass in July 2006	Second Time Repeaters Pass in July 2006	Total Pass as of Feb. 2006	Total Pass as of July 2006
Race/ Ethnicity	% pass (# pass/ # total)	% pass (# pass/ # repeat)	% pass (# pass/ # repeat)	% pass (# pass/ # repeat)	% pass (# total pass/ # total)	% pass (# total pass/ # total)
Caucasian/ White	54.9% (307/559)	41.1% (39/95)	39.1% (9/23)	24.1% (7/29)	61.9% (346/559)	64.8% (362/559)
Asian/Pacific Islander	39.4% (233/592)	36.4% (52/143)	29.7% (11/37)	18.0% (9/50)	48.1% (285/592)	51.5% (305/592)
Black/African American	10.5% (7/67)	31.8% (7/22)	9.1% (1/11)	18.2% (2/11)	20.9% (14/67)	25.4% (17/67)
Hispanic/ Latino	24.3% (18/74)	18.8% (3/16)	9.1% (1/11)	28.6% (2/7)	28.4% (21/74)	32.4% (24/74)
Other	36.2% (34/94)	41.2% (7/19)	0.0% (0/5)	0.0% (0/6)	43.6% (41/94)	43.6% (41/94)
Total*	43.0% (626/1,457)	37.2% (116/312)	25.8% (24/93)	21.0% (22/105)	50.9% (742/1,457)	54.1% (788/1,457)

*Total includes candidates who did not record their races/ethnicities.

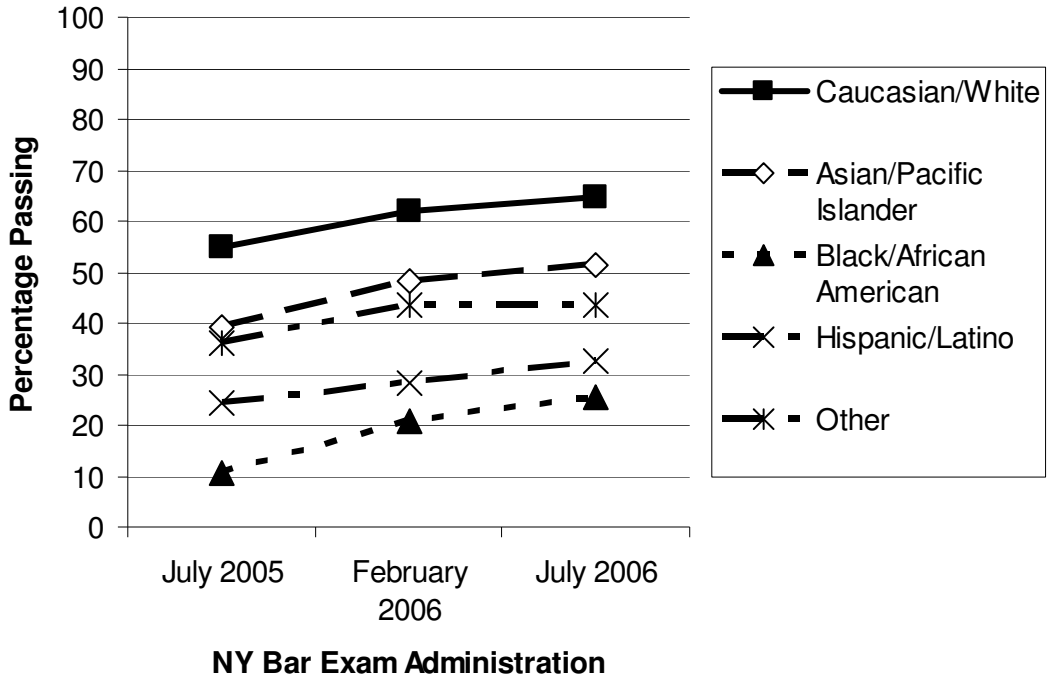
Table 4.7
Improvement in Pass Rates from July 2005 through July 2006,
Foreign-Educated Candidates: Racial/Ethnic Groups

Race/Ethnicity	Pass Rate Improvement July 2005 – July 2006 (in percentage points)
Caucasian/White	9.9
Asian/Pacific Islander	12.1
Black/African American	14.9
Hispanic/Latino	8.1
Other	7.4
Total*	11.1

*Total includes candidates who did not record their races/ethnicities.

Figure 4.4 displays the increases in the cumulative pass rates from July 2005 to July 2006 by ethnic/racial group for the first-time-taking foreign-educated candidates in July 2005. The patterns for the different groups are similar in that they all increase between July 2005 and July 2006; but most start at a low pass rate in July 2005 and have somewhat higher, but still relatively low, pass rates in July 2006.

Figure 4.4
Foreign-Educated First-Time Takers in July 2005
Eventual Pass Rates: July 2005 to July 2006
Racial/Ethnic Groups



Notes

1. Technically, this analysis is a cross-sectional analysis; it compares performance under different passing scores using data collected under a particular passing score. However, the implications of interest involve the changes in pass rates from one year to the next, with a change in the passing score between the two years; a study that evaluates changes from one year to the next is called a longitudinal study. It is not unusual to use cross-sectional data to address longitudinal questions, but there are potential problems in doing so, and we need to take these problems into consideration. The increase in the passing score may have effects on candidate preparation, and therefore on bar examination performance. These effects may occur over an extended period as the candidates become better informed about the implications of a higher passing score.

2. As indicated in the last row of Table 4.2b, 6,017 candidates would have passed in July 2005 if the passing score had been 660, and a total of 5,915 actually passed with the passing score of 665. Of the 102 candidates who would have passed if the passing score were 660, but did not pass, 87 retook the NY bar exam in February 2006 and/or July 2006 and 79 passed (at a passing score of 665).

   As of July 2006, there were 138 candidates in the 660 - 664 interval. This number is larger than it was in the July 2005 administration. As noted above, 79 candidates who were in this situation in July 2005 had achieved a score of 665 and passed by July 2006, leaving 23 of the original group. In addition, 115 candidates with scores under 660 in July 2005 had achieved a score between 660 and 664 by July 2006.

5. Characteristics of the First-time Takers who Failed the New York Bar Examination in July 2005

In this section, we examine the persistence of the candidates who took the New York Bar Examination (NY bar exam) for the first time in July 2005 and failed (in particular, whether they retook the NY bar exam in 2006 and passed, retook the exam in 2006 and failed, did not retake the exam in NY in 2006, or retook the bar exam in another jurisdiction in 2006). We also examine the performance of these candidates on the July 2005 bar exam, on law-school performance (law-school GPA), and on measures of readiness for law school (LSAT scores, and undergraduate GPA).

5.1 Scaling Law-School GPAs

The candidates who failed the NY bar exam in July 2005 had graduated from a number of law schools, and the meaning of law-school GPAs (L-GPAs) is likely to vary across law schools as a result of differences in admissions policies, course requirements, grading standards, and the specific methods used to compute law-school GPAs (L-GPAs). The potential differences in the meanings of L-GPAs across law schools suggest the need for rescaling L-GPAs to control for these differences.

The undergraduate GPAs (U-GPAs) are subject to some of the same difficulties as L-GPAs, but they are drawn from such a large number of institutions that it is not feasible to effectively rescale them. However, because the candidates generally graduated from different undergraduate institutions, the variability introduced by differences among undergraduate schools in grading standards acts as a source of random variation (or noise) that tends to diminish the power of U-GPA as a predictor of future performance, but it does not otherwise distort the analyses.

The L-GPAs were rescaled in two ways. In the first approach, we adjusted for the selectivity of the law school in terms of U-GPAs and LSAT scores. In particular, for each candidate in the sample, we computed an index based on his or her LSAT score and U-GPA. The U-GPAs and LSAT scores were scaled to have a mean of 0.0 and an SD (standard deviation) of 1.0, and these two standardized variables were then combined into the Index, with the LSAT score given a weight of 60% and the U-GPA given a weight of 40%. An arbitrary value of 10.0 was then added to the Index to ensure that all values were positive.

The mean and SD for the Index was computed for each law school using the results for the candidates in this study who had graduated from that law school, and the L-GPAs for the candidates from that school were scaled to have the same mean and SD as the Index for the law school. The resulting *Index-based L-GPA* depends on the candidate's actual L-GPA and the distribution of the Index for candidates from his or her law school. Scaling the L-GPA to the Index implies that if two candidates from different law schools have the same L-GPA, the candidate from the more selective school (i.e., the school with a higher average for the Index) will have the higher Index-based L-GPA.

In the second approach, we transformed L-GPAs within each law school to a common four-point scale, the *4-pt L-GPA*, by scaling the mean and SD within each school to the average L-GPA mean and SD for all of the schools that used a traditional four-point L-GPA scale. Under this definition, all of the law schools have the same mean and SD for their GPAs. This approach makes no attempt to adjust the L-GPAs to take account of differences across law schools, and in fact, any differences in means and SDs of L-GPAs that might have existed across schools are eliminated. The 4-pt L-GPA reflects each candidate's relative standing on GPA within their law school.

5.2 Characteristics of the Candidates who Took the New York Bar Examination for the First Time in July 2005 and Failed

Of the 2,072 candidates who failed the NY bar exam for the first time in July 2005, about 60% were educated in the United States and about 40% were educated outside the United States. Table 5.1 summarizes the performance of these two groups for the two 2006 administrations of the NY bar exam, and reveals substantial differences in their performance. Fewer than 15% of the domestic-educated candidates did not retake the NY bar exam in 2006, while more than 50% of the foreign-educated candidates did not retake the NY bar exam in 2006. Furthermore, almost 50% of the domestic-educated candidates persisted and passed the NY bar exam in 2006, but only 19% of the foreign-educated candidates persisted and passed the NY bar exam in 2006. Over 7% of the domestic-educated candidates took the bar exam in another jurisdiction (and not in New York) in 2006, and about half a percent of the foreign-educated candidates retook the exam in another jurisdiction.

Table 5.1
All First-Time Failing Candidates in July 2005
Percentages Persisting as of July 2006
Versus Origin of Legal Education

Origin of Legal Education	Persistence in February 2006 or July 2006			
	Did Not Persist	Persisted in NY and Passed	Persisted in NY and Failed	Persisted in another Jurisdiction
Domestic (n = 1,241)	14.9% (185)	48.8% (605)	29.2% (362)	7.2% (89)
Foreign (n = 831)	50.8% (422)	19.5% (162)	29.2% (243)	0.5% (4)
Total (N = 2,072)	29.3% (607)	37.0% (767)	29.2% (605)	4.5% (93)

Performance in 2006 of Domestic-Educated First-time Takers who Failed in July 2005

Table 5.2 summarizes the performance on the two 2006 administrations of the NY bar exam for the domestic-educated female and male candidates who failed the NY bar exam for the first time in July 2005. The persistence patterns did not differ substantially for the males and females. For both groups, about 15% did not persist, and about 48% persisted and passed. The female group had a slightly higher percentage than the male group of candidates who persisted and failed, but overall, the patterns are quite similar.

Table 5.2
Domestic-Educated First-Time Failing Candidates in July 2005
Percentages Persisting as of July 2006
Versus Gender

Gender	Persistence in February 2006 or July 2006			
	Did Not Persist	Persisted in NY and Passed	Persisted in NY and Failed	Persisted in another Jurisdiction
Female (n = 596)	14.1% (84)	48.0% (286)	31.0% (185)	6.9% (41)
Male (n = 540)	15.9% (86)	48.5% (262)	27.2% (147)	8.3% (45)
Total* (N = 1,241)	14.9% (185)	48.8% (605)	29.2% (362)	7.2% (89)

*Total includes candidates who did not record their genders.

Table 5.3 summarizes the persistence across the two subsequent 2006 administrations of the NY bar exam as a function of racial/ethnic group for the domestic-educated candidates who failed the NY bar exam for the first time in July 2005. Again, there are some differences among the groups, but the patterns are, in general, quite similar across the racial/ethnic groups. For most of the groups, about 15% of the candidates did not persist in 2006, about 48% persisted and passed, and about 30% persisted and failed. The Hispanic/Latino group had a relatively higher persistence rate, and the Black/African American group had a relatively lower percentage that persisted and passed, but the general pattern is fairly consistent across the groups, especially if they are compared to the very large differences across racial/ethnic groups found for the domestic-educated first-time takers in July 2005.

Table 5.3
Domestic-Educated First-Time Failing Candidates in July 2005
Percentages Persisting as of July 2006
Versus Race/Ethnicity

Race/Ethnicity	Persistence in February 2006 or July 2006			
	Did Not Persist	Persisted in NY and Passed	Persisted in NY and Failed	Persisted in another Jurisdiction
Caucasian/White (n = 649)	14.8% (96)	49.9% (324)	27.3% (177)	8.0% (52)
Asian/Pacific Islander (n = 146)	14.4% (21)	47.3% (69)	30.1% (44)	8.2% (12)
Black/African American (n = 200)	15.0% (30)	45.5% (91)	34.5% (69)	5.0% (10)
Hispanic/Latino (n = 65)	9.2% (6)	49.2% (32)	33.8% (22)	7.7% (5)
Other (n = 54)	16.7% (9)	50.0% (27)	24.1% (13)	9.3% (5)
Total* (N = 1,241)	14.9% (185)	48.8% (605)	29.2% (362)	7.2% (89)

*Total includes racial/ethnic groups not separately listed in the table.

Table 5.4 reports on the average age at law-school graduation and age at July 2005 bar attempt for domestic-educated first-time takers who failed in July 2005 divided into four outcome categories (did not persist, persisted and passed, persisted and failed, and persisted in another jurisdiction). The candidates who did not persist were a bit older than those who did persist, both when they graduated and when they took the bar examination. The candidates who persisted and failed were a bit older than those who persisted and passed, and the candidates who persisted in a jurisdiction other than New York were youngest on average. Note, however, that the differences are small compared to the standard deviations and are not much larger (and in some cases, smaller) than the standard errors. So age does not seem to be strongly related to the future success of candidates who failed in July 2005. However, as indicated in the note at the bottom of Table 5.4, the domestic-educated first-time takers who failed in July 2005 were, as a group, somewhat older (about a year and a half at graduation and about two years when taking the bar exam) than the domestic-educated first-time takers who passed in July 2005.[2] The first-time passing candidates in July 2005 had a mean age at law-school graduation of 27.1 compared to 28.8 for the first-time failers. The first-time passing candidates had a mean age at July 2005 bar attempt of 27.3 compared to 29.4 for the first-time failers, a difference of 2.1 years or about a half of a standard deviation for the passing first-time takers.

Table 5.4
Domestic-Educated First-Time Failing Candidates in July 2005
Age Versus Persistence

Persistence in February 2006 or July 2006	Age at Law School Grad. Mean (N / SD / SEM)	Age at July 2005 Bar Attempt Mean (N / SD / SEM)
Did Not Persist	29.6 (185 / 6.0 / 0.4)	30.6 (185 / 6.5 / 0.5)
Persisted in NY and Passed	28.5 (604 / 5.6 / 0.2)	28.9 (605 / 6.0 / 0.2)
Persisted in NY and Failed	29.1 (360 / 6.5 / 0.3)	29.8 (362 / 7.3 / 0.4)
Persisted in another Jurisdiction	28.2 (89 / 4.8 / 0.5)	28.4 (89 / 4.9 / 0.5)
Total	28.8 (1,238 / 5.9 / 0.2)	29.4 (1,241 / 6.4 / 0.2)

Note: Domestic-educated first-time passing candidates in July 2005: mean age at law school graduation = 27.1 (n = 5,908; SD = 4.0; SEM = 0.05), mean age at bar attempt = 27.3 (n = 5,915; SD = 4.1; SEM = 0.05)

Table 5.5 reports the average bar exam scores for domestic-educated first-time failing candidates in July 2005 for each outcome category. The candidates who persisted in 2006 and passed had the highest average July 2005 scores, about 638. The candidates who persisted in another jurisdiction had the second highest average July 2005 bar exam score, about 624. The candidates who persisted and failed had an average July 2005 bar exam score of about 608, about 30 points lower than the average score of those who persisted and passed. This difference is much larger than the standard errors of the average scores and is almost as large as the standard deviations for the various groups. The candidates who did not persist had an average July 2005 bar exam score of about 617, which is higher than that for the candidates who persisted and failed.

Table 5.5
Domestic-Educated First-Time Failing Candidates in July 2005
New York Bar Examination Scores in July 2005
Versus Persistence

Persistence in February 2006 or July 2006	MBE Scaled Score x 5 Mean (N / SD / SEM)	Essay Scaled Score Mean (N / SD / SEM)	NYMC Scaled Score Mean (N / SD / SEM)	Total NY Bar Score Mean (N / SD / SEM)
Did Not Persist	626.9 (185 / 49.6 / 3.7)	608.0 (185 / 50.3 / 3.7)	622.0 (185 / 70.3 / 5.2)	617.0 (185 / 35.8 / 2.6)
Persisted in NY and Passed	637.0 (605 / 42.7 / 1.7)	638.1 (605 / 39.6 / 1.6)	644.2 (605 / 63.01 / 2.6)	638.3 (605 / 21.9 / 0.9)
Persisted in NY and Failed	601.9 (362/ 45.4 / 2.4)	613.9 (362 / 50.1 / 2.6)	607.4 (362 / 59.0 / 3.1)	608.5 (362 / 35.8 / 1.9)
Persisted in another Jurisdiction	621.1 (89 / 45.0 / 4.8)	626.7 (89 / 49.0 / 5.2)	622.8 (89 / 66.1 / 7.0)	624.1 (89 / 31.1 / 3.3)
Total	624.1 (1,241/ 47.2 / 1.3)	625.7 (1,241/ 46.9 / 1.3)	628.6 (1,241/ 65.2 / 1.9)	625.4 (1,241/ 32.2 / 0.9)

Note: Domestic-educated first-time passing candidates in July 2005: mean MBE scaled score x 5 = 747.4 (n = 5,915; SD = 58.6; SEM = 0.8), mean Essay scaled score = 749.3 (n = 5,915; SD = 54.3; SEM = 0.8), mean NYMC scaled score = 740.9 (n = 5,915; SD = 64.8; SEM = 0.8), mean NY bar exam = 747.7 (n = 5,915; SD = 46.4; SEM = 0.6)

The differences across the subtest scores tend to be small within the four outcome categories, with two exceptions. For the candidates who did not persist, the average score on the essay component was substantially lower than the average scores on the other two components. In contrast, for the candidates who persisted and failed, the average score on the essay component was higher than the average scores on the other two components. Furthermore, as indicated in the note in Table 5.5, all of these differences are quite small compared to the differences between the domestic-educated first-time takers who failed in July 2005 and the domestic-educated first-time takers who passed in July 2005 (625.4 versus 747.4).[2] Note also that the average scores for the failing candidates are quite consistent across the three components of the NY bar exam. So, for the domestic-educated first-time takers in July 2005, the average scores on the bar exam and its components were much lower for those failed than they were for those who passed. Of the domestic-educated first-time takers who failed in July 2005, those who passed in 2006 had higher average scores than those who did not retake the NY bar exam in 2006, who in turn, had higher average scores than those who retook the exam and failed.

Table 5.6 reports on the average performance of the candidates in the four outcome categories on four measures of previous academic achievement, U-GPA, LSAT scores, Index-based L-GPA, and 4-pt L-GPA. On all four of these variables, the candidates who persisted and passed the NY bar exam in 2006 had the highest average performance, and the candidates who did not persist had the second highest average. The candidates who persisted but failed the NY bar exam in 2006 had the lowest average performance on three of the variables in Table 5.6, and were only slightly above the candidates who persisted in another jurisdiction on the fourth variable, the U-GPA. Furthermore, as indicated in the note at the bottom of Table 5.6, the domestic-educated first-time takers who failed in July 2005 had much lower average scores on all of these variables than the domestic-educated first-time takers who passed in July 2005.[2]

Table 5.6
Domestic-Educated First-Time Failing Candidates in July 2005
Performance on Previous Measures of Achievement
Versus Persistence

Persistence in February 2006 or July 2006	Undergraduate GPA Mean (N / SD / SEM)	LSAT Mean (N / SD / SEM)	4-pt L-GPA Mean (N / SD / SEM)	Index-based L-GPA Mean (N / SD / SEM)
Did Not Persist	3.08 (156 / 0.4 / 0.03)	152.64 (156 / 6.6 / 0.5)	2.82 (115 / 0.30 / 0.03)	9.19 (115 / 0.72 / 0.07)
Persisted in NY and Passed	3.15 (496 / 0.4 / 0.02)	153.48 (497 / 7.3 / 0.3)	2.90 (397 / 0.28 / 0.01)	9.36 (397 / 0.74 / 0.04)
Persisted in NY and Failed	3.06 (298 / 0.4 / 0.02)	150.12 (293 / 6.8 / 0.4)	2.75 (240 / 0.28 / 0.02)	8.98 (240 / 0.67 / 0.04)
Persisted in another Jurisdiction	3.04 (81 / 0.4 / 0.04)	151.50 (84 / 6.6 / 0.7)	2.82 (63 / 0.30 / 0.04)	9.03 (63 / 0.61 / 0.08)
Total	3.10 (1,031 / 0.4 / 0.01)	152.24 (1,030 / 7.1 / 0.2)	2.83 (815 / 0.29 / 0.01)	9.20 (815 / 0.72 / 0.03)

Note: Domestic-educated first-time passing candidates in July 2005: mean U-GPA = 3.39 (n = 5,203; SD = 0.38; SEM = 0.01), mean LSAT = 159.7 (n = 5,223; SD = 7.5; SEM = 0.1), mean 4-pt L-GPA = 3.26 (n = 4,158; SD = 0.33; SEM = 0.01), mean Index-based L-GPA = 10.36 (n = 4,158; SD = 0.88; SEM = 0.01)

Foreign-Educated First-time Failers in July 2005

Table 5.7 summarizes the persistence across the two 2006 NY bar exam administrations for the foreign-educated female and male candidates who failed the NY bar exam for the first time in July 2005. The patterns are quite similar for both groups. About 50% of males and females did not persist, almost 20% persisted and passed, and almost 30% persisted and failed. Very few candidates retook the bar exam in another jurisdiction.

Table 5.7
Foreign-Educated First-Time Failing Candidates in July 2005
Percentages Persisting as of July 2006
Versus Gender

Gender	Persistence in February 2006 or July 2006			
	Did Not Persist	Persisted in NY and Passed	Persisted in NY and Failed	Persisted in another Jurisdiction
Female (367)	51.8% (190)	18.8% (69)	28.9% (106)	0.5% (2)
Male (424)	50.7% (215)	19.3% (82)	29.5% (125)	0.5% (2)
Total* (831)	50.8% (422)	19.5% (162)	29.2% (243)	0.5% (4)

*Total includes candidates who did not record their genders.

Table 5.8 summarizes persistence across the two 2006 administrations of the NY bar exam as a function of racial/ethnic group for the foreign-educated first-time failing candidates who failed the NY bar exam for the first time in July 2005. There are some differences across the racial/ethnic groups, but the general patterns are fairly similar across the different groups. For most groups, about 50% of the candidates did not persist in 2006. About 20% persisted and passed overall, with the Black/African-American group (at about 17%), the Hispanic/Latino group (at about 11%), and the "Other" group (at about 12%) having somewhat lower than values. Overall about 30% persisted and failed, with the Caucasian/White and "Other" groups having the lowest percentages persisting but failing, followed by the Asian/Pacific Islander, Hispanic/Latino, and Black/African American groups in that order.

Table 5.8
Foreign-Educated First-Time Failing Candidates in July 2005
Percentages Persisting as of July 2006
Versus Race/Ethnicity

Race/Ethnicity	Persistence in February 2006 or July 2006			
	Did Not Persist	Persisted in NY and Passed	Persisted in NY and Failed	Persisted in another Jurisdiction
Caucasian/White (252)	52.0% (131)	21.8% (55)	25.0% (63)	1.2% (3)
Asian/Pacific Islander (359)	49.6% (178)	20.1% (72)	30.1% (108)	0.3% (1)
Black/African American (60)	45.0% (27)	16.7% (10)	38.3% (23)	
Hispanic/Latino (56)	51.8% (29)	10.7% (6)	37.5% (21)	
Other (60)	63.3% (38)	11.7% (7)	25.0% (15)	
Omitted (44)	43.2% (19)	27.3% (12)	29.5% (13)	
Total* (831)	50.8% (422)	19.5% (162)	29.2% (243)	0.5% (4)

*Total includes racial/ethnic groups not separately listed in the table.

Table 5.9 reports, by outcome categories, the average ages of the foreign-educated candidates who failed for the first time in July 2005. The candidates who did not persist were a bit older than those who did persist when they took the bar examination. The candidates who persisted and failed were a bit older than those who did not persist, and those who did not persist were, in turn, a bit older than those who persisted and passed, but the differences were small (and in some cases, smaller than the standard errors). Also, as indicated in the note at the bottom of Table 5.9, the foreign-educated first-time takers who failed in July 2005 were, as a group, somewhat older (about a year and a half older when taking the bar exam) than the foreign-educated first-time takers who passed in July 2005

Table 5.9
Foreign-Educated First-Time Failing Candidates in July 2005
Age at bar attempt in July 2005
Versus Persistence

Persistence in February 2006 or July 2006	Age at July 2005 Bar Attempt Mean (N / SD / SEM)
Did Not Persist	30.2 (422 / 5.6 / 0.3)
Persisted in NY and Passed	29.6 (162 / 5.3 / 0.4)
Persisted in NY and Failed	31.7 (243 / 7.1 / 0.5)
Total*	30.5 (831 / 6.1 / 0.2)

*Total includes four candidates who persisted in another jurisdiction.
Note: Foreign-educated first-time passing candidates in July 2005: mean age at bar attempt = 28.9 (n = 626; SD = 4.2; SEM = 0.2)

Table 5.10 reports, by outcome categories, the average bar exam scores of the foreign-educated candidates who failed the NY bar exam for the first time in July 2005. The candidates who retook the NY bar exam in 2006 and passed had the highest average scores, about 625. The candidates who persisted in 2006 and failed had an average July 2005 bar exam score of about 559, about 66 points lower than the average score of those who persisted and passed. This difference is much larger than the standard errors of the mean for the different groups and is comparable to the standard deviations for these groups. The candidates who did not persist (with an average bar exam score in July 2005 of about 580) fell between these two extremes. As indicated by the note in Table 5.10, these differences are quite small compared to the differences between the foreign-educated first-time takers who failed in July 2005 and those who passed in July 2005.[2]

Table 5.10
Foreign-Educated First-Time Failing Candidates in July 2005
New York Bar Examination Scores in July 2005
Versus Persistence

Persistence in February 2006 or July 2006	MBE Scaled Score x 5 Mean (N / SD / SEM)	Essay Scaled Score Mean (N / SD / SEM)	NYMC Scaled Score Mean (N / SD / SEM)	Total NY Bar Score Mean (N / SD / SEM)
Did Not Persist	584.2 (422 / 71.2 / 3.5)	573.6 (422 / 67.5 / 3.3)	597.8 (422 / 74.5 / 3.6)	580.3 (422 / 58.7 / 2.9)
Persisted in NY and Passed	633.0 (162 / 48.1 / 3.8)	613.0 (162 / 54.6 / 4.3)	656.2 (162 / 66.0 / 5.2)	625.4 (162 / 36.0 / 2.8)
Persisted in NY and Failed	556.1 (243 / 63.2 / 4.1)	557.0 (243 / 65.9 / 4.2)	580.2 (243 / 68.7 / 4.4)	559.2 (243 / 54.8 / 3.5)
Total*	585.4 (831 / 70.0 / 2.4)	576.4 (831 / 67.3 / 2.3)	604.6 (831 / 75.7 / 2.6)	582.9 (831 / 58.3 / 2.0)

*Total includes four candidates who persisted in another jurisdiction.
Note: Foreign-educated first-time passing candidates in July 2005: mean MBE scaled score x 5 = 735.1 (n = 626; SD = 55.7; SEM = 2.2), mean Essay scaled score = 722.7 (n = 626; SD = 55.7; SEM = 2.2), mean NYMC scaled score = 734.7 (n =626; SD = 64.0; SEM = 2.6), mean NY bar exam = 728.9 (n = 626; SD = 44.3; SEM = 1.8)

5.3 Summary

The results reported in this section point to at least two general conclusions. First, for foreign- and domestic-educated first-time takers failed the New York bar exam in July 2005, the differences in subsequent performance across gender, racial/ethnic group, and age were not very large. The domestic-educated first-time failers were fairly homogeneous on the demographic variables in their likelihood of retaking the bar exam

in 2006 and of passing the New York bar exam in 2006. They were also quite homogeneous across gender, racial/ethnic group, and age in their scores on previous measures of achievement (U-GPA, LSAT scores, Index-based L-GPA, and 4-pt L-GPA). These results are in sharp contrast to the results for the total group of domestic-educated candidates who took the bar exam for the first time in July 2005 (including those who passed and those who failed). For this total group of domestic-educated first-time takers, there were major differences in performance on the New York bar exam across racial/ethnic groups, differences as a function of age, and some differences between females and males.[1]

Second, there were large differences between the domestic-educated candidates and the foreign-educated candidates who failed the New York bar exam for the first time in July 2005. The domestic-educated candidates who failed in July 2005 were much more likely than the foreign-educated candidates to take a bar exam in 2006, and they were much more likely to have passed the bar exam by February 2006 or July 2006.

Notes:

1. Kane, M., Mroch, A., Ripkey, D., & Case, S. (2006). *Impact of the Increase in the Passing Score on the New York Bar Examination.* Madison, WI: National Conference of Bar Examiners. See http://www.nybarexam.org/NCBEREP.htm.
2. The sample of first-time takers who passed the July 2005 bar exam differs in two ways from the sample reported in the on the July 2005 NY bar exam cited in 1 above.
    - First, after the report was completed, we obtained data from the New York Board of Law Examiners for all candidates on whether they were domestic- or foreign-educated; we previously did not have information on candidates' origin of education for a portion of the July 2005 data. This means that counts of candidates reported here will be larger than those reported in the previous report, because complete data on origin of education were subsequently available.
    - Second, the sample of candidates used for analyses of U-GPA, LSAT, and L-GPA differed slightly from the previous report. In the previous report, we limited our sample to candidates with complete (i.e., no omitted) data on U-GPA, LSAT, and L-GPA because we modeled these variables together and needed complete data on all of these variables to do so. Here, we examined these variables (i.e., U-GPA, LSAT, and L-GPA) separately and therefore could include all of the data that were available for each variable. This means that counts of candidates reported here will be larger than those reported in the previous report, because the nature of our analysis made data available for a larger number of July 2005 candidates.

6. Relationship of Cumulative New York Pass Rates With Prior Indicators of Achievement

In this section, regression analyses (mostly, logistic regression analyses) are used to examine the relationship between prior measures of achievement and cumulative pass rates in July 2005, February 2006, and July 2006. These analyses provide some insight into candidate characteristics that are most closely associated with success or failure on the NY bar exam.

6.1 Regression

In general, *regression analysis* is used to examine the relationship between some variable of interest, the *dependent variable*, and one or more other variables, the *independent variables*, that can be used to predict the value of the dependent variable in specific cases.

The degree of linear relationship between two variables is given by the correlation coefficient between the two variables. Correlation coefficients have values between -1.0 and +1.0. The closer the correlation is to -1.0 and +1.0, the stronger the linear relationship. Positive correlations indicate that an increase in one variable is associated with an increase in the other. A negative correlation indicates that an increase in one variable is associated with a decrease in the other.

Table 6.1 provides a correlation matrix for U-GPA, LSAT score, the Index (which is a weighted combination of 60% LSAT and 40% U-GPA), Index-based L-GPA, and the 4-pt L-GPA for the domestic-educated first-time takers in July 2005. The entries along the diagonal are all equal to 1, because they represent the correlation of each variable with itself. All of the other correlations in Table 6.1 are positive, indicating that candidates with relatively high values on any of the variables tend to have relatively high values on the others.

The first column in Table 6.1 provides the correlations of the U-GPA, with itself and with the other variables. The U-GPA has such a high correlation (0.73) with the Index, because it is a part (40%) of the Index and has a positive correlation with the other component in the Index, the LSAT score. Note that the LSAT score has an even higher correlation (0.89) with the Index, because it is a bigger part (60%) of the Index. As indicated in the bottom row of Table 6.1, the U-GPA, LSAT, and Index all have high to very high correlations with the Index-based L-GPA mainly because these measures of prior achievement are highly correlated with grades in law school. The average correlation, over law schools, of the Index with original, unscaled GPAs within law schools is about 0.7. Scaling the GPAs to the Index, which adjusts the L-GPA to reflect differences in law school selectivity, tends to yield a correlation that is higher than this within-school correlation, because it captures the between-school variability in the Index. On the other hand, the 4-pt L-GPA eliminates between school differences

(including differences in the average value of the Index), and this tends to depress the correlation.

Table 6.1
Correlations Among U-GPA, LSAT, Index, 4-pt L-GPA, and Index-based L-GPA for Domestic-Educated First-Time Takers in July 2005

Variable	U-GPA Correlation (n)	LSAT Correlation (n)	Index Correlation (n)	4-pt L-GPA Correlation (n)	Index-based L-GPA Correlation (n)
U-GPA	1 (6,234)				
LSAT	.37 (6,182)	1 (6,253)			
Index	.73 (5,036)	.89 (5,036)	1 (5,036)		
4-pt L-GPA	.23 (4,738)	.19 (4,754)	.25 (4,699)	1 (4,973)	
Index-Based LGPA	.52 (4,738)	.75 (4,754)	.80 (4,699)	.57 (4,973)	1 (4,973)

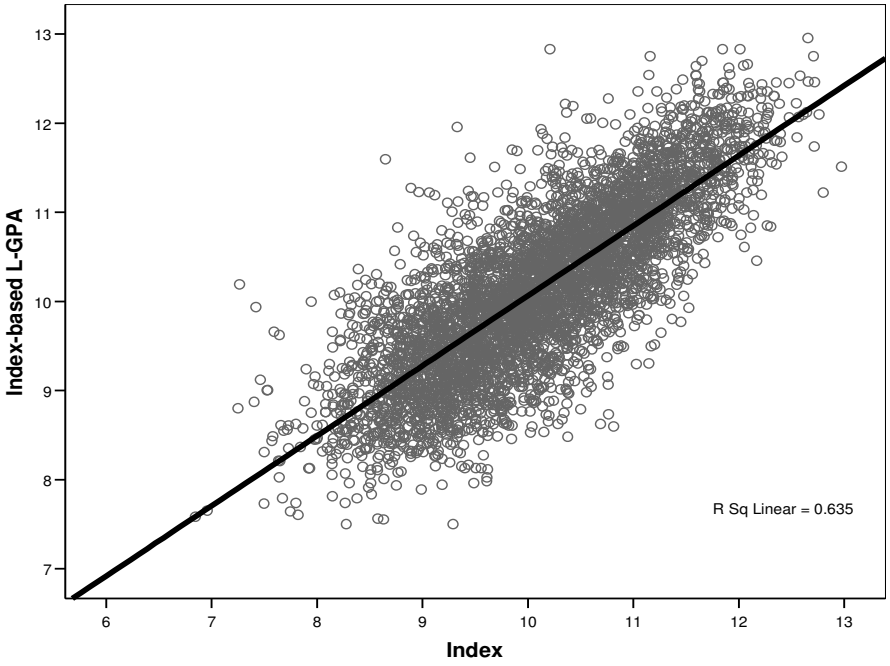
Linear Regression

The most commonly used version of regression analysis assumes that the relationship between the dependent variable and an independent variable can be represented by a straight line. The relationship is said to be "linear", and the line (or plane if several independent variables are used to predict the dependent variable) that fits the data most closely (in the sense that the average squared distance of the points from the line is minimized) can be estimated using standard statistical programs. The result of a regression of one dependent variable on one independent variable is an equation, the *regression equation*, which provides a predicted value of the dependent variable for every possible value of the independent variable. A linear regression equation, when graphed, represents a straight line, the *regression line*.

For example, Figure 6.1 includes a scatterplot of the Index-based L-GPA against the Index, for the domestic-educated first-time takers in July 2005. As indicated in Table 6.1, the correlation between the Index and the Index-based L-GPA is quite high (0.80), mainly because of the strong within-school relationship between the Index and the law school GPA, but also because scaling the GPAs to the Index tends to enhance this correlation.

Each point in Figure 6.1 is defined by its value along the horizontal (Index) axis and the vertical (Index-based L-GPA) axis for an individual candidate. It is clear that the Index-based L-GPA is positively related to the Index, in the sense that, as an individual's score on the Index increases, his or her Index-based L-GPA tends to increase. Furthermore, the relationship seems to be linear in the sense that the points fall around a straight line, and the relationship is strong in the sense that the points generally fall fairly close to the line. The straight line superimposed on the distribution of points is the linear regression line relating the Index-based L-GPA to the Index; the regression line is chosen to minimize the sum of the squared vertical distances of the points from the line.

Figure 6.1
Plot of the Linear Regression Line and Observed Data Points for Index-based L-GPA versus the Index* for Domestic-Educated First-Time Takers in July 2005



* The Index is a weighted combination of 60% LSAT and 40% undergraduate GPA, and the Index-based L-GPA is scaled to reflect the selectivity of the law school (using the mean and standard deviation of the Index in each school to determine the mean and standard deviation of the Index-based L-GPAs in that law school).

The point defined by an individual's scores on the independent and dependent variables will not generally fall on the regression line, but on average, these points are expected to be scattered around the line. To the extent that the general trend in the distribution of data points is consistent with a linear relationship (i.e., the dependent

variable increases at a more or less constant rate as the independent variable increases), the data is said to fit the linear model.

To the extent that the points tend to be close to the line, the dependent variable can be accurately predicted from the independent variable, and the association is said to be strong. To the extent that the points are far from the line, the association is said to be weak. The regression line in Figure 6.1 accounts for about 63.5% of the variance (Note the *variance* is a measure of the spread in the scores equal to the square of the standard deviation of these scores), which would generally be considered a strong relationship.

Correlations of Measures of Prior Achievement with Bar Exam Performance

Previous work on the relationship between measures of prior achievement in related content/skill areas and performance on bar examinations has indicated that bar examination scores are strongly related to performance in law school and somewhat less strongly related to measures of readiness for law school (LSAT scores, U-GPA, and the Index based on these two variables).[1] In particular, scores on the bar exam have high positive correlations with law school GPAs and substantial positive correlations with measures of readiness for law school.

Table 6.2
Correlations of U-GPA, LSAT, Index, and L-GPAs with New York Bar Exam Scores in July 2005, Passing in July 2005, Passing as of February 2006, and Passing as of July 2006 for Domestic-Educated First-Time Takers in July 2005

Variable (n)	NY Bar Exam Score in July 2005	Pass in July 2005	Pass as of February 2006	Pass as of July 2006
U-GPA (6,234)	.38	.27	.23	.22
LSAT (6,253)	.50	.35	.30	.28
Index (5,036)	.54	.36	.31	.29
4-pt L-GPA (4,973)	.63	.44	.37	.35
Index-based L-GPA (4,973)	.68	.45	.39	.36

Table 6.2 presents correlations between the prior measures of achievement (U-GPA, LSAT, the Index, 4-pt L-GPA, and Index-based L-GPA) and four measures of performance on the NY bar exam. In particular, the table includes candidate's total score on the bar exam and three pass-fail variables reflecting whether the candidate had passed in July 2005, had passed as of February 2006, and had passed as of July

2006. The pass-fail variables have a value of 1 if the candidate had passed by that test date and a value of 0 if the candidate had not passed by that date (because they did not retake the NY bar exam or did retake and failed). So, for example, a candidate who passed the NY bar exam in July 2005 would be assigned a value of 1 for all three of the pass-fail variables (for July 2005, February 2006, and July 2006). A candidate who failed the NY bar exam in July 2005 but passed in February 2006 would be assigned a value of 0 for the first pass-fail variable (July 2005) and 1's for the other two pass-fail variables (February 2006 and July 2006). Note that all of the correlations in Table 6.2 are positive and at least moderate in size.

As indicated in the first column of Table 6.2, the total scores on the bar exam have fairly large positive correlations with law school GPAs (0.63 for the 4-pt L-GPA and 0.68 for the Index-based L-GPA). The correlations between total scores on the bar exam and measures of readiness for law school are smaller, but still substantial (0.38 for U-GPA, 0.50 for LSAT scores, and 0.54 for the Index).

The correlations with the pass-fail variables found in the second, third, and fourth columns of Table 6.2 are substantially smaller than the corresponding correlations with the total bar exam score. Correlations that involve variables with limited ranges of values tend to be smaller than those involving variables with a wide range of values, and the pass-fail variables have a very limited range of values (1 or 0). Correlations involving pass-fail variables tend to have their largest correlations with other variables when the candidates are evenly distributed across the two categories (i.e., when the pass rate is close to 50%). The pass rate for domestic-educated candidates in July 2005 was over 82% and increased to over 89% by February 2006 and to 91% by July 2006, and as a result the correlations tend to get smaller as we move from the second column to the fourth column.

Logistic Regression

The relationship between an independent variable and a dependent variable may involve a curve of some kind rather than a straight line. A regression curve is intended to represent the general trends in the relationship between the dependent and independent variables for the population and may take different shapes.

In examining the relationship between the pass/fail outcome for a candidate and the candidate's past performance on various measures of achievement, a linear relationship is not generally appropriate, because the dependent variable has only two possible values, pass or fail, and linear regression assumes that the dependent variable changes gradually (i.e., linearly) as the independent variable changes. The most commonly used regression model for this kind of analysis (in which a continuous variable is used to predict some binary outcome like pass/fail) is called *logistic regression*, and employs a logistic regression equation instead of a linear regression equation.

A logistic function has a flattened "s" shape (see Figure 6.2). It starts out near zero and increases very slowly for low values of the independent variable. Then over some range of values of the independent variable, it increases more rapidly as the independent variable increases, and finally it flattens out and gradually approaches 1.0 for very high values of the independent variable. The logistic function is intended to represent the probability of some binary outcome (e.g., passing vs. failing the bar exam) as a function of some more-or-less continuous independent variable (e.g., grades in law school). The probability of the outcome of interest (e.g., passing the bar exam) is expected to increase (and the complimentary outcome, failing, to decrease) as a function of the independent variable (e.g., grades in law school), but it is not expected to increase linearly.

The logistic function describing the relationship between passing the bar examination and some independent variable (e.g., 4-pt L-GPA) indicates the probability that candidates with particular values of the independent variable will pass. The probability of passing has values between 0.0 (no chance of passing) and 1.0 (certain of passing). The logistic function is close to 0.0 for very low values of the independent variable, and gets close to 1.0 for very high values of the independent variable, but it never gets to 0.0 or 1.0. Candidates with high values of the independent variable and therefore a high probability of passing are generally expected to pass, but some will fail. Similarly, candidates with low values of the independent variable and a low probability of passing are expected to fail, but some will pass. The observed proportion of candidates in different score ranges on the independent variable are expected to have observed proportions passing that are similar to the probabilities predicted by the logistic regression function.

For example, the top panel of Figure 6.2 (which will be discussed more fully later) examines passing the NY bar exam in July 2005 as a function of the 4-pt L-GPA. The "x"s in Figure 6.2 represent the observed proportions of domestic-educated first-time takers who passed in July 2005 for different ranges of 4-pt L-GPAs. These proportions tend to increase as the 4-pt L-GPA increases, but it is clear that the relationship is not linear. The increase is fairly rapid between GPA of 2.5 and 3.0, but is quite gradual between GPAs of 3.5 and 4.0. Figure 6.2 also includes a logistic regression curve relating the probability of passing the NY bar exam to a candidate's grades in law school (the 4pt L-GPA) for domestic-educated first-time takers in July 2005. The logistic curve represents the general trend in the data quite well, with the observed proportions passing the bar exam in the different categories being close to the curve. The observed proportions passing are not identical to the probabilities of passing predicted by the logistic regression curves, but they are all very close.

For very low values of the 4-pt L-GPA (e.g., below 2.25) the logistic curve indicates that the probability of passing is quite low (below 0.2), and for very high values of the GPA (e.g., above 3.75) the logistic curve indicates that the probability of passing is close to 1.0. These results are consistent with earlier findings that 4-pt L-GPAs are highly correlated with scores on the bar exam. Candidates with high 4-pt L-GPAs are

very likely to pass the bar exam (but are not sure to do so), and candidates with relatively low 4-pt L-GPAs are much less likely to pass the bar exam.

For logistic regression, the dependent variable can take on only one of two values (e.g., pass = 1 and fail = 0), and therefore, the data points for individual candidates cannot track the curve as they do for linear regression. For logistic regression, the expectation is that most candidates for whom the predicted probability of passing is high will pass, that most candidates for whom the predicted probability of passing is low will fail, and that about half of the candidates for whom the predicted probability of passing is about 0.5 will pass.

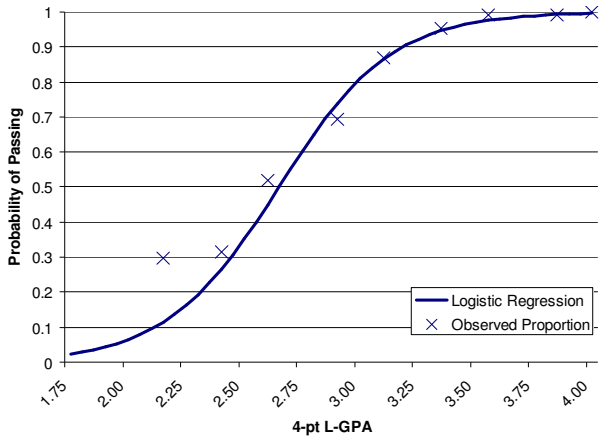
6.2 Relationship between Cumulative Pass Rates and Performance in Law School

As noted earlier, this study employed two measures of performance in law school, involving two scaling approaches. In the 4-pt L-GPA scaling procedure, candidates in each law school with at least 25 graduates in the study were scaled to have the same mean and standard deviation (SD) as the average values of these variables for schools that used a 4-point GPA scale. This scaling of the L-GPAs does not change the relationship between a candidate's GPA and the GPAs of other candidates from the same law school, but it does ensure that the average 4-pt L-GPA and the SD of the 4-pt L-GPAs will be the same in every law school. So, a candidate's 4-pt L-GPA represents his or her standing relative to other candidates from the same school in terms of how far the candidate's L-GPA is above or below the average GPA in the law school. Two candidates from different law schools, with GPAs that are equal to the average GPAs in their school, would have the same value for the 4-pt L-GPA regardless of which law schools they attended.

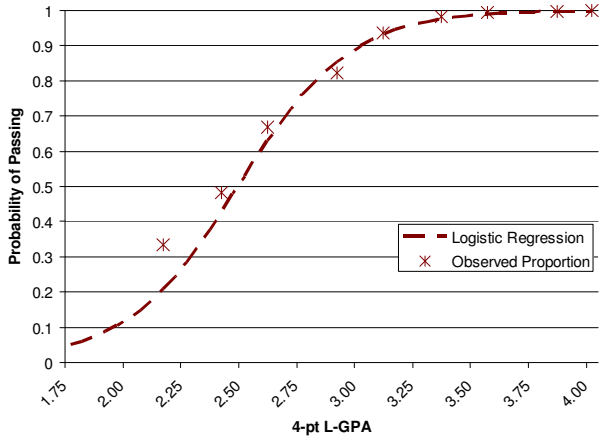
The Index-based L-GPAs were scaled so that the values of the Index-based L-GPAs for the candidates from a law school would have the same mean and SD as the values of an index which is defined as a weighted average of their LSAT scores and U-GPAs (60% LSAT and 40% U-GPA) for those candidates. Again, this does not change the relationship between a candidate's L-GPA and the L-GPAs of other candidates from the same law school, but it shifts the L-GPAs in each law school to reflect the selectivity of the law school.

The Index-based L-GPA depends on both the candidate's standing in his or her law school and on the selectivity of the law school. Two candidates from different law schools, each with L-GPAs equal to the average L-GPA in their respective schools, would generally have different values for the Index-based L-GPA, with the specific values depending on the law schools they attended. The more selective law schools (i.e., those with higher average values for the Index) will have proportionally higher average Index-based L-GPAs.

Figure 6.2
Plots of the Logistic Regression Curves and Observed Proportion Passing the NY Bar Exam versus 4-pt L-GPA for Domestic-Educated First-Time Takers
July 2005



February 2006



July 2006

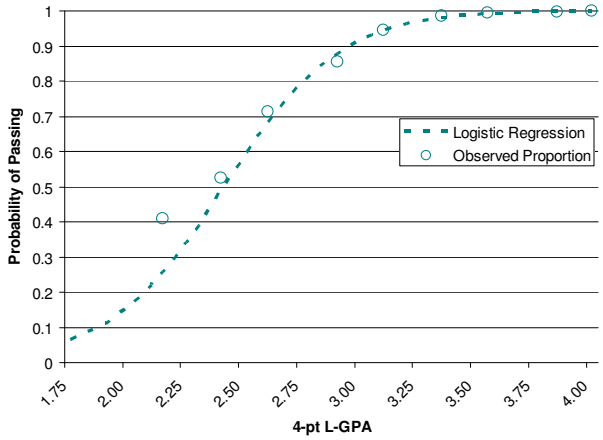
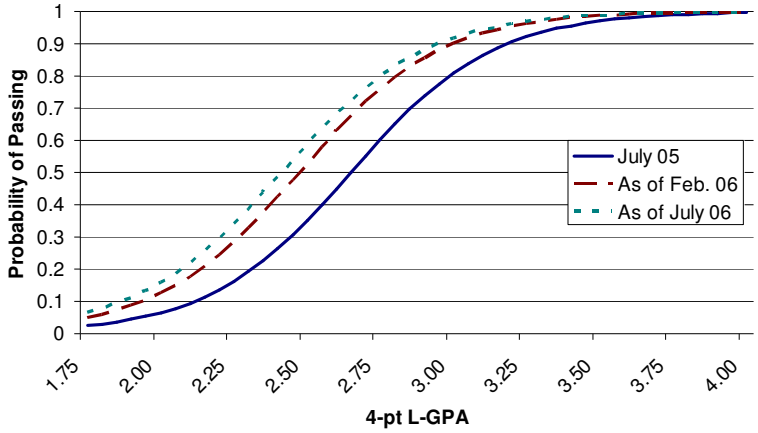
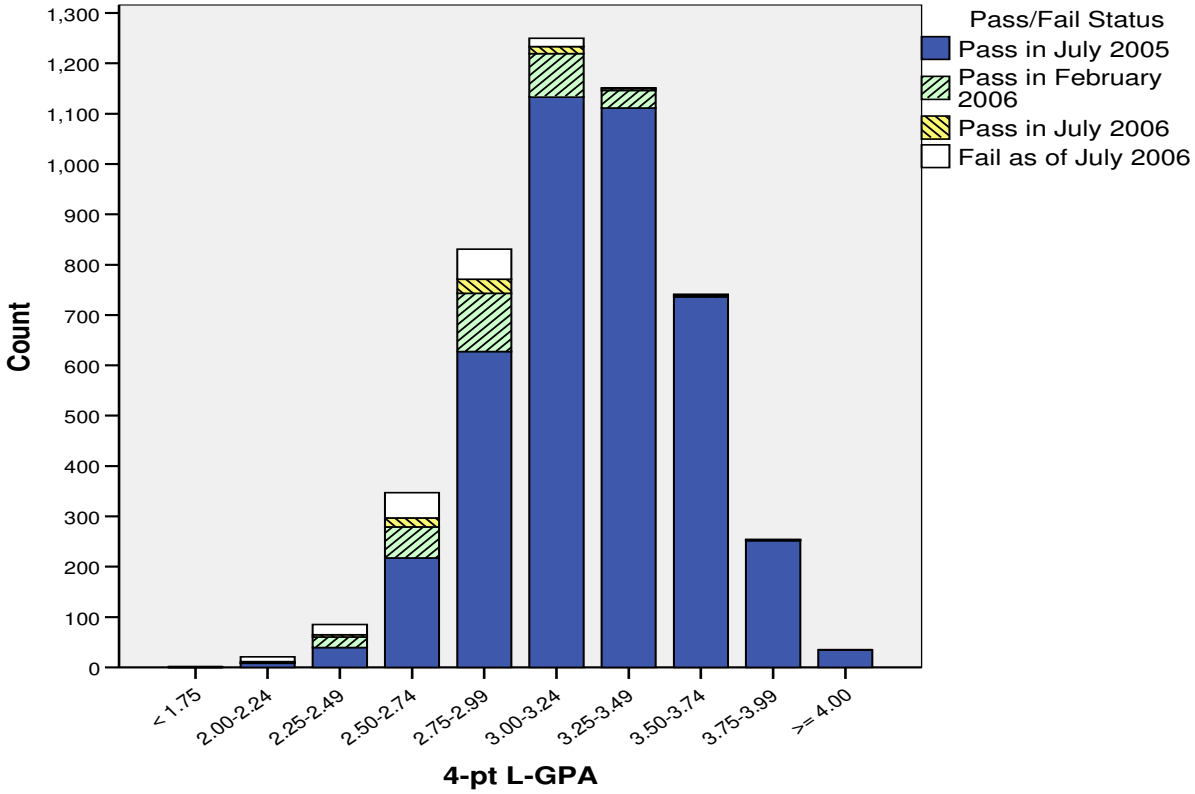


Figure 6.3
Top: Logistic Regression Curves for the Probability of Passing the NY Bar Exam in July 2005, and as of February 2006 and July 2006 as Functions of 4-pt L-GPA
Bottom: Stacked Frequency Distribution for 4-pt L-GPA
Domestic-Educated First-Time Takers in July 2005





4-pt L-GPAs

As noted earlier, Figure 6.2 represents the observed proportions of domestic-educated first-time takers who passed in July 2005, as of February 2006, and as of July 2006 for different ranges of 4-pt L-GPAs as well as logistic regression functions relating the probability of passing the NY bar exam as of each of these test dates. As indicated in the three panels of Figure 6.2, the logistic regression function does a good job of capturing the changes in proportions passing as a function of the 4-pt L-GPA. The one category (with the lowest 4-pt L-GPAs) in which the observed proportion passing is much different from the predicted probability of passing has few candidates and therefore has a large standard error in the estimate of the proportion passing.

Figure 6.3 summarizes the relationship between candidates' chances of passing and their 4-pt L-GPA and includes a lot of information in one place. The top half of the figure summarizes the results from Figure 6.2 by including the logistic regression curves for the probability of passing in July 2005, the probability of passing as of February 2006, and the probability of passing as of July 2006 in one graph. Note that there is a relatively large difference between the logistic curve for passing in July 2005 and that for passing as of February 2006, but that the logistic curve for passing as of February 2006 is relatively close to that for July 2006. The probability of passing increases much more between July 2005 and February 2006 than it does between February 2006 and July 2006.

It is clear from the top half of Figure 6.3 that the improvements in the probability of passing from July 2005 to February 2006 and then to July 2006 are not uniform across the 4-pt L-GPA categories. The increase in the probability of passing is indicated by the vertical distance between the curves. So, for example, Figure 6.3 indicates that a candidate with a 4-pt L-GPA of 2.5 would have a probability of passing of about 0.35 in July 2005 and a probability of passing of about 0.6 as of July 2006. For GPAs above 3.25, the pass rates were very high (well over 0.9) in July 2005 and did not increase much as of February 2006 and July 2006, in large part because they were so high in July 2005 that there was little room for improvement. The logistic regression curves suggest that the largest improvements in the probability of passing between July 2005 and July 2006 occur for candidates with 4-pt L-GPAs between 2.5 and 3.0.

The bottom half of Figure 6.3 summarizes the same data in a somewhat different format (using stacked bar graphs). The bottom, solid bar in each 4-pt L-GPA range indicates the number of domestic-educated first-time takers in that category who passed the NY bar exam in July 2005. The second (cross-hatched) bar indicates the number of additional candidates who passed as of February 2006, and the third bar indicates the number of additional candidates who passed as of July 2006. The top bar (white) indicates the number of candidates in that 4-pt L-GPA range who had not passed as of July 2006. The total height of the stacked bar indicates the total number of domestic-educated first-time takers in July 2005 who had a 4-pt L-GPA in the range defining the bar. The category with the largest number of candidates included 4-pt L-GPAs from 3.0 up to 3.25, and most of the candidates had 4-pt L-GPAs between 2.75 and 3.75. The

great majority of the candidates in 4-pt L-GPA ranges above 3.5 passed in July 2005, and the bottom solid bar (pass in July 2005) comprises almost all of the stacked bars corresponding to these ranges.

The lowest categories (below 2.75) tended to have the highest failure rates (proportions failing), but the numbers of candidates in these categories were not very large. So, the number of failing candidates (or the number of passing candidates) in these categories was not very large. Figure 6.3 suggests two general conclusions that at first glance might seem to be contradictory. First, a candidate's chances of passing the NY bar exam increase systematically as a function of their law school grades, and candidates with the lowest law school GPAs (below 2.75) tend to be most at risk for failing on their first try and of not passing on subsequent test dates. Second, most of the domestic-educated candidates who failed on their first attempt in July 2005 were not in the lowest 4-pt L-GPA categories because there were so few candidates in these categories. The largest numbers of candidates who failed had 4-pt L-GPAs between 2.5 and 3.25, and these candidates had moderately high failure rates in July 2005.

Note that a substantial proportion of the candidates with 4-pt L-GPAs between 2.5 and 3.25 who failed in July 2005 passed in February 2006 or July 2006. The candidates with 4-pt L-GPAs below 2.5 who failed in July 2005 were less likely to pass in February 2006 or July 2006.

Figure 6.4
Plots of the Logistic Regression Curves and Observed Proportion Passing the NY Bar Exam versus Index-Based L-GPA for Domestic-Educated First-Time Takers

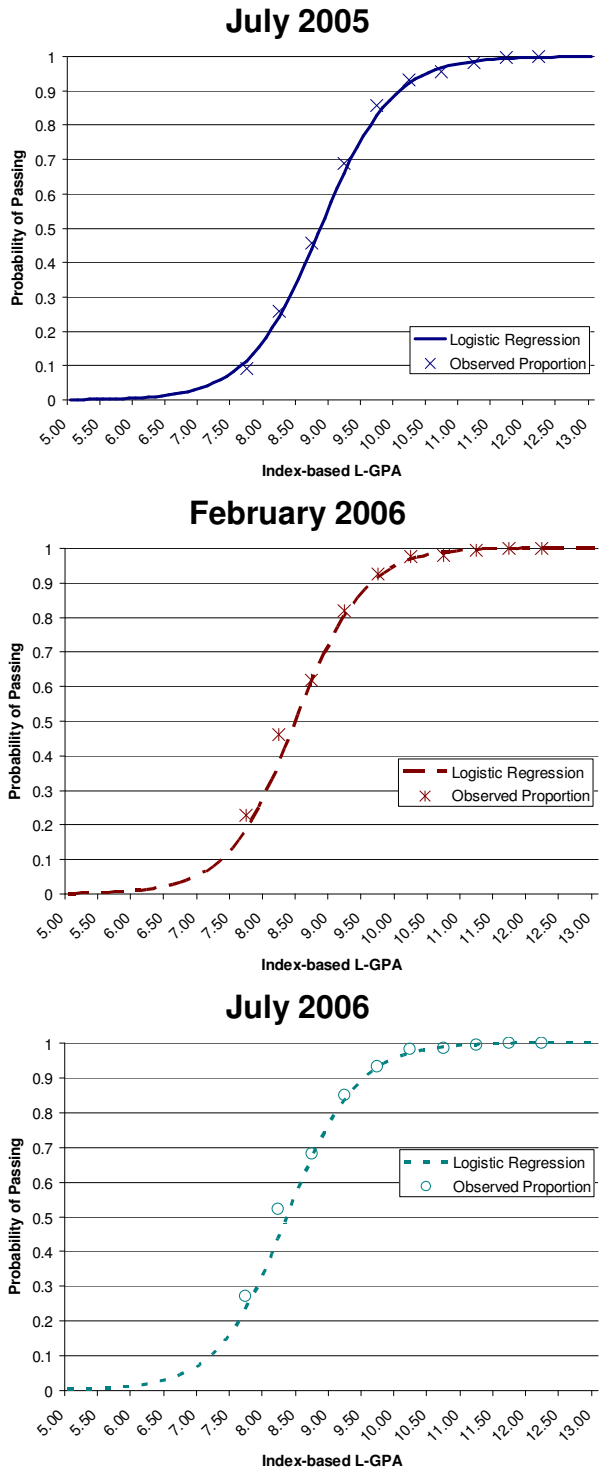
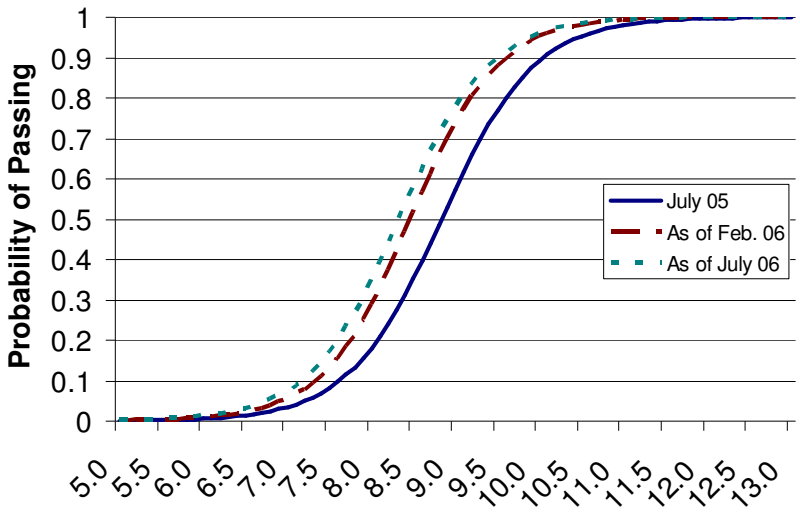
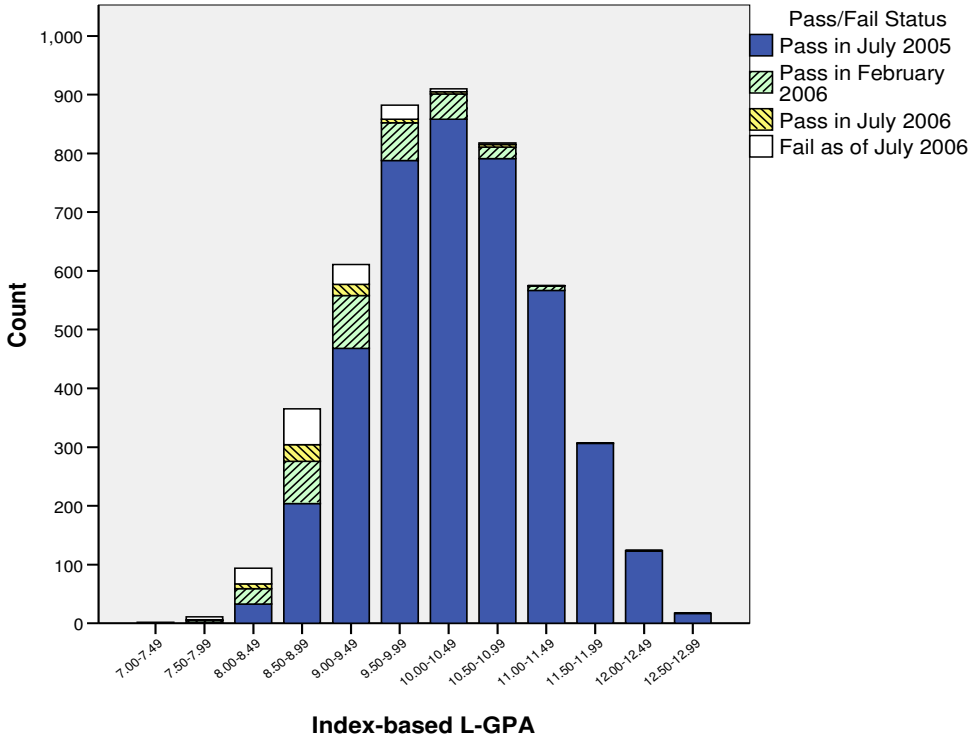


Figure 6.5
Top: Logistic Regression Curves for the Probability of Passing the NY Bar Exam in July 2005, and as of February and July 2006 as Functions of Index-based L-GPA
Bottom: Stacked Frequency Distribution for Index-based L-GPA Domestic-Educated First-Time Takers in July 2005





Index-Based Law School GPAs

Figure 6.4 has the same format as Figure 6.2 and represents the observed proportions of domestic-educated first-time takers who passed in July 2005, as of February 2006, and as of July 2006 for different ranges of Index-based L-GPAs, as well as the logistic regression function relating the probability of passing the NY bar exam as of each of these test dates. As indicated in Figure 6.4, the logistic regression curve provides a good fit to the proportions passing as a function of the Index-based L-GPA in that the observed proportion passing does not differ much from the predicted probability of passing for all of the categories.

The top half of Figure 6.5 summarizes the results from Figure 6.4 by including the logistic regression curves for the probability of passing in July 2005, the probability of passing as of February 2006, and the probability of passing as of July 2006 as function of the Index-based L-GPA in a single graph. Again, there is a relatively large difference between the probability of passing in July 2005 and the probability of passing as of February 2006, but the probability of passing as of February 2006 is quite close to that as of July 2006. The probability of passing tends to increase much more between July 2005 and February 2006 than it does between February 2006 and July 2006.

The increase in the probability of passing for any value of the Index-based L-GPA is indicated by the vertical distance between the curves. For Index-based L-GPAs above 11.0, the probability of passing was very high (well over 0.9) in July 2005 and could not increase much on subsequent test dates. The probability of passing tends to increase most between July 2005 and July 2006 for candidates with Index-based L-GPAs between 8.5 and 9.5.

The bottom half of Figure 6.5 summarizes the proportions passing for ranges of Index-based L-GPA. The bottom, solid bar in each GPA range indicates the number of domestic-educated first-time takers in that category who passed the NY bar exam in July 2005. The second (cross-hatched) bar indicates the number of additional candidates who passed as of February 2006, and the third bar indicates the number of additional candidates who passed as of July 2006. The top bar (white) indicates the number of candidates in that 4-pt L-GPA range who had not passed as of July 2006. The total height of each stacked bar indicates the total number of domestic-educated first-time takers candidates in July 2005 who had a 4-pt L-GPA in the range defining the category for that bar. The category with the largest number of candidates included Index-based L-GPAs from 10.0 up to 10.5. The great majority of the candidates in the Index-based L-GPA ranges above 11.0 passed in July 2005, and most of the candidates with Index-based L-GPAs above 8.5 passed on their first try in July 2005. The candidates with Index-based L-GPAs below 8.5 were most at risk of failing on their first try in July 2005 and of not passing by July 2006.

In general, the probability of passing the bar on the first try or within a year of the first try seems to be strongly related to performance in law school (for either the 4-pt L-GPA or the Index-based L-GPA). The domestic-educated candidates who took the NY

bar exam for the first time in July 2005 and had 4-pt L-GPAs above 3.25 or Index-based L-GPAs above 11.0 had a high probability (over 0.9) of passing the bar exam on their first try and an even higher probability of passing within a year of their first try. A candidate's chances of failing on the first try and the chances of not having passed within a year of the first try (either because of a failure to retake the exam or because of repeated failure) tend to increase fairly sharply as L-GPA declined. For example, the logistic regressions indicate that a candidate with 4-pt L-GPA of 3.25 has a probability of about 0.91 of passing on their first try and a probability of about 0.96 of passing within a year of their first try, and a candidate with 4-pt L-GPA of 2.5 has probability of about 0.35 of passing on their first try and a probability of about 0.60 of passing within a year of their first try.

Note that these pass rates count candidates who failed in July 2005 and did not repeat the bar exam by July 2006 (for whatever reason) as having not passed by July 2006 and that candidate persistence after failing in July 2005 is not strongly related to L-GPA. The failure of some candidates to retake the bar exam in 2006 after failing in July 2005 tends to overestimate the "failure" rate in all categories over what they would be if all of the candidates who failed in July 2005 retook the bar exam in 2006.

6.3 Relationship between Cumulative Pass Rates and Measures of Readiness for Law School

The measures of readiness for law school are expected to have at least a moderate relationship with scores on the bar exam and therefore with the probability of passing for at least two reasons. First, candidates who are well prepared for law school are expected to do relatively well in law school, and thereby, to achieve a high degree of competence in applying legal principles to legal problems in a variety of contexts, including those presented on the bar exam. For example, scores on the Index are strongly related to law school grades and law school grades are strongly related to bar exam performance (see Tables 6.1 and 6.2, and Figure 6.1). Second, the general academic skills (e.g., the ability to read descriptions of fact situations quickly and with good comprehension) that are measured on the LSAT and that are reflected in U-GPAs are also useful in taking a bar exam (and presumably in the practice of law). Previous analyses[2] indicate that the first of these two potential sources for the relationship between the measures of readiness for law school and performance on the bar exam is the more important, but they probably both play a role.

Figure 6.6
Plots of the Logistic Regression Curves and Observed Proportion Passing the NY Bar Exam versus LSAT for Domestic-Educated First-Time Takers

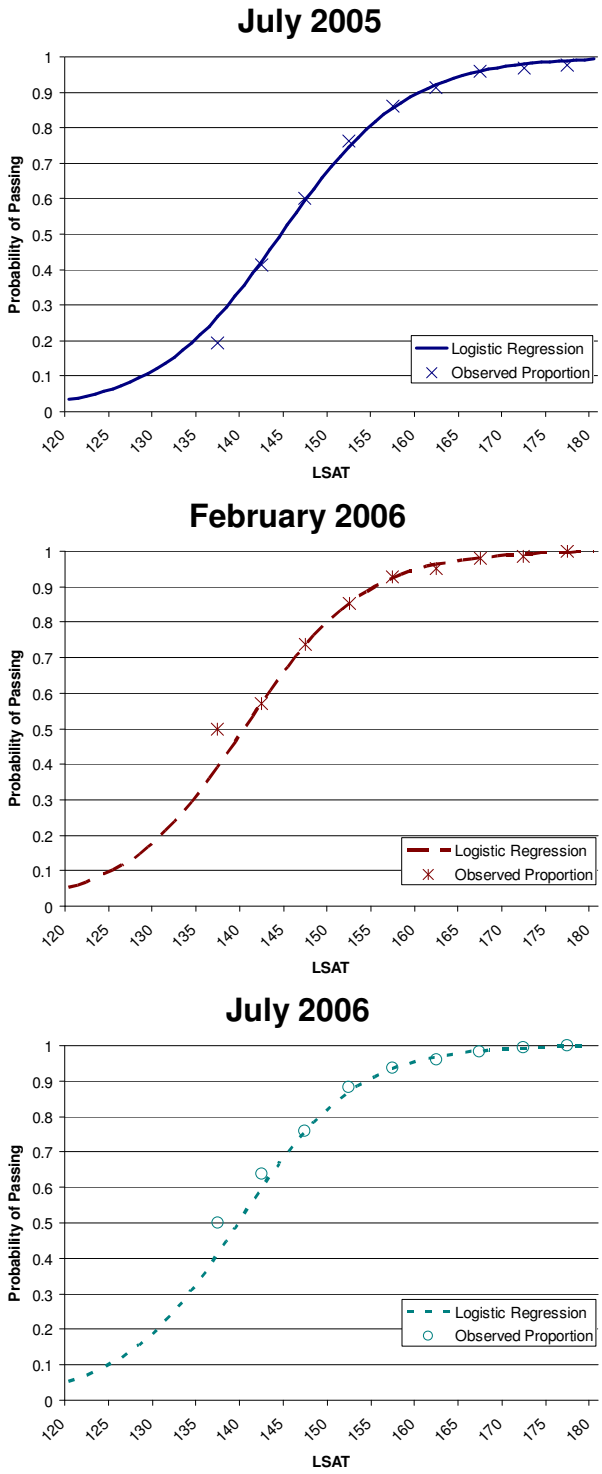
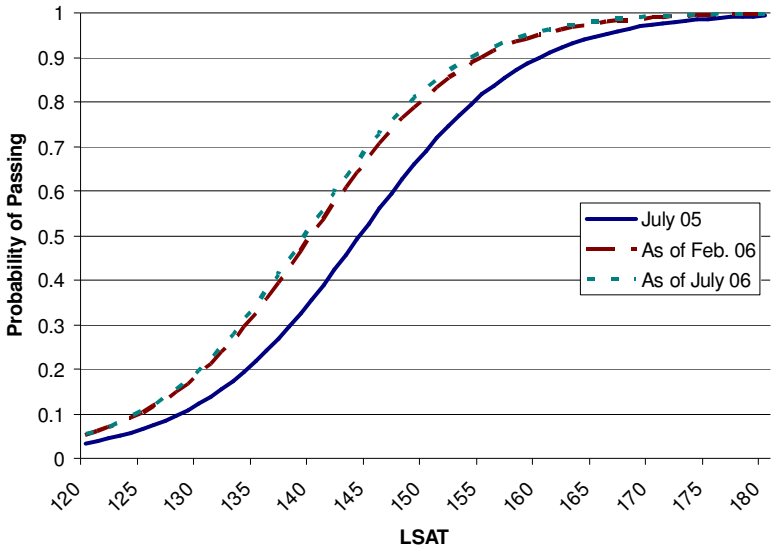
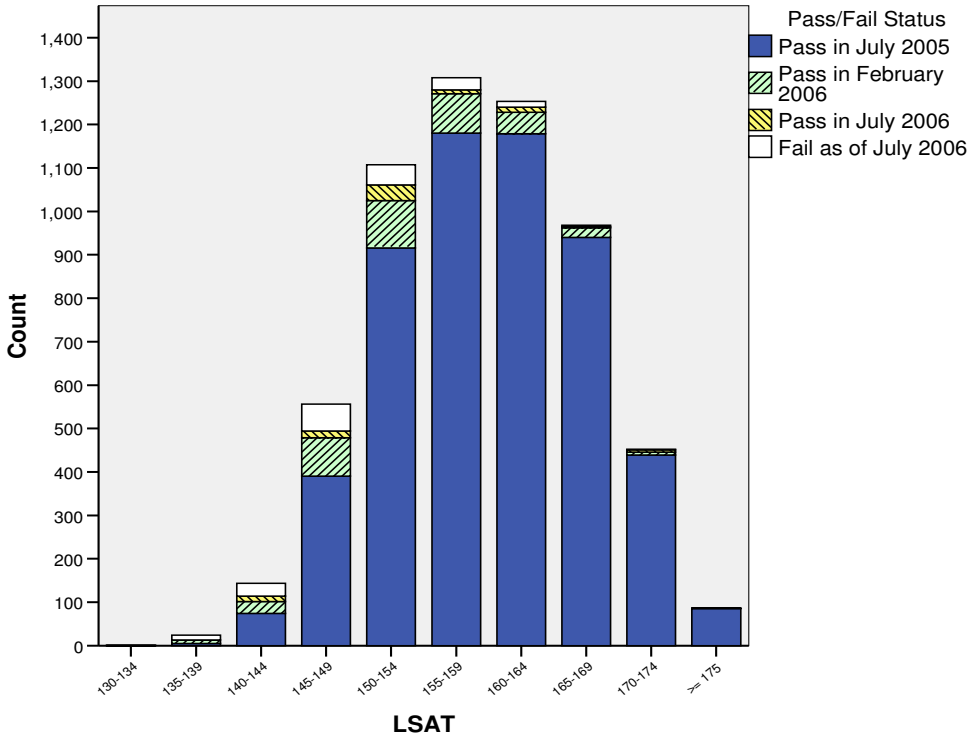


Figure 6.7
Top: Logistic Regression Curves for the Probability of Passing the NY Bar Exam in July 2005, and as of February and July 2006 as Functions of LSAT Scores
Bottom: Stacked Frequency Distribution for LSAT Scores
Domestic-Educated First-Time Takers in July 2005





LSAT Scores

Figure 6.6 represents the observed proportions of domestic-educated first-time takers who passed the NY bar exam in July 2005, as of February 2006, and as of July 2006 for different ranges of LSAT scores and includes the corresponding logistic regression functions relating the probability of passing the NY bar exam to LSAT scores. The logistic regression curves fit the data in the sense that they accurately predict the proportions passing the bar exam as of each date for ranges of LSAT scores.

The top half of Figure 6.7 includes the logistic regression curves for the probability of passing in July 2005, the probability of passing as of February 2006, and the probability of passing as of July 2006 as functions of the LSAT scores. The probability of passing increases substantially between July 2005 and February 2006, but it does not increase much between February 2006 and July 2006. Candidates with LSAT scores above 170 have a very high probability of passing the bar exam on their first try and an even higher probability of passing within a year of their first try. Candidates with LSAT scores below 140 have a substantially lower probability of passing on their first try, and although the probability of their passing within a year of their first try is higher, it does not go much over 0.5

The bottom half of Figure 6.7 summarizes the data for pass rates as a function of LSAT scores. Most of the candidates had LSAT scores between 150 and 170. The domestic-educated candidates who took the NY bar exam for the first time in July 2005 and had LSAT scores above 170 had a very high probability of passing the bar exam on their first try and an even higher probability of passing within a year of their first try. A candidate's chances of failing on the first try and the chances of not having passed within a year of the first try (either because of a failure to retake the exam of because of repeated failure) were much higher for candidates with LSAT scores below 145.

Figure 6.8
Plots of the Logistic Regression Curves and Observed Proportion Passing the NY Bar Exam versus Undergraduate GPA for Domestic-Educated First-Time Takers

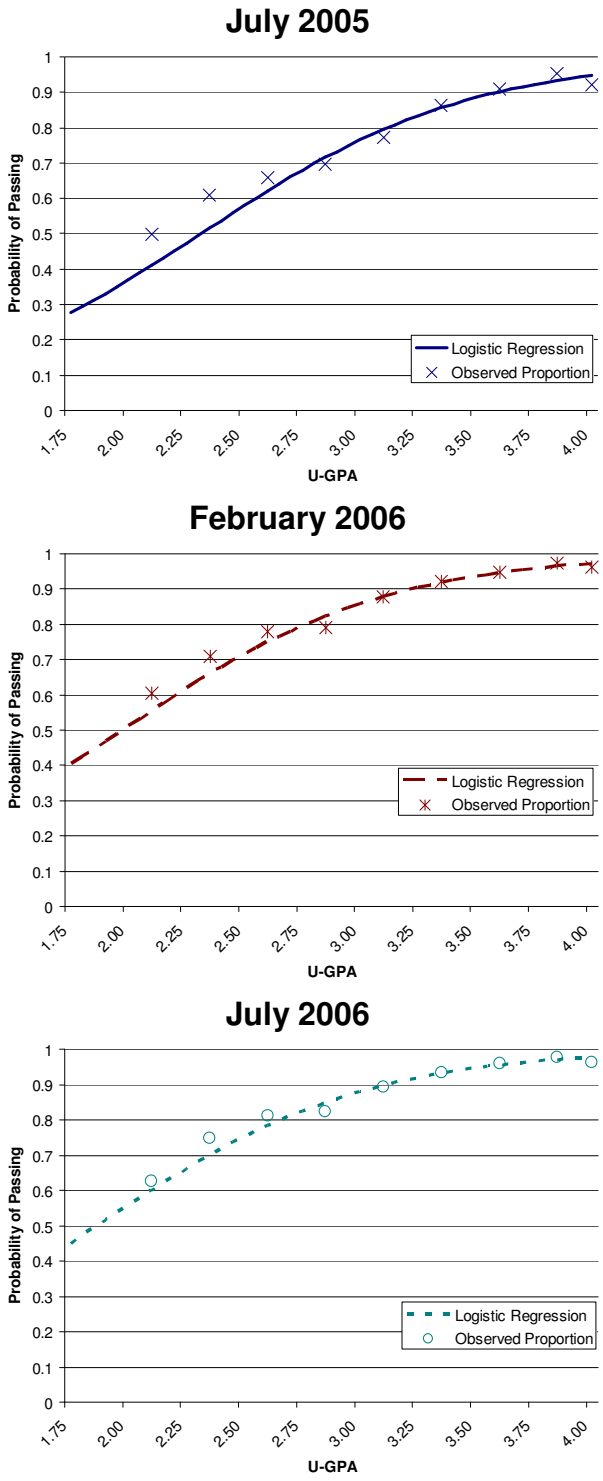
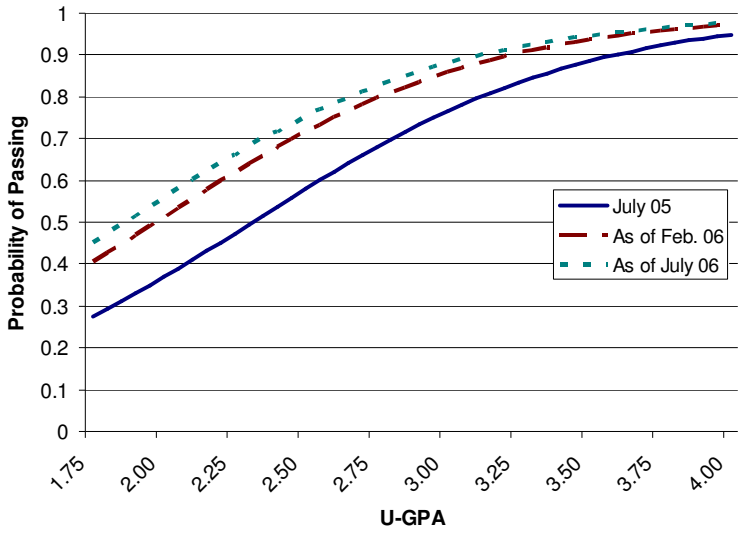
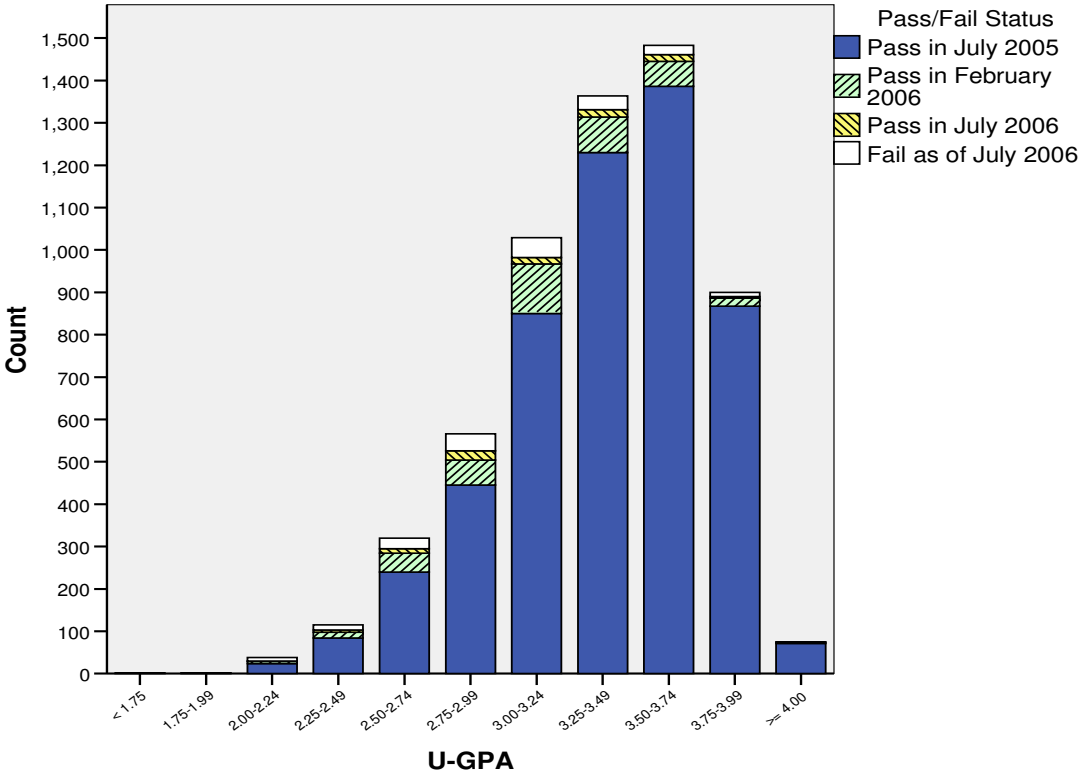


Figure 6.9
Top: Logistic Regression Curves for the Probability of Passing the NY Bar Exam in July 2005, and as of February and July 2006 as a Function of Undergraduate GPA
Bottom: Stacked Frequency Distribution for Undergraduate GPA Domestic-Educated First-Time Takers in July 2005





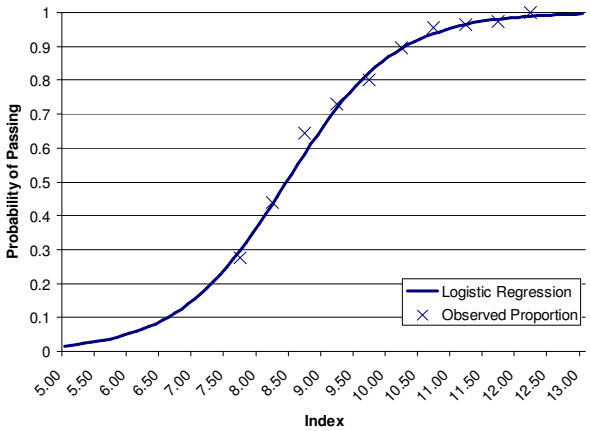
Undergraduate GPAs

Figure 6.8 represents the observed proportions of domestic-educated first-time takers who passed in July 2005, as of February 2006, and as of July 2006 for different ranges of U-GPAs scores as well as logistic regression functions relating the probability of passing the NY bar exam to the U-GPAs as of each of these test dates. The logistic regression curve provides a good fit to the proportions passing for different ranges of U-GPAs.

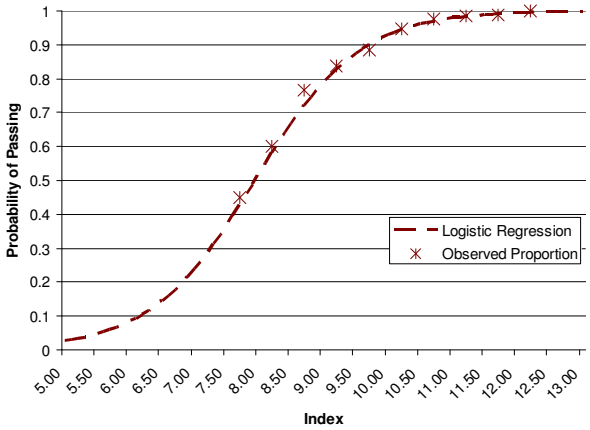
The top half of Figure 6.9 includes the logistic regression curves for the probability of passing in July 2005, as of February 2006, and as of July 2006 as functions of U-GPA. Note that these curves are flatter than those for the L-GPAs and for LSAT scores, reflecting the fact that the U-GPA is not as highly correlated with bar exam scores as the other variables. The probability of passing the bar exam increases substantially between July 2005 and February 2006, and increases a bit more between February 2006 and July 2006. Candidates with U-GPAs above 3.5 have a very high probability of passing the bar exam on their first try and an even higher probability of passing within a year of their first try. Candidates with U-GPAs below 2.5 have a substantially lower probability of passing on their first try.

The bottom half of Figure 6.9 summarizes the data for pass rates as a function of U-GPAs. Most of the candidates had GPAs between 3.0 and 4.0. The domestic-educated candidates who took the NY bar exam for the first time in July 2005 and had U-GPAs above 3.50 had a high probability of passing the bar exam within a year of their first try in July 2005. A candidate's chances of failing on the first try and the chances of not having passed within a year of the first try (either because of a failure to retake the exam or because of repeated failure) were higher for candidates with U-GPAs below 3.0, but these differences were not as large as they were for the other variables. The U-GPA is not as highly correlated with bar exam scores as with LSAT scores and Index scores, and therefore is not as strong a predictor of pass rates as these other variables.

Figure 6.10
Plots of the Logistic Regression Curves and Observed Proportion Passing the NY Bar Exam versus Index (.6*LSAT+.4*U-GPA) for Domestic-Educated First-Time Takers
July 2005



February 2006



July 2006

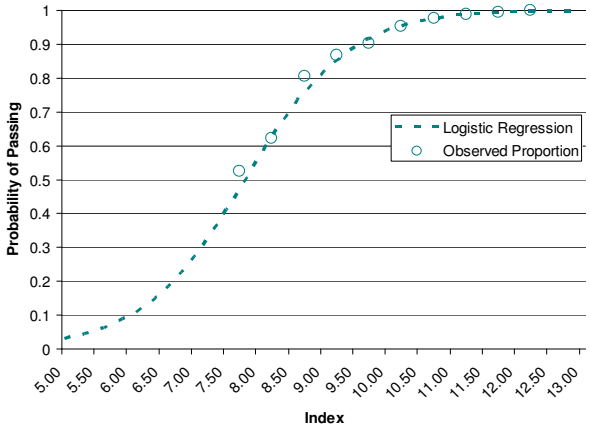
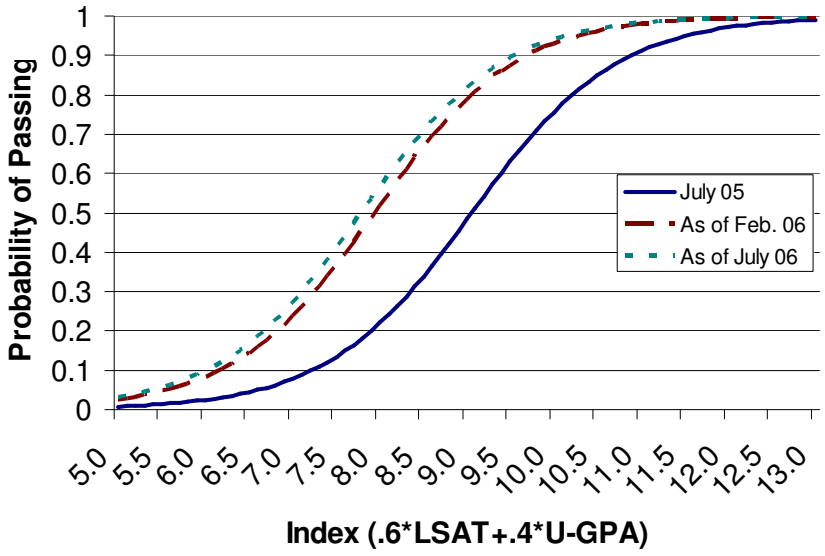
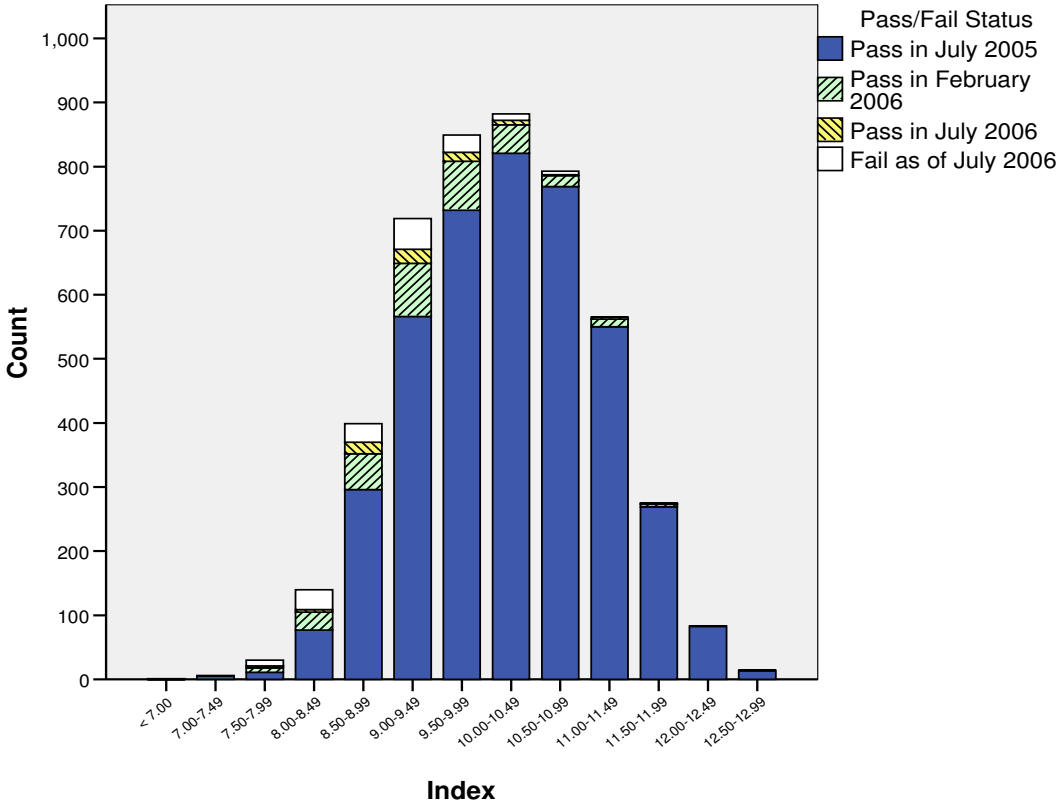


Figure 6.11
Top: Logistic Regression Curves for the Probability of Passing the NY Bar Exam in July 2005, and as of February and July 2006 as Functions of the Index
Bottom: Stacked Frequency Distribution for the Index
Domestic-Educated First-Time Takers in July 2005





Index (0.6 x LSAT + 0.4 x U-GPA)

Figure 6.10 represents the observed proportions of domestic-educated first-time takers who passed in July 2005, as of February 2006, and as of July 2006 for different ranges of the Index scores as well as the corresponding logistic regression functions representing the probability of passing the NY bar exam as a function of Index scores. In each case, the logistic regression curve provides a good fit to the proportions passing for the different ranges of Index scores.

The top half of Figure 6.11 includes the logistic regression curves for the probability of passing in July 2005, as of February 2006, and as of July 2006 as function of the Index. The probability of passing increases substantially between July 2005 and February 2006, and increases a bit more between February 2006 and July 2006. Candidates with Index scores above 11.5 have a very high probability of passing the bar exam on their first try and an even higher probability of passing within a year of their first try. Candidates with Index scores below 7.0 have a low probability of passing on their first try. Over a wide range of Index scores, the probability of passing increases substantially between July 2005 and July 2006. By July 2006, domestic-educated first-time takers with Index scores as low as 9.0 have a probability of passing of about 0.90.

The bottom half of Figure 6.11 summarizes the data for pass rates as a function of the Index scores. Most of the candidates had Index scores between 9.0 and 11.5. The domestic-educated candidates who took the NY bar exam for the first time in July 2005 and had index scores above 11.5 were very likely to pass the bar exam on their first try and even more likely to pass within a year of their first try. A candidate's chances of failing on the first try and the chances of not having passed within a year of the first try (either because of a failure to retake the exam or because of repeated failure) were much higher for candidates with Index scores below 8.5.

6.4 Relationship between Cumulative Pass Rates on the New York Bar Exam and Prior Achievement

The analyses in this section and the previous section have focused on the relationship between a candidate's chances of passing the bar exam within a year of his or her first try and prior achievement in law school and on measures of readiness for law school. The results suggest that performance in law school as measured by the L-GPAs (either the 4-pt L-GPA or the Index-based L-GPA) is strongly related to the probability of passing the NY bar exam on the first try and within a year of the first try. The probability of passing the bar exam increased substantially between July 2005 and February 2006, with a relatively small additional increase by July 2006, but for each of these test dates, performance in law school is strongly related to the probability of having passed the NY bar exam by that date.

Since the bar examination attempts to assess each candidate's readiness for practice in terms of their competence in applying basic legal principles to practice situations, and since law schools presumably assess these skills, the existence of a

positive relationship between performance in law school and performance on the bar examination is not surprising. The relationships may be attenuated by differences in the areas of practice covered on the bar exam and in law school curricula, by differences in emphasis, and by less-than-perfect precision in the bar exam and in the L-GPAs. Therefore, the relationship is not expected to be perfect, but is expected to be strong and positive, which is what we observed in the data for the domestic-educated candidates who took the NY bar exam for the first time in July 2005.

The relationship between the probability of passing the bar examination and scores on the LSAT, U-GPA, and the Index can be interpreted as reflecting an indirect influence, involving a tendency for candidates who are well prepared for law school to do relatively well in law school, and then, as a result of their success in law school, to do relatively well on the bar exam. There is also likely to be some direct relationship between success on the bar exam and U-GPAs, LSAT scores, and Index scores; the skill reflected in the measures of readiness for law school (e.g., reading comprehension, reasoning skills) would presumably also be useful on the bar exam and in the practice of law. These observed patterns of relationships are consistent with what we would expect; that candidates well prepared for law school tend to perform well in law school and tend to pass the bar exam.

Notes:

1. Mroch, A. A. & Ripkey, D. R. (2007). Structural models relating LSAT, undergraduate GPAs, law-school GPAs, and bar examinations. Paper presented at the meeting of the National Council on Measurement in Education, Chicago, IL.

3. Kane, M., Mroch, A., Ripkey, D., & Case, S. (2006). *Impact of the Increase in the Passing Score on the New York Bar Examination.* Madison, WI: National Conference of Bar Examiners. See http://www.nybarexam.org/NCBEREP.htm.

7. General Findings

This report focuses on the performance of the candidates who failed the NY bar exam in July 2005 and in particular on those who failed for the first time in July 2005. Because of the substantial differences between the domestic-educated candidates and the foreign-educated candidates, these two groups have been analyzed and discussed separately in this report, and this practice is continued here for the most part.

There were large differences between the domestic-educated candidates and the foreign-educated candidates who failed the NY bar exam for the first time in July 2005. The domestic-educated candidates who failed in July 2005 were much more likely than the foreign-educated candidates to take a bar exam in 2006, and they were much more likely to have passed the bar exam by February 2006 or July 2006 than the foreign-educated candidates.

Domestic-Educated Candidates Who Failed for the First Time in July 2005

The domestic-educated first-time takers who failed in July 2005 generally retook the NY bar exam in February 2006 and/or July 2006 (about 85% "persisted" in 2006), and achieved pass rates of about 57% in February 2006 and about 32% in July 2006. As a result of the high persistence rates of the first-time failing candidates and their substantial pass rates when retaking the bar exam, the cumulative pass rates for the July 2005 first-time takers increased from about 83% in July 2005, to almost 90% in February 2006, and to just over 91% in July 2006. The increase was quite substantial from July 2005 to February 2006, but the additional increase from February 2006 to July 2006 was relatively modest.

The persistence rates tended to be somewhat higher for July 2005 first-time failing candidates with relatively high bar exam scores in July 2005 (i.e., close to the passing score of 665), but the relationship between initial bar exam scores and persistence was not very strong. The first-time failers with July 2005 bar exam scores that were close to 665 also had a better chance of passing the NY bar exam if they retook the bar exam in February 2006 or July 2006 than those with relatively low bar exam scores in July 2005, and this relationship between the July 2005 bar exam score and passing in 2006 was fairly strong. As a result of their somewhat better persistence rates and their substantially better pass rates in 2006, candidates who failed for the first time in July 2005 but had scores close to the passing score had a much better chance of passing by July 2006 than candidates with relatively low initial bar exam scores.

In examining the differences between July 2005 first-time failing candidates who persisted (retook the exam in 2006) and passed in 2006, those who persisted and failed, and those who did not persist, we found that the candidates who persisted and passed within a year of the first exam tended to have done somewhat better on a range of indicators of academic preparedness than those who persisted and failed. The candidates who persisted and passed in 2006 had higher average undergraduate

GPAs, higher average LSAT scores, higher average law-school grades (using two scaling methods), and higher average bar exam scores on their first attempt in July 2005 than the candidates who persisted but did not pass in 2006.

Those who did not persist (i.e., were not identified as having taken a bar exam in 2006) exhibited average academic achievement profiles that were not as good as those who persisted and passed, but were better than those who persisted and failed. It would be interesting and useful to find out more about why candidates did not persist in 2006.

In the initial analyses of the results of the July 2005 NY bar exam, we found large differences in pass rates across different racial/ethnic groups for the domestic-educated first-time takers.[1] The pass rates for the July 2005 first-time failing candidates when they repeated the examination in February 2006 were quite similar across the racial/ethnic groups. In July 2006, the pass rates for the July 2005 first-time failing candidates were somewhat more variable than they were in February 2006, but were still fairly consistent across racial/ethnic groups. The pass rates for the first-time takers who failed in July 2005 and repeated the NY bar exam in 2006 were also relatively consistent across gender and age at graduation. There were some differences in all of these analyses, but the differences were neither as large nor as consistent as the differences found for the first-time takers in July 2005.

In general, the candidates who failed for the first time in July 2005 seemed to be relatively homogeneous across the demographic variables. As noted earlier, the main differences between those who persisted and passed, those who did not persist in New York, and those who persisted and failed were in their previous measures of achievement (e.g., scores on the July 2005 bar exam, law school GPAs, and measures of readiness for law school).

For the first-time takers who failed in July 2005, the different racial/ethnic groups were similar in their persistence rates, in their average scores in July 2005, and in their average improvement in scores between July 2005 and February 2006. As a result, the differences in pass rates observed across racial/ethnic groups for the first-time takers in July 2005 diminished as the failing candidates had a chance to repeat the exam in February 2006 and then in July 2006. However, the differences in cumulative passing rates across racial/ethnic groups were still fairly large as of July 2006. While the cumulative pass rates for the Caucasian/White first time takers increased by 6.6 percentage points, from 86.8% in July 2005 to 93.4% as of July 2006, and the cumulative pass rates for the Black/African American first-time takers increased by 20.9 percentage points, from 54.2% in July 2005 to 75.1% as of July 2006, the cumulative pass rate for the Black/African American group was still over 18 percentage points lower than that of the Caucasian/White group as of July 2006.

If the non-persisters (who are treated as not passing in the computations of the cumulative pass rates reported above) were removed from the analyses, the total pass rate as of February 2006 would increase from 89.5% to 93.1%, and the total pass rate

as of July 2006 would increase from 91.1% to 94.7%. The pass rates increase by about 3.6 percentage points if the non-persisters are excluded from the analysis. Since some of the candidates who did not take the NY bar exam in 2006 are known to have taken the bar exam in another jurisdiction in 2006 and the other non-persisters took themselves out of the pool of candidates in New York in 2006, the pass rates computed with the non-persisters removed from the analysis may be as appropriate as the pass rates with these candidates included in the denominators.

The cumulative pass rates would also be influenced by changes in the passing score. Although it is not possible to predict the impact of changes in the passing score on future pass rates with great confidence because future candidate scores may be influenced by many factors (including the change in the passing score, per se), rough projections based on the current data are possible. If the distribution of scores remained the same and the passing score had remained at 660, the overall pass rate in July 2005 would have been 84.1%, and would have increased to 91.3% as of February 2006 and to 93.0% as of July 2006. These pass rates are about 1.4 to 1.9 percentage points higher than the actual values of 82.7%, 89.5%, and 91.1% (for the current passing score of 665). If the passing score had remained at 660, the Caucasian/White pass rates would have been about 1.1 to 1.4 percentage points higher, the Asian/Pacific Islander pass rates would have been about 2.3 to 3.0 percentage points higher, the Black/ African American pass rates would have been about 3.9 to 5.9 percentage points higher, and the Hispanic/Latino pass rates would have been about 0.9 to 3.7 percentage points higher than they were for a passing score of 665.

If the passing score had been 665 in July 2005 (as it was) and had been raised to 670 or 675 in February 2006, the pass rates for the first-time repeaters and the cumulative pass rates as of February 2006 would decrease, compared to what they were with the passing score of 665 (assuming that the score distributions remained the same). If the passing score had been raised in February 2006, the cumulative pass rate as of February 2006 would decrease from 89.5% (for a passing score of 665) to 89.1% (for 670) or 88.9% (for 675), and the pass rates would tend to decline for all subgroups. For example, the Caucasian/White pass rate as of February 2006 would decrease from 92.1% (at 665) to 91.7% (at 670) or to 91.5% (at 675), the Black/African American pass rate would remain the same, at 72.3%, for February passing scores of 665 or 670 and would decrease to 71.6% (at 675). The Hispanic/Latino pass rate would decrease from 82.0% (at 665) to 81.1% (at 670 or 675).

If the passing score had been 665 in July 2005 and February 2006 (as it was) and had been raised to 670 or 675 in July 2006, the cumulative pass rate as of July 2006 would decrease from 91.1% (for a passing score of 665) to 90.9% (for 670) or 90.8% (for 675), and the pass rates would tend to decline for all subgroups (assuming that the score distributions remained the same). For example, the Caucasian/White pass rate as of July 2006 would decrease from 93.4% (at 665) to 93.2% (at 670 or 675). And the Black/African American pass rate would decrease from 75.1% (at 665) to 74.6% (at 670) or to 74.4% (at 675). The Hispanic/Latino pass rate would decrease from 84.8% (at 665) to 84.3% (at 670) or to 83.4% (at 675).

Foreign-Educated Candidates Who Failed for the First Time in July 2005

The foreign-educated candidates had dramatically lower pass rates when they took the NY bar exam for the first time in July 2005 and continued to have dramatically lower pass rates in February 2006 and July 2006. The cumulative pass rates for foreign-educated candidates increased between July 2005 and July 2006, but did not do so as sharply as they did for the domestic-educated candidates.

The foreign-educated first-time takers who failed in July 2005 were much less likely to retake the NY bar exam in 2006 than the domestic-educated first-time takers who failed in July 2005 (49.2% for the foreign-educated group vs. 85.1% for the domestic-educated group). The foreign-educated first-time takers who failed in July 2005 achieved pass rates of 37.2% in February 2006 and 23.2% in July 2006. The cumulative pass rates for the July 2005 foreign-educated first-time takers increased from 43.0% in July 2005 to 50.9% in February 2006 and to 54.1% in July 2006.

In examining the differences between July 2005 foreign-educated first-time failing candidates who persisted and passed in 2006, those who persisted and failed, and those who did not persist, we found that the candidates who persisted and passed within a year of their first exam in July 2005 tended to have somewhat higher average bar exam scores in July 2005 than the candidates who did not persist, and these candidates, in turn, had higher pass rates than those who persisted and failed.

In the initial analyses of the results of the July 2005 NY bar exam, we found large differences in pass rates across different racial/ethnic groups for the foreign-educated first-time takers.[1] The pass rates for the July 2005 foreign-educated first-time failing candidates repeating in February and July 2006 were somewhat variable across racial/ethnic groups (in part because of small sample sizes), but they did not show the large differences or the pattern of differences found for the first-time takers in July 2005. The pass rates for the foreign-educated first-time takers who failed in July 2005 and repeated the NY bar exam in 2006 were also relatively flat as functions of gender and age at graduation. There were some differences in all of these analyses, but these differences were neither as large nor as consistent as the differences across the racial ethnic groups for the first-time takers in July 2005.

Relationship between Cumulative Pass Rates and Prior Achievement

The analyses of the relationship between a candidate's chances of passing the bar examination in July 2005, by February 2006, and by July 2006 and his or her prior achievement (using correlations and logistic regression) suggest that performance in law school as measured by the L-GPAs is strongly related to the probability of passing the NY bar exam on the first try and to the probability of passing within a year of the first try.

Since the bar examination attempts to assess each candidate's readiness for practice in terms of their competence in applying basic legal principles to practice

situations, and since law schools presumably assess these skills, the existence of a positive relationship between performance in law school and performance on the bar examination is not surprising. The relationship is not expected to be perfect, but is expected to be strong and positive, which is what we observed in the data for the domestic-educated candidates who took the NY bar exam for the first time in July 2005.

We also found that performance in law school is strongly related to performance on measures of readiness for law school (LSAT, undergraduate GPA, and the Index), and at least in part because of this relationship, the probability of passing the bar is also strongly related to these measures of readiness for law school. The candidates who do relatively well on the LSAT, undergraduate GPA, and the Index tend to do relatively well in law school, and subsequently tend to pass the bar exam.

Notes:

1. Kane, M., Mroch, A., Ripkey, D., & Case, S. (2006). *Impact of the Increase in the Passing Score on the New York Bar Examination.* Madison, WI: National Conference of Bar Examiners. See http://www.nybarexam.org/NCBEREP.htm.

Glossary

Correlation: An indicator of the strength of the linear relationship between two variables. Correlations range from -1 to +1. The closer the correlation is to -1 and +1, the stronger the linear relationship. Positive correlations mean that an increase in one variable is associated with an increase in the other. Negative correlations mean that an increase in one variable is associated with a decrease in the other.

Histogram: A bar graph containing a distribution of scores that is based on tabulated counts of scores.

Logistic regression: A special case of regression analysis in which the dependent variable has only two possible values (e.g., 1/0, or pass or fail), and the resulting regression curve is an s-shaped curve that starts out close to 0.0, increases very gradually as a function of the independent variable, then increases more quickly, and then more slowly again, gradually approaching 1.0.

Mean: A measure of the central tendency of a set of scores. Technically, the mean is defined as the sum of the scores divided by the number of scores. The mean may also be referred to as the average.

Normal Distribution: A bell shaped curve that is commonly used in statistics. Technically, it is a score distribution defined by a specific equation and has a shape defined by location (mean) and scale (standard deviation) parameters.

Pass rate: The percentage of a group of candidates that would pass at a particular passing score.

Passing score: The total numerical score on an examination that a candidate has to achieve in order to pass the exam.

Regression analysis: A statistical procedure used to identify a curve (usually a straight line) describing the relationship between the observed values of a dependent variable and one or more independent variables. The goal is to find the curve that provides the best fit to data , in the sense that the data points are, on the whole, as close to the curve as possible. The equation describing the resulting curve is called a regression equation.

Restriction of range: A phenomenon that occurs when a particular sample or group of interest has scores that represent a more limited range of scores than another sample or group of interest. This difference in score range results in correlation coefficients that are smaller (attenuated), because the full range of scores is not represented by both samples/groups.

Sample size: The number of observations in a data set. A sample is assumed to be drawn from a larger population of possible observations.

Standard deviation (SD): A measure of the spread in a set of scores. Technically, the standard deviation is defined as the square root of the average squared deviation from the mean. About 68% of the scores in a distribution will be within one standard deviation of the mean.

Standard error of the mean (SEM): An indication of the uncertainty in the estimate of the mean over repeated samples from the same population. Technically, it is the standard deviation divided by the square root of the sample size.

Variance: A measure of the spread in a set of scores. Variance is equal to the average squared deviation from the mean, or the standard deviation squared.

Appendix A

Authorization for Release of Law-School Information

New York State Board of Law Examiners
Corporate Plaza. Building 3
254 Washington Avenue Extension
Albany, NY 12203

AUTHORIZATION TO PERMIT LAW SCHOOLS
TO PROVIDE DATA TO THE NEW YORK STATE
BOARD OF LAW EXAMINERS FOR THE
BAR EXAMINATION RESEARCH PROJECT

I authorize my law school(s) _____ [fill in U.S. law school name(s)] to provide the New York State Board of Law Examiners (the Board) and its designated researchers, with my law school Grade-point average and class standing (by rank or quartile or however it is tracked by the law school), and a copy of my transcript, with the understanding that the Board will use the data for research in order to enhance the validity of bar examination scores. In so authorizing my law school(s) to provide this data to the Board for research purposes, I specifically waive any confidentiality afforded my educational records under the Family Educational Rights and Privacy Act, Title 20 USCA § 1232g or otherwise.

The Board will maintain the confidentiality of the data, and analyses will be reported only in the aggregate to maintain the anonymity of individuals. (Your consent to the release and use of this information to the Board is essential in ensuring that the data accurately represent the full population of candidates for the New York Bar. Your decision to grant or withhold consent will not affect your scores in any way.)

I hereby release, discharge, and agree to hold harmless my law school(s), its agents, representatives, or appointees from any and all liability arising out of this authorized release of my law school records.

_____ _____
Dated Signature of Applicant

_____ _____
Print Name U.S. Social Security Number

_____
Date of Birth

Appendix B

Authorization for Release of Law School Admissions Council Information

New York State Board of Law Examiners
Corporate Plaza . Building 3
254 Washington Avenue Extension
Albany, NY 12203

AUTHORIZATION TO PERMIT THE
LAW SCHOOL ADMISSION COUNCIL (LSAC)
TO PROVIDE DATA TO THE
NEW YORK STATE BOARD OF LAW EXAMINERS FOR THE
BAR EXAMINATION RESEARCH PROJECT

I authorize the Law School Admission Council (LSAC) to provide the New York State Board of Law Examiners (the Board) and its designated researchers, data from my LSAC file, including but not limited to demographic, academic, and LSAT performance data, with the understanding that the Board will use the data for research in order to enhance the validity of bar examination scores. The Board will maintain the confidentiality of the data, and analyses will be reported only in the aggregate to maintain the anonymity of individuals. (Your consent to the release and use of this information to the Board is essential in ensuring that the data accurately represent the full population of candidates for the New York Bar. Your decision to grant or withhold consent will not affect your scores in any way.)

_____	_____
Dated	Signature of Applicant
_____	_____
Print Name	U.S. Social Security Number
_____	_____
Date of Birth	LSAC Registration Number (if available)