Impact of the Increase in the Passing Score on the New York Bar Examination: February 2006 Bar Administration

Report Prepared for the New York Board of Law Examiners

by

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Executive Summary

Total scores on the New York Bar Examination (NY bar exam) are computed by combining three separate "scaled" and weighted scores from three separate components: the New York Essay Examination, which consists of five essay questions and an extended performance task and has a weight of 50%, the Multistate Bar Examination (MBE), which includes 190 multiple-choice questions and has a weight of 40%, and the New York Multiple-Choice Test, which includes 50 multiple-choice questions and has a weight of 10%. Scores on each of the three components and on the New York Bar Examination as a whole are reported on a scale with a range from 0 to 1,000.

On September 24, 2004, the New York State Board of Law Examiners (NYBLE) announced that the passing score on the New York Bar Examination would increase from 660 to 675 over a three-year period. The score was to increase five points a year from July 2005 to July 2007. The first of the three increases was implemented in July 2005. The second and third increases are currently on hold.

In Section 1, we describe the data collection process and the representativeness of the data. In Section 2, we describe the candidate population for the February 2006 administration of the NY bar exam in terms of candidates' education (domestic or foreign), the number of times the candidates have taken the bar examination, and the age, gender and race/ethnicity of the candidates. In Sections 3 and 4, we present summaries of score distributions and pass rates in February 2006 for the candidate population as a whole and for various subgroups within the population.

Characteristics of the Candidates

Section 2 contains a description of the candidates who participated in the study, and by extension, the candidate population as a whole. We present this description in terms of a number of candidate characteristics, including the country in which each candidate graduated from law school, age at law school graduation, age when taking the February 2006 NY bar exam, the number of times the candidate had taken the bar examination in New York, and the candidate's gender and race/ethnicity. To distinguish these characteristics from the performance measures (bar examination scores and pass rates), they are referred to as demographic variables.

Foreign-educated candidates made up about 36% of the respondents in February 2006, and as a group, they differed from the domestic-educated candidates in several respects. They had a smaller percentage of candidates who classified themselves as Caucasian/White and a larger percentage who classified themselves as Asian/Pacific Islander. They had a larger percentage of males and are slightly older than the domestic-educated candidates.

As discussed more fully later, the performance of the domestic-educated group, both in terms of scores on the bar examination and in terms of pass rates, was much better than that of the foreign-educated group.

Because of the substantial differences between the domestic-educated group and the foreign-educated group, most of the analyses of candidate performance are reported separately for these two groups.

Characteristics of Domestic-Educated Candidates

Of the candidates who completed law school in the United States, just over 42% were female, and just under 42% were male (16% did not indicate their gender). Almost 50% of the domestic-educated group was Caucasian/White, 9.6% were Asian/Pacific Islander, 14.4% were Black/African American, 4.1% were Hispanic/Latino, 1.4% were Puerto Rican, 0.4% were Chicano/Mexican American, 0.3% were American Indian/Alaskan Native, and 3.8% listed their race/ethnicity as "Other."

Among the domestic-educated candidates, the males were, on average, about half a year older than the females when they graduated from law school (29.7 vs. 29.1), and they were about a year older when they took the bar examination (32.0 vs. 30.9) in February 2006. Almost 37% of the domestic-educated candidates taking the New York bar exam in February 2006 were taking it for the first time, with the males a bit less likely to be repeating the examination than the females (60.2% versus 63.1%). However, as of February 2006, domestic-educated males had taken the bar examination an average of 2.3 times and domestic-educated females had taken it an average of 2.2 times. While less likely to repeat, males were slightly more likely to take the bar exam a larger number of times when they did repeat.

As a whole, the number of domestic-educated first-time takers did not differ substantially between females and males but the female/male ratios varied somewhat across racial/ethnic groups. Of the domestic-educated first-time takers over 74% of the males and about 63% of the females were Caucasian/White. Among the domestic-educated first-time takers, the females outnumbered the males in all of the other racial/ethnic groups except the "Other" group, and they outnumbered the males over two to one in the Black/African American group.

There were more domestic-educated repeat takers (1,447 or 63.2%) than first-time takers (843 or 36.8%) for the February 2006 NY bar exam. In addition, the domestic-educated repeat takers included slightly more females than males (about 42% to about 40%). About 43% of the repeat takers were Caucasian/White, about 17% were Black/African American, and 10% were Asian/Pacific Islander.

Characteristics of Foreign-Educated Candidates

Among the foreign-educated first-time takers, about 46% of candidates were Caucasian/White, about 23% were Asian/Pacific Islander, about 10% placed

themselves in the “Other”, just over 6% were Black/African American, and almost 6% were Hispanic/Latino.

The foreign-educated first-time takers had close to the same percentages of females and males (about 46%). But again, the female/male ratios varied somewhat across ethnic groups. About 5% of the males and 9% of the females were Black/African American, while about 52% of males and 49% of females were Caucasian/White.

The foreign-educated male candidates were older compared to the domestic-educated male candidates when they took the NY bar exam in February 2006. Among the foreign-educated candidates, the females had an average age of 30.5 years when taking the bar examination (compared to 30.9 for the domestic-educated females), and the males had an average age of 34.5 years when taking the bar examination (compared to 32.0 for the domestic-educated males).

The foreign-educated first-time takers tended to have relatively low scores on the bar examination and therefore relatively high failure rates. However, foreign-educated candidates were only slightly more likely than domestic-educated candidates to be repeating the bar examination. Almost 64% of the foreign-educated candidates were repeating the bar examination, compared to 63% of the domestic-educated candidates.

Performance on the New York Bar Examination

The performance of various groups on the New York Bar Examination is reported in Sections 3 and 4. In Section 3, we describe score distributions for various groups of candidates on the bar examination. In Section 4, we report expected pass rates as a function of passing score (from 660 to 675) for various groups.

Score Distributions

Section 3 of the report contains analysis of performance on the NY bar exam and on the three components of the examination (essay, MBE, and NYMC) separately for the domestic-educated candidates and the foreign-educated candidates, and within each of these groups provides breakdowns in terms of number of previous bar examination attempts, gender, race/ethnicity, and age at bar attempt. It also contains average scores as a function of age at law school graduation for domestic-educated candidates.

The variability in performance across groups (foreign-educated and domestic-educated, first-time takers and repeat takers, and the various racial/ethnic groups) is generally much larger than the differences across components of the examination within any particular group. That is, groups that do relatively well on one component (e.g., the essay portion) also tend to do well on the other two components (e.g., the MBE and the NYMC), and groups that don’t do well on one component also don’t do well on the other components.

The one noteworthy exception to this generalization is a consistent tendency for females to do better on the essay component and for males to do better on the MBE; this effect is not very large on average, but it is observed consistently across racial/ethnic groups, for the foreign and domestic-educated groups, and for first-time takers and repeat takers. These two tendencies (females doing better on the essay component and males doing better on the MBE) go in opposite directions, and thus tend to cancel out. As a result, in most analyses, females and males do not differ substantially in terms of their total scores on the bar examination or their pass rates.

The domestic-educated candidates do much better on the examination than the foreign-educated candidates, and, within both of these groups, the first-time takers do better than the repeat takers. Candidates who have already taken the examination a number of times tended to have very low pass rates. The average total score for domestic-educated first-time takers was about 710, and the average total score for domestic-educated repeat takers was about 656, a difference of about 54 points on the 1,000-point scale used in New York.

The average total score for domestic-educated repeat takers tends to decrease as the number of previous attempts increases, though scores may increase slightly in some cases. As noted above, domestic-educated first-time takers have an average total score of about 710. Domestic-educated second-time takers have an average of about 669, third-time takers have an average of about 638, and fourth-time takers have an average total score of about 640.

The average total score for foreign-educated first-time takers was about 632, which is almost 80 points lower than the average total score for domestic-educated first-time takers. The average total score for foreign-educated repeat takers was about 619, which is about thirteen points lower than that for foreign-educated first-time takers, and is over 90 points lower than that for the domestic-educated first-time takers.

The average total score for foreign-educated repeat takers also tends to decrease as the number of previous attempts increases. As noted above, the foreign-educated first-time takers had an average total score of about 632. Foreign-educated second-time takers had an average of about 626, third-time takers had an average of about 615, and fourth-time takers had an average of about 611.

The racial/ethnic groups exhibit large differences in their average bar examination scores within the domestic-educated first-time takers. The Caucasian/White group had an average total score of about 720, the Asian/Pacific Islander group had an average total score of about 703, the Hispanic/Latino group had an average total score of about 682, and the Black/African American group had an average total score of about 671. Note that the average total score of the Black/African American group was just above one of the four potential passing scores considered in this report (i.e., 670). The differences between racial/ethnic groups were less pronounced among the domestic-educated repeat takers, where the averages ranged from about 650 to about 665, than they were for the domestic-educated first-time takers.

As noted earlier, the difference in average total bar score between males and females was relatively small. For domestic-educated first-time takers, the average total bar examination score was about 714 for males and about 706 for females. The gender differences were small compared to the range of differences for the racial/ethnic groups (or the differences between the domestic- and foreign-educated groups).

The foreign-educated first-time takers exhibited a pattern of average scores as a function of race/ethnicity that is similar to that for domestic-educated first-time takers, with a range from about 656 to about 592.

The average total score of domestic-educated first-time takers declines systematically as age at graduation from law school increases, from about 719 for candidates who were younger than 27 at graduation to about 671 for candidates who were over 40 at graduation.

Expected Pass Rates at Various Passing Scores

In Section 4, we present analyses of the relationships between passing scores and pass rates for four possible passing scores (660, 665, 670, and 675) across a number of variables. As noted above, before July 2005, the passing score in New York was 660 (out of 1,000); and the passing score is now 665. The *passing score* is the total score on the New York Bar Examination (e.g., 665) that a candidate must achieve in order to pass. The *pass rate* associated with a passing score for a group of candidates is the percentage of candidates in that particular group that would pass if the passing score had the specified value. Because these analyses employ a fixed data set (i.e., data from the candidates who took the February 2006 New York Bar Examination), the pass rates of all groups will necessarily decrease (or remain the same) as the passing score increases. In practice, the pass rates could go up as the passing score increases (e.g., if the population of candidates changes or the candidates prepare more thoroughly).

As is true for several parts of this study, the analyses of pass rates were conducted separately for domestic-educated and foreign-educated candidates, and within each of these groups, analyses were conducted separately for first-time takers and repeat takers.

The analyses suggest two general conclusions about pass rates for domestic-educated first-time takers. First, the differences in pass rates between males and females are, at most, quite small. Second, the differences in pass rates among the different racial/ethnic groups are quite large, with the Caucasian/White group having the highest pass rates (about 80% for a passing score of 660 and about 76% for a passing score of 675), and the Black/African American group having the lowest passing rates (about 55% for a passing score of 660 and about 49% for a passing score of 675).

Among the domestic-educated candidates, the repeat takers, on the whole, had lower pass rates (about 46% for a passing score of 660 and about 39% for a passing score of 675), than the first-time takers (about 75% for a passing score of 660 and about 71% for a passing score of 675). The repeat takers' pass rates tended to decrease as the number of previous attempts increased. Those who were repeating for the first time had higher pass rates (about 58% for a passing score of 660 to about 50% for a passing score of 675) than those repeating for the second time (about 32% for a passing score of 660 to about 25% for a passing score of 675), who in turn had higher pass rates than those who were repeating for the third or more times.

The pass rates for the foreign-educated first-time takers are about half those of the domestic-educated first-time takers. The pass rates for the foreign-educated first-time takers go from just under 39% for a passing score of 660 to over 34% for a passing score of 675.

The foreign-educated repeat takers had low pass rates for all four passing scores (29% for a passing score of 660 to about 23% for a passing score of 675). The pass rates for the foreign-educated repeat takers are lower than the pass rates for the foreign-educated first-time takers and lower than the pass rates for domestic-educated repeat takers.

Introduction

This study was designed primarily to investigate the impact of proposed changes to the passing score on the New York Bar Examination (NY bar exam) on candidate pass rates. In September of 2004, the New York State Board of Law Examiners (NYBLE) announced its plan to raise the passing score on the NY bar exam from 660 to 675 (out of a maximum score of 1,000) over a three-year period. The score was to increase five points each year from July 2005 to July 2007.[1] The first of the three proposed increases (to a passing score of 665) was implemented in July 2005. The second and third increases (to passing scores of 670 and 675) are currently on hold.

The analyses described in this report are based on the results for candidates who took the NY bar exam in February 2006. As described in more detail below in Section 1, 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 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. Law-school GPAs were obtained from law schools with the permission of the candidates. All of these data were combined into a single database for the candidates taking the February 2006 NY bar exam.

In this study, we examined the relationship between *passing score*[2] and *pass rate* by analyzing the data from the February 2006 candidates, assuming passing scores of 660, 665, 670, and 675 to reflect the proposed incremental changes to the passing score. The *passing score* is the score that must be achieved on the NY bar exam in order to pass. The *pass rate* is the percentage of candidates in a group who pass the examination (i.e., the percentage with a total score at or above the passing score). We examined the relationship between potential passing scores and pass rates 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).

Before examining the relationship between passing scores and pass rates, we analyzed the distributions of the available demographic variables (origin of legal education, repeat status, gender, race/ethnicity, age) and the relationships among these demographic variables. We also examined the relationships among the different components of the NY bar exam and the relationships between the demographic variables and performance on the bar exam.

The analyses in this study were designed to examine the impact of the previous, current and proposed passing scores on overall pass rates, and the impact of these passing scores on pass rates for subgroups defined in terms of country of education, gender, race/ethnicity, and age.

Impact of Changes in the Passing Score on Pass Rates

In this study, we examine the extent to which the changes in the passing score would lead to decreases in the bar examination score and pass rate for the candidate population as a whole and for various subgroups in the population (defined by origin of legal education, gender, race/ethnicity, and age). A simple way to examine the relationship between passing score and pass rate would involve a determination of the pass rates for the population as a whole and for various subgroups on the February 2006 bar examination administration, assuming different passing scores.[3] The differences between the pass rates under the different passing scores provide an indication of the impact of the change in the passing score on pass rates, assuming that the change in passing score itself has no impact on the distribution of scores. This is a reasonable working assumption given that the three proposed changes in passing score are relatively small (5 points on a 1,000-point score scale). The results of these analyses constitute the bulk of this report. In Section 1, we provide an account of how the data were collected, checked, and combined into a single database. In Section 2, we describe the sample of candidates from the February 2006 administration in terms of various demographic variables (origin of legal education, repeat status, gender, race/ethnicity, and age) and combinations of these variables. In Section 3, we describe the performance of the total sample and of the subgroups defined by various combinations of these demographic variables in terms of their average scores on the bar examination and the three components included in NY bar exam scores. In Section 4, we summarize the pass rates for various subgroups at pass rates between 660 and 675, and therefore address the primary purpose of this study. But to fully understand the results in Section 4, it is necessary to understand the results in Sections 1, 2, and 3.

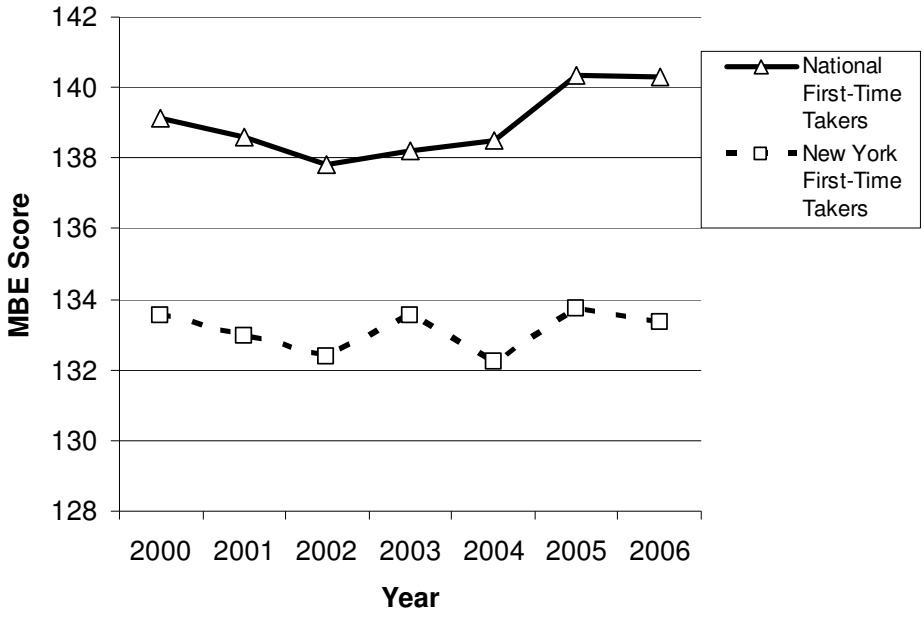
An analysis of pass rates using different passing scores within a single bar examination administration has advantages and disadvantages in evaluating the impact of changes in passing score (which were announced well in advance) on the pass rates.[4] On the positive side, studying a single bar examination administration is straightforward and focuses exclusively on effects of the changes in passing score. Since the analysis makes use of data on the performance of a fixed group of candidates who took the bar examination on a particular occasion, the many factors (e.g., changes in the composition of the group, changes in patterns of law school curricula or test preparation) that can influence pass rates and produce variability in pass rates from one year to the next are controlled. By applying the different passing scores to the existing score distributions for various groups, the analysis focuses on the direct impact of changes in the passing scores, assuming that everything else is held constant.

However, it is important to keep in mind that legal education, test preparation activities, and the composition of the candidate population are likely to change over time (as everything changes), and as a result, the projections of what the pass rates would have been in February 2006 for different passing scores may not provide very accurate predictions of what would actually happen if the passing score were increased to 675 over the next two or three years. In particular, changes in the passing score may contribute to changes in how candidates prepare to take the bar exam, in the courses

they take in law school, in how law schools operate, and in the composition of the population of individuals who choose to take the NY bar exam. The results should be interpreted with caution, but they do provide a clear indication of the immediate impact of a change in passing score, and a reasonable projection of what would be likely to happen in the future if the passing score were changed in particular ways.

To check on the possible impact of an increase in the passing score on the level of candidate preparation and performance, we compared score trends of first-time New York candidates[5] on the February MBE over the last seven years to score trends for first-time candidates nationally on the February MBE over the last seven years. If the New York pattern was similar to the national pattern through February 2006, it would suggest that the announced change in passing score in New York did not have any significant impact on performance of the New York candidates in February 2006. If the New York pattern was similar to the national pattern up to February 2005 but changed relative to the national data between February 2005 and February 2006, we would have an indication that something (e.g., the change in passing score) might have caused the change in New York candidates' performance between February 2005 and February 2006. Figure 0.1 displays the average MBE scores across February administrations for New York and National candidates.[6] The pattern of scores appears to differ somewhat between 2003 and 2006. However, the pattern of scores between 2005 and 2006 do not differ substantially.

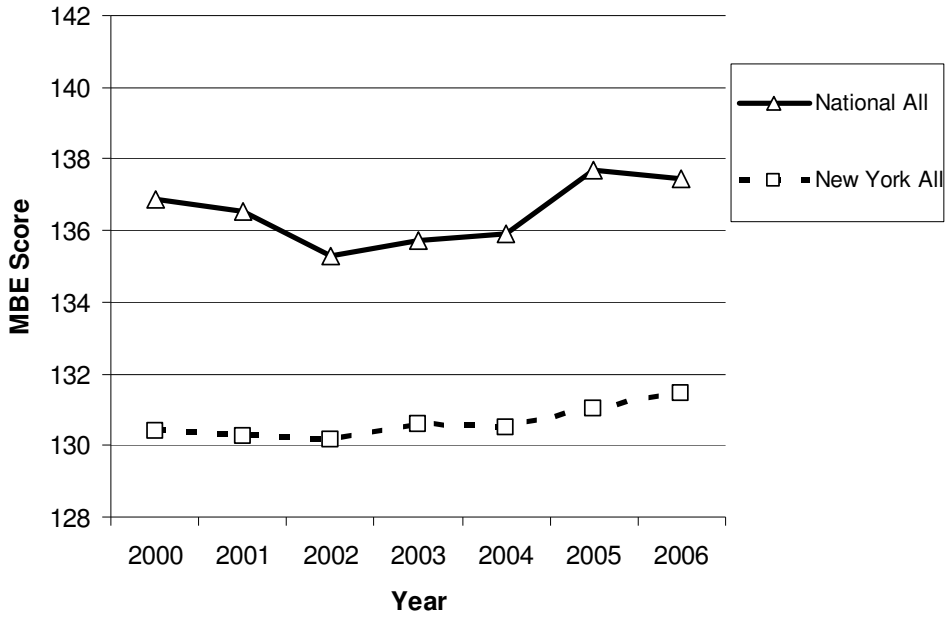
Figure 0.1
National and New York Average MBE Scores
February Administrations between 2000 and 2006
All First-time Takers



See note 6.

We also computed the national averages and the New York averages for all candidates (first-time takers and repeat takers) taking the February administrations of the MBE between 2000 and 2006. The results of this comparison are presented in Figure 0.2.[7] The national averages show somewhat more variability from year to year, which is unexpected given that the sample size for the national sample is so much larger than for New York. The New York scores increased slowly from 2002 to 2006, but there is no indication of any unusually sharp change in the average MBE score for New York in February 2006.

Figure 0.2
National and New York Average MBE Scores
February Administrations between 2000 and 2006
All Candidates (First-time Takers and Repeat takers)



See note 7.

Notes

1. 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 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.

2. This report includes a glossary that provides definitions of various technical terms included in the text. These terms are generally defined when first used, but the glossary may provide a useful reference.

3. Technically, this analysis is a cross-sectional analysis; it compares performance under different decision rules using data collected on a single occasion. However, the question being asked involves 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.

4. 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.

5. Some candidates who are identified as first-time takers could have taken the bar examination in another jurisdiction. The numbers of such cross-jurisdictional repeat takers is presumably small.

6. Although the average MBE scores for the first-time takers in New York in Figure 0.1 are consistently lower than those for the first-time takers nationally, this difference is potentially misleading. As indicated later in this report, the population of candidates taking the NY bar exam includes a substantial number of candidates who were educated in foreign countries and who tend to get lower scores on the MBE than domestic-educated candidates. Foreign-educated candidates make up a much smaller percentage of the national population of candidates. If we focus on domestic-educated first-time takers. The New York average MBE score in February 2006 was 143, slightly higher than the national average for that test date.

7. As indicated in note 6 attached to Figure 0.1, the New York sample includes a relatively high percentage of foreign-educated candidates who tend to get relatively low scores. If only domestic-educated candidates are considered, the New York average MBE scores are similar to the national average.

1. Data Sources

Staff at the NYBLE and at NCBE planned and coordinated the transfer of several sources of data to NCBE for use in this study. In this section, we provide a brief description of the procedures for assembling the database that was used for the analyses presented in subsequent sections of this report.

1.1 Database Elements

The database used in this report contains information from five primary data sets. The different data sets each contain at least one of two indices that could be used to match data records belonging to the same individual. These two indices were (1) applicant identification number, which was the candidate's social security number (SSN) or (2) applicant seat number, which was a number coded by candidates that indicated the seat number they used when taking the NY bar exam.

The first data set was derived from a survey of NY bar exam respondents (i.e., from candidates who completed a survey) at the time of application for the February 2006 NY bar exam and consisted primarily of demographic information (e.g. self-reported age, gender, ethnicity, citizenship, and country of legal education). Candidates who supplied the information (or authorized its release) will be referred to as respondents in cases where it seems useful to remind the reader that some candidates are not included in the analyses. The second data set contained more detailed performance information on the February 2006 administration of the NY bar exam and included scores on the NY bar exam and on each of its components (i.e., New York Essay Examination (NY Essay), Multistate Performance Test (MPT), Multistate Bar Examination (MBE), and New York multiple-choice test (NYMC)). The third data set supplied by the NYBLE included birthdates and law school graduation dates of candidates. The fourth data source was from LSAC and included demographic information (e.g. birthdates, gender, ethnicity, undergraduate institution, and undergraduate major) and performance data (e.g., undergraduate GPA and average LSAT score from all attempts) for candidates who gave permission for LSAC to release these data. The fifth data set contained candidates' law school performance data (e.g., GPAs) obtained from their law schools for those candidates who authorized the release of this information and for those law schools that could and would release this information. There was some redundancy in these data sets, and as indicated below, this redundancy was used to check on the accuracy of the data where possible.

1.2 Database Construction

The database was assembled sequentially at NCBE as the data sets became available. As data were assembled, they were checked for accuracy using variables that were redundant across data sets (e.g., birthdates). First, the New York demographic data and bar examination scores were matched using applicant identification/seat number to identify corresponding records. Next, this combined information was matched by applicant seat number with the data set that contained their birthdates and law

school graduation dates. Then, the LSAC data were matched to the data set. Finally, the law school data were matched to the data set with New York demographic data, New York performance data, and LSAC data using SSNs. The resultant database contained a total of 3,564 records, one for each of the 3,564 candidates who took the NY bar exam in February 2006.

Because some data were not available, (e.g., LSAT records and law-school GPAs for foreign-educated candidates) and because some candidates and law schools chose not to release certain data, many of the candidate records had missing elements. Of the 3,564 candidates who took the NY bar exam in February 2006, 1,640 cases contained LSAC data and 427 cases contained law school data (for 118 U.S. law schools represented in the February 2006 NY bar exam administration).

1.3 Database Finalization

The data collection methods used in this study sometimes resulted in the availability of the same information from multiple sources. At several points in the database assembly, comparisons were made across data sets to verify accuracy using this redundant information. After data were matched, additional checks and analyses were implemented to identify and rectify potentially errant or conflicting data for the following variables: gender, racial/ethnic group, MBE score, and age/birthdate. In the few cases where data conflicted across data sources and couldn't be otherwise resolved, New York demographic data were used for a candidate's information.

1.4 Representativeness of the Database

In studies like this, in which information is provided voluntarily by participants, missing data are always a matter of some concern. To the extent that candidates who choose to participate are systematically different from those who do not participate, the results may be biased. As indicated below, participation in this study was generally good. Some information was not available for graduates of foreign law schools (e.g., age at graduation), but about 85% of the candidates supplied at least some of the demographic information requested of them.

Data were available for all 3,564 candidates on four variables included in the operational database for the NY bar exam: NY bar exam scores, number of NY bar exam attempts, age when taking the bar exam, and origin of legal education. Table 1.1 displays omitted response rates for the variables obtained from candidates and Table 1.2 displays omitted response rates by domestic- and foreign-educated candidates. For gender and race/ethnicity about 15% of the information was omitted. Age at law school graduation was omitted for about 36% of candidates overall, but for 0.5% of domestic-educated and 100.0% of foreign-educated candidates.

Undergraduate GPA, LSAT, and law-school GPA were omitted from the database for between 55% and 88% of the candidates. Larger percentages of these data were omitted for foreign-educated candidates because they generally did not have

LSAC records, and we made no attempt to obtain GPA from foreign law schools. However, substantial percentages of undergraduate GPA, LSAT, and law-school GPA were omitted for domestic-educated candidates, which cause concern about how representative these variables are of New York bar candidates. Because of this and because examining these variables was not our primary concern in this report, we did not analyze undergraduate GPAs, LSAT score, or law-school GPAs.

Table 1.1
Numbers and Percentages of Omitted Responses
February 2006 New York Bar Examination Database

Variable	Number of Omitted Responses	Percentage of Omitted Responses*
Gender	524	14.7%
Origin of Legal Education	0	0.0%
Race/Ethnicity	533	15.0%
Age at Law School Graduation	1,285	36.1%
Age at Bar Attempt	0	0.0%
Undergraduate GPA	2,018	56.6%
LSAT	1,983	55.6%
Law-School GPA	3,137	88.0%
NY Bar Exam	0	0.0%

Number of candidates in database (N) = 3,564
*Omitted responses include responses that were not released, not available, or not resolvable (e.g., because of contradictory information).

We obtained gender and race/ethnicity data for about 85% of candidates, but it is possible that the results would be slightly different if we had complete data for these variables. Most of the candidates (88%) who omitted their genders also omitted their races/ethnicities, so those who omitted these variables tended to omit both.

Table 1.2
Numbers and Percentages of Omitted Responses
Candidates Who Graduated from Domestic and Foreign Law Schools
February 2006 New York Bar Examination Database

Variable (Count of Omitted Responses*)	Type of Legal Education			
	Domestic (n = 2,290)		Foreign (n = 1,274)	
	n	%	n	%
Gender (524)	368	16.1%	156	12.2%
Race/Ethnicity (533)	374	16.3%	159	12.5%
Age at Law School Graduation (1,285)	11	0.5%	1,274	100.0%
Undergraduate GPA (2,018)	747	32.6%	1,271	99.8%
LSAT Scores (1,983)	743	32.4%	1,240	97.3%
Law-School GPA (3,137)	1,871	81.7%	1,266	99.4%

n = number of candidates
N = total number of candidates (3,564)
*Omitted responses include those that were not released, not available, or not resolvable (e.g., because of contradictory information).

1.5 Confidentiality of Data

The data sets described above were combined and analyzed by NCBE. NCBE was responsible for maintaining the confidentiality of the data. To ensure confidentiality, we collated the data from the NYBLE, participating law schools, and LSAC. We then linked the data from various sources for each candidate who agreed to provide data for the study.

Personal identifiers for candidates and identifiers for schools were necessary in order to link the data elements for each candidate into a single record. These identifiers were used only for constructing and finalizing the database.

2. Demographic Characteristics of the Candidates

The analyses included in this report are based on data collected from 3,564 candidates who took the New York Bar Examination (NY bar exam) in February 2006. In this section, the following characteristics of the candidates are analyzed: origin of legal education, gender, race/ethnicity, age at graduation, age when taking the NY bar exam in February 2006, and the number of attempts taking the NY bar exam. These variables are referred to as demographic variables to distinguish them from scores or pass rates on the NY bar exam. The latter variables are referred to as performance variables and are discussed in Sections 3 and 4, respectively.

2.1 General Demographics

Gender

Table 2.1 provides an analysis of the numbers and percentages[1] of females and males in the sample and indicates that 524 (or 14.7%) of the candidates did not record their genders, yielding a response rate of over 85%. Of the candidates who indicated their genders, 49.8% (or 1,515) were females and 50.2% (or 1,525) were males. Because 14.7% of the candidates omitted their genders, all analyses involving gender as a classification variable are subject to some uncertainty due to missing responses, but the percentages in Table 2.1 are based on information from over 85% of the February 2006 candidates and provide a good indication of what to expect for February administrations of the New York bar exam.

Table 2.1
Numbers and Percentages of Females and Males

Gender	Number	Percentage of Respondents
Female	1,515	49.8%
Male	1,525	50.2%
Omitted	524	--

Total number of candidates (N) = 3,564
Note: Percentages in this and subsequent tables may not add up to 100 due to rounding. Also, percentages are based on candidates with data on the relevant demographic variables (e.g., gender).

Domestic or Foreign Legal Education

Table 2.2 describes the sample in terms of whether the candidates obtained their legal education in the United States (domestic-educated) or in a foreign country (foreign-educated). In the sample, 64.3% (or 2,290) graduated from a domestic law school, and 35.7% (or 1,274) graduated from a foreign law school.

Table 2.2
Numbers and Percentages Who Graduated from Domestic and Foreign Law Schools

Origin of Legal Education	Frequency	Percentage of Respondents*
Domestic	2,290	64.3%
Foreign	1,274	35.7%

N = 3,564
Note: Domestic refers to candidates who graduated from a law school in the United States. Foreign refers to candidate who graduated from a law school outside of the United States.
*There were no data missing for this variable, so the percentage of respondents equals the percentage of candidates in the total sample.

Race/Ethnicity

Table 2.3 provides an analysis of the racial/ethnic composition of the sample, using the categories employed by the Law School Admission Council (LSAC) which were used in the candidate survey administered to the New York candidates in February 2006. As indicated in Table 2.3, 533 (or 15.0%) of the candidates omitted their race/ethnicity. Of those who indicated their race/ethnicity, 51.2% were Caucasian/White, 20.9% were Asian/Pacific Islander, 14.7% were Black/African American, 5.4% were Hispanic/Latino, 1.0% were Puerto Rican, 0.3% were Chicano/Mexican American, and 0.3% were American Indian/Alaskan Native. Of the respondents, 6.1% listed their race/ethnicity as "Other," which could refer to some other preferred designation or to a multi-racial/ethnic background, or it may reflect a simple reluctance to provide information on race/ethnicity.

Table 2.3
Numbers and Percentages in Different Racial/Ethnic Groups

Race/Ethnicity	Number	Percentage of Respondents*
Caucasian/White	1,553	51.2%
Asian/Pacific Islander	633	20.9%
Black/African American	445	14.7%
Hispanic/Latino	165	5.4%
Puerto Rican	31	1.0%
Chicano/Mexican American	10	0.3%
American Indian/Alaskan Native	8	0.3%
Other	186	6.1%
Omitted	533	--

N = 3,564
* Percentages based on 3,031 candidates with data on race/ethnicity.

Age at Law School Graduation, Age When Taking the Bar Examination, and Number of Bar Attempts

Table 2.4 describes the sample in terms of the candidates' ages at graduation from law school. This information was not available for 1,285 (or 36.1%) of the candidates. Most of the candidates for whom this information was not available completed law school outside of the United States. Of those who responded, 41.9% were under 27, and 20.3% were 27 or 28. About 73% of the candidates were under 31, and less than 3 percent were over 50 when they graduated from law school.

Table 2.4
Numbers and Percentages at Various Ages at Law School Graduation (Using Age Ranges)

Age at Law School Graduation	Number	Percentage of Respondents
<27	955	41.9%
27-28	463	20.3%
29-30	246	10.8%
31-35	305	13.4%
36-40	127	5.6%
41-45	85	3.7%
46-50	50	2.2%
51-55	31	1.4%
56-60	10	0.4%
>60	7	0.3%
Omitted	1,285	--

N = 3,564

Table 2.5 describes the sample in terms of the candidates' ages when they took the bar examination in February 2006. 22.1%, were under 27, and 19.1% were 27 or 28. Just over 54% of the candidates were under 31, and almost 4% were over 50 when they took the NY bar exam in February 2006.

Table 2.5
Numbers and Percentages at Various Ages at February 2006 Bar Attempt (Using Age Ranges)

Age at Bar Attempt	Number	Percentage of Respondents*
<27	788	22.1%
27-28	680	19.1%
29-30	461	12.9%
31-35	786	22.1%
36-40	357	10.0%
41-45	223	6.3%
46-50	132	3.7%
51-55	73	2.0%
56-60	36	1.0%
>60	28	0.8%

N = 3,564

*There were no data missing for this variable, so the percentage of respondents equals the percentage of candidates in the total sample.

Figure 2.1 plots age at February 2006 bar attempt with age at law school graduation. As indicated in this figure, age when taking the bar examination in February 2006 was always approximately equal to or greater than age at graduation. For most candidates, age at graduation and age when taking the bar examination in February were quite close. The candidates for whom age at February 2006 bar attempt is higher than age at graduation tend to be repeat takers.

Figure 2.1
Age at Bar Attempt as a Function of Age at Law School Graduation

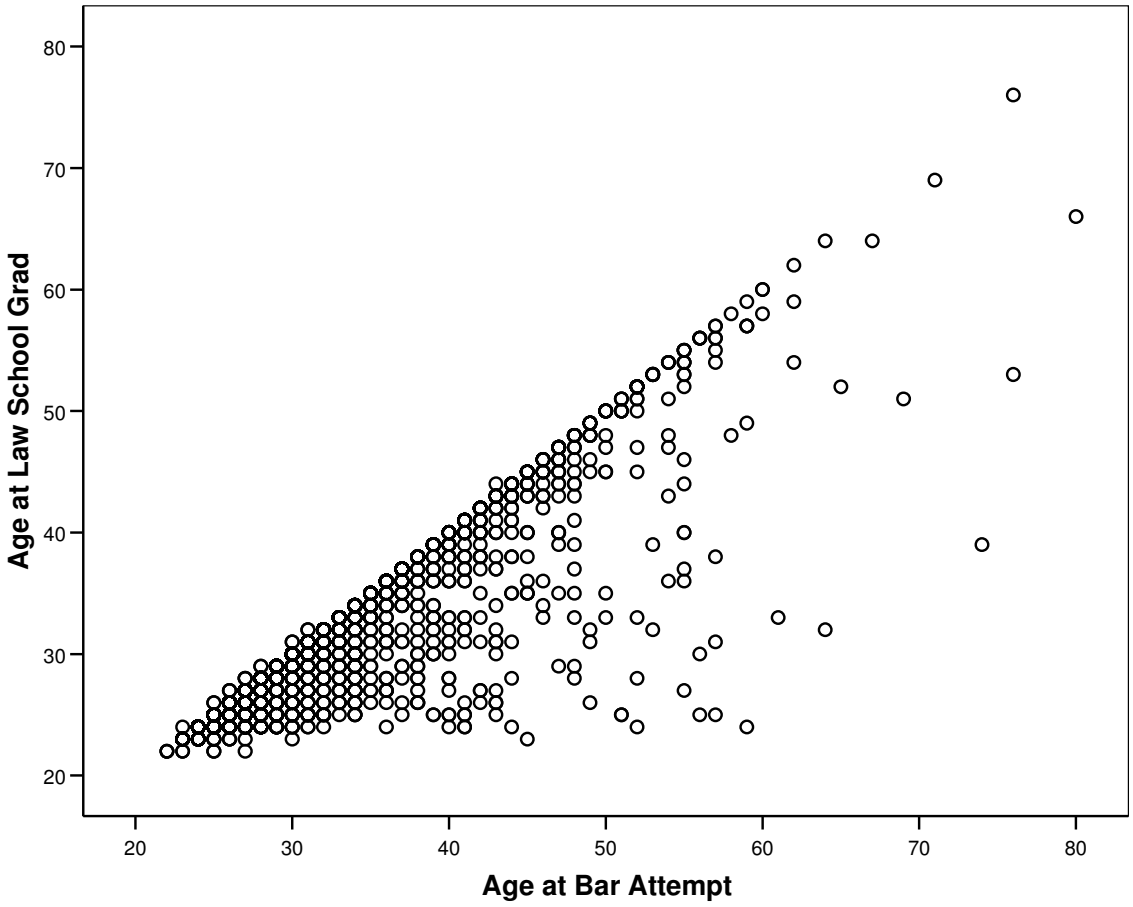


Table 2.6 indicates the number of times the candidates had taken the NY bar exam as of February 2006. 36.5% of the candidates were taking the examination for the first time (first-time takers). 38.4% were taking it for the second time, 7.3% for the third time, 6.7% for the fourth time, 3.6% for the fifth time, etc. The great majority of the candidates, 63.5%, were repeat takers. One candidate was taking it for the 60th time and one for the 56th time, but almost 97% were taking it for the eighth time or less.

Table 2.6
Numbers and Percentages for Number of Bar Attempts as of February 2006

Number of NY Bar Exam Attempts	Number	Percentage of Respondents*
1	1,302	36.5%
2	1,369	38.4%
3	261	7.3%
4	240	6.7%
5	130	3.6%
6	83	2.3%
7	38	1.1%
8	31	0.9%
9	19	0.5%
10	21	0.6%
11	11	0.3%
12	10	0.3%
13	7	0.2%
14	6	0.2%
15	4	0.1%
16	2	0.1%
17	4	0.1%
18	5	0.1%
19	2	0.1%
20	5	0.1%
22	1	0.0%
23	1	0.0%
25	1	0.0%
26	1	0.0%
27	1	0.0%
28	1	0.0%
29	2	0.1%
31	1	0.0%
32	1	0.0%
33	1	0.0%
42	1	0.0%
56	1	0.0%
60	1	0.0%

N = 3,564

*There were no omitted data for this variable, so the percentage of respondents equals the percentage of candidates in the total sample.

2.2 Domestic-Educated and Foreign-Educated Candidates

As indicated earlier, data were available for all candidates regarding whether their law-school education was domestic or foreign. This section provides comparisons between the domestic- and foreign-educated candidates on the other demographic variables.

Table 2.7 reports the percentages of females and males for the domestic- and foreign-educated groups in the sample. Of the 2,290 candidates who indicated that they completed law school in the United States, 42.4% were female, 41.6% were male, and 16.1% omitted their gender. Of the 1,274 candidates who indicated that they completed law school in a foreign country, 42.8% were female, 45.0% were male, and 12.2% omitted their gender. So, gender was very evenly balanced for the domestic-educated respondents, while the foreign-educated group had more males than females.

Table 2.7
Percentages of Females and Males
Domestic- and Foreign-Educated Candidates

Gender (N = 3,564)	Origin of Legal Education	
	Domestic (n = 2,290)	Foreign (n = 1,274)
Female (n = 1,515)	42.4%	42.8%
Male (n = 1,525)	41.6%	45.0%
Omitted (n = 524)	16.1%	12.2%

n = the number of candidates within a group
N = the total number of candidates

Table 2.8 provides a similar analysis of race/ethnicity as a function of the type of legal education (domestic or foreign). Of the 2,290 candidates who completed law school in the United States, 49.6% were Caucasian/White, 9.6% were Asian/Pacific Islander, 14.4% were Black/African American, 4.1% were Hispanic/Latino, 1.4% were Puerto Rican, 0.4% were Chicano/Mexican American, 0.3% were American Indian/Alaskan native, and 3.8% listed their race/ethnicity as "Other." Of the 1,274 respondents who completed law school in a foreign country, 32.8% were Caucasian/White, 32.5% were Asian/Pacific Islander, 9.0% were Black/African American, 5.5% were Hispanic/Latino, and 7.7% listed their race/ethnicity as "Other." None of the foreign-educated candidates listed their race/ethnicity as Puerto Rican, Chicano/Mexican American, or American Indian/Alaskan native. Of the domestic-educated candidates, 16.3% omitted their race/ethnicity, and of the foreign-educated candidates, 12.5% omitted their race/ethnicity.

Table 2.8
Percentages Choosing Various Race/Ethnicity Categories
Domestic- and Foreign-Educated Candidates

Race/Ethnicity (N = 3,564)	Origin of Legal Education	
	Domestic (n = 2,290)	Foreign (n = 1,274)
Caucasian/White (n = 1,553)	49.6%	32.8%
Asian/Pacific Islander (n = 633)	9.6%	32.5%
Black/African American (n = 445)	14.4%	9.0%
Hispanic/Latino (n = 165)	4.1%	5.5%
Puerto Rican (n = 31)	1.4%	--
Chicano/Mexican American (n = 10)	0.4%	--
American Indian/Alaskan Native (n = 8)	0.3%	--
Other (n = 186)	3.8%	7.7%
Omitted (n = 533)	16.3%	12.5%

The racial/ethnic categories chosen by the foreign-educated candidates were generally consistent with their reported countries of legal education. The foreign-educated respondents who classified themselves as Caucasian/White were mainly

educated in Europe, Canada, and Australia. The foreign-educated candidates who classified themselves as Asian/Pacific Islander were mainly educated in Asia (with most from China, India, Japan, Korea, Philippines, or Taiwan). The Black/African American graduates of foreign law schools were mainly educated in Africa or the United Kingdom. Most of the Hispanic/Latino foreign-educated candidates were educated in Central or South America (with most from Brazil, Colombia, Mexico, Peru, or Venezuela). Of the graduates of foreign law schools who listed their race/ethnicity as "Other," 39.8% were educated in the United Kingdom, 7.1% in Nigeria, 7.1% in Israel, 5.1% in France, 5.1% in Canada, and the remaining 35.8% were from a range of countries.

The most dramatic differences between the racial/ethnic composition of the domestic-educated group and that of the foreign-educated group were that over 49% of the domestic-educated group was Caucasian/White, while less than 33% of the foreign-educated group was Caucasian/White, and that over 32.5% of the foreign-educated group was Asian/Pacific Islander, while less than 10% of the domestic-educated candidates put themselves in this category. Note that 7.7% of the foreign-educated group classified themselves as "Other," while 3.8% of the domestic-educated group chose this category.

Table 2.9 provides an analysis of age at law school graduation as a function of type of law-school education (domestic or foreign) for all candidates. As noted earlier in the discussion of Table 2.4, age at law school graduation was not available for 36.1% (or 1,285) of the candidates, and most of those for whom this information was not available were foreign educated; age at law school graduation was not available for any of the foreign-educated candidates (100%). Of the domestic-educated candidates, over 60% were under 29 when they graduated from law school, and almost 86% were under 36. The average age of the domestic-educated candidates when they completed law school was 29.5 years (with a *standard deviation*, or SD, of 6.7 years).

Table 2.9
Percentages at Various Ages at Law School Graduation (Using Age Ranges)
Domestic- and Foreign-Educated Candidates

Age at Law School Grad. (N = 3,564)	Origin of Legal Education	
	Domestic (n =2,290)	Foreign (n = 1,274)
<27 (n = 955)	41.7%	--
27-28 (n = 463)	20.2%	--
29-30 (n = 246)	10.7%	--
31-35 (n = 305)	13.3%	--
36-40 (n = 127)	5.5%	--
41-45 (n = 85)	3.7%	--
46-50 (n = 50)	2.2%	--
51-55 (n = 31)	1.4%	--
56-60 (n = 10)	0.4%	--
>60 (n = 7)	0.3%	--
Omitted (n = 1,285)	0.5%	100%

Table 2.10 provides an analysis of age at bar attempt in February 2006 as a function of law-school education (domestic or foreign). The foreign-educated candidates were generally older when they took the bar examination in February 2006 than the domestic-educated candidates, with smaller percentages in the under-27, 27-28, and 29-30 categories, and larger percentages in most of the other categories. The average age of the domestic-educated candidates taking the bar examination in February 2006 was 31.9, and that for the foreign-educated candidates was 32.9 (with SDs of 8.0 and 7.9, respectively), for an average difference of a year.

Table 2.10
Percentages at Various Ages at February 2006 Bar Attempt (Using Age Ranges)
Domestic- and Foreign-Educated Candidates

Age at Bar Attempt (N = 3,564)	Origin of Legal Education	
	Domestic (n = 2,290)	Foreign (n = 1,274)
<27 (n = 788)	23.1%	20.4%
27-28 (n = 680)	22.3%	13.3%
29-30 (n = 461)	13.4%	12.0%
31-35 (n = 786)	20.3%	25.2%
36-40 (n = 357)	8.0%	13.7%
41-45 (n = 223)	5.5%	7.7%
46-50 (n = 132)	3.4%	4.2%
51-55 (n = 73)	2.2%	1.7%
56-60 (n = 36)	1.0%	1.1%
>60 (n = 28)	0.8%	0.7%

Table 2.11 provides an analysis of the number of bar attempts as of February 2006 as a function of origin of legal education (domestic or foreign). The foreign-educated candidates and domestic-educated candidates were about equally likely to be repeating the examination. About 36.8% of the domestic-educated candidates and about 36.0% of the foreign-educated candidates were taking the NY bar exam for the first time. As of February 2006, the domestic-educated candidates had taken the NY bar exam an average of 2.5 times, and the foreign-educated candidates had taken it an average of 2.7 times (with SDs of 3.1 and 2.9 respectively).

Table 2.11
Percentages of Number of Bar Attempts for Domestic- and Foreign-Educated Candidates

Number of Bar Attempts (N = 3,564)	Origin of Legal Education	
	Domestic (n = 2,290)	Foreign (n = 1,274)
1 (n = 1,302)	36.8%	36.0%
2 (n = 1,369)	41.0%	33.8%
3 (n = 261)	5.7%	10.2%
4 (n = 240)	6.4%	7.3%
5 (n = 130)	3.4%	4.0%
6 (n = 83)	2.2%	2.6%
7 (n = 38)	0.8%	1.5%
8 (n = 31)	0.9%	0.8%
9 (n = 19)	0.5%	0.6%
10 (n = 21)	0.6%	0.6%
>10 (n = 70)	1.7%	2.5%

2.3 Characteristics of Domestic-Educated Candidates

As indicated at several places in this report, the domestic-educated candidates differed from the foreign-educated candidates in a number of ways (e.g., in terms of demographic variables and performance on the bar examination), and therefore, most of our analyses were run separately for these two groups. In this section, we examine

some relationships among demographic variables for the domestic-educated candidates.

Tables 2.12 and 2.13 display the relationship between race/ethnicity and gender for domestic-educated first-time takers and repeat takers. Table 2.12 reports the percentages of females and males in each racial/ethnic group for the domestic-educated first-time takers, and Table 2.13 reports the percentages of females and males in each racial/ethnic group for the domestic-educated repeat takers. The general patterns are similar to those for all domestic-educated candidates (see Table 2.8) in that the Caucasian/White group had the largest percentages of candidates for all of the subgroups, but the percentage in different racial/ethnic groups vary across the subgroups (defined by first-time takers versus repeat takers and by gender).

Table 2.12
Percentages of Domestic-Educated Female and Male First-Time Takers in Various Race/Ethnicity Categories

Race/Ethnicity	Gender		Total* (N = 843)
	Female (n = 358)	Male (n = 379)	
Caucasian/White (n = 507)	62.8%	74.4%	60.1%
Asian/Pacific Islander (n = 74)	10.3%	9.8%	8.8%
Black/African American (n = 78)	14.8%	6.6%	9.3%
Hispanic/Latino (n = 25)	4.5%	2.4%	3.0%
Puerto Rican (n = 12)	2.5%	0.8%	1.4%
Chicano/Mexican American (n = 4)	0.6%	0.5%	0.5%
American Indian/Alaskan Native (n = 3)	--	0.8%	0.4%
Other (n = 30)	3.9%	4.2%	3.6%
Omitted (n = 110)	0.6%	0.5%	13.0%

*Total includes 106 candidates who did not record their genders.

Table 2.12 reports the racial/ethnic distributions of the female and the male domestic-educated first-time takers. The male first-time takers included a larger percentage of Caucasian/White candidates than the female first-time takers and smaller percentages in most of the other racial/ethnic groups. Of the male domestic-educated

first-time takers, 74.4% were Caucasian/White, and of the females, 62.8% were Caucasian/White. Most of the other racial/ethnic groups constituted a higher percentage of females than they did of males, except for the American Indian/Alaskan Native and "Other" groups, which constituted larger percentages of males than they did of females.

Table 2.13 presents the percentages of females and males in each racial/ethnic group for the domestic-educated repeat takers. Note that about 43% of the repeat takers were Caucasian/White, while about 60% of the first-time takers were Caucasian/White, and that about 17% of the repeat takers were Black/African American, compared to about 9% of the first-time takers. The Caucasian/White group constituted a higher percentage of the males (56.7%) than of the females (about 49.3%).

Table 2.13
Percentages of Domestic-Educated Female and Male Repeat Takers in Various Race/Ethnicity Categories

Race/Ethnicity	Gender		Total* (N = 1,447)
	Female (n = 612)	Male (n = 573)	
Caucasian/White (n = 628)	49.3%	56.7%	43.4%
Asian/Pacific Islander (n = 145)	11.4%	13.1%	10.0%
Black/African American (n = 252)	23.5%	18.8%	17.4%
Hispanic/Latino (n = 70)	6.7%	5.1%	4.8%
Puerto Rican (n = 19)	1.1%	1.9%	1.3%
Chicano/Mexican American (n = 6)	0.5%	0.5%	0.4%
American Indian/Alaskan Native (n = 5)	0.5%	0.3%	0.3%
Other (n = 58)	6.5%	3.1%	4.0%
Omitted (n = 264)	0.3%	0.3%	18.2%

*Total includes 262 candidates who did not record their genders.

As was the case for domestic-educated first-time takers, male repeat takers outnumbered females in the Caucasian/White group. Contrary to domestic-educated first-time takers, the domestic-educated repeat takers consisted of a larger percentage

of males than females in the Asian/Pacific Islander group and smaller percentages of males than females in the American Indian/Alaskan Native and "Other" groups.

Among the domestic-educated candidates, the females had an average age at graduation of 29.1 years, while the males had an average age at graduation of 29.7, years (with SDs of 6.8 and 6.6 respectively), for a difference of just over half a year. Table 2.14 presents a more detailed analysis of the relationship between gender and age at graduation for the domestic-educated candidates. Most of the graduates (about 66% of the females and about 60% of the males, see Table 2.14) were 28 or under when they graduated. An additional 10.8% of the females and 11.4% of the males were between 29 and 30 years old when they graduated.

Table 2.14
Percentages of Domestic-Educated Female and Male Candidates
Age at Law School Graduation (Using Age Ranges)

Age at Law School Graduation (N = 2,279)	Gender		
	Female (n = 967)	Male (n = 947)	Omitted (n = 365)
<27 (n = 955)	46.0%	39.9%	36.2%
27-28 (n = 463)	20.3%	20.1%	21.1%
29-30 (n = 246)	10.8%	11.4%	9.3%
31-35 (n = 305)	11.1%	14.9%	15.6%
36-40 (n = 127)	4.4%	5.5%	8.8%
41-45 (n = 85)	3.3%	3.8%	4.7%
46-50 (n = 50)	1.6%	2.7%	2.5%
51-55 (n = 31)	1.9%	0.8%	1.4%
56-60 (n = 10)	0.5%	0.4%	0.3%
>60 (n = 7)	0.2%	0.4%	0.3%

We also looked at the distributions of ages at graduation from law school for domestic-educated candidates across race/ethnicity and found some age differences. The range of average ages at graduation across race/ethnicity goes from 27.0 years for the Chicano/Mexican American group to 31.1 years for the American Indian/Alaskan

Native group. However, most of the other groups had average ages at graduation near 29 years.

Among the domestic-educated candidates, females had an average age of 30.9 years when they took the bar examination in February 2006, while males had an average age at bar attempt of 32.0 years at this point (with SDs of 7.3 and 7.7 respectively), for a difference of just over one year. Table 2.15 presents a more detailed breakdown of the relationship between gender and age at bar attempt for the domestic-educated candidates.

Table 2.15
Percentages of Domestic-Educated Female and Male Candidates
Age at Bar Attempt (Using Age Ranges)

Age at Bar Attempt (N = 2,290)	Gender		
	Female (n = 970)	Male (n = 952)	Omitted (n = 368)
<27 (n = 528)	27.1%	22.0%	15.2%
27-28 (n = 510)	24.4%	21.6%	18.2%
29-30 (n = 308)	13.4%	12.9%	14.9%
31-35 (n = 465)	18.5%	21.4%	22.3%
36-40 (n = 183)	6.6%	8.5%	10.3%
41-45 (n = 125)	3.6%	6.1%	8.7%
46-50 (n = 79)	2.7%	4.0%	4.1%
51-55 (n = 51)	2.3%	2.0%	2.7%
56-60 (n = 22)	0.8%	0.5%	2.4%
>60 (n = 19)	0.6%	0.9%	1.1%

Table 2.16 provides a breakdown of the number of bar attempts by the domestic-educated candidates as a function of gender as of February 2006. Most of the domestic-educated candidates taking the NY bar exam in February 2006 were taking it for the first or second time. Modest percentages were taking the examination for the third or more times, with 83.1% of females and 80.5% of males taking the NY bar exam for the second time or less. As of February 2006, the domestic-educated females had taken the bar examination an average of 2.2 times, while the domestic-educated males had taken it an average of 2.3 times (with SDs of 2.2 and 3.3 respectively).

Table 2.16
Percentages of Female and Male Domestic-Educated Candidates
Number of Bar Attempts

Number of Bar Attempts (N = 2,290)	Gender		
	Female (n = 970)	Male (n = 952)	Omitted (n = 368)
1 (n = 843)	36.9%	39.8%	28.8%
2 (n = 938)	46.2%	40.7%	28.0%
3 (n = 131)	4.1%	6.3%	8.4%
4 (n = 147)	5.4%	5.1%	12.5%
5 (n = 79)	2.4%	3.0%	7.3%
6 (n = 50)	1.2%	2.3%	4.3%
7 (n = 19)	0.8%	0.5%	1.6%
8 (n = 21)	1.2%	0.4%	1.4%
9 (n = 11)	0.4%	0.3%	1.1%
10 (n = 13)	0.4%	0.3%	1.6%
More than 10 (n = 38)	0.9%	1.2%	4.9%

2.4 Characteristics of Foreign-Educated Candidates

This section provides demographic characteristics for foreign-educated candidates. As we will see below, the demographic characteristics of the foreign-educated candidates are somewhat different from those of the domestic-educated candidates. Note that data on the age at graduation from law school were not available

for all of the foreign-educated candidates, and therefore, analyses involving this variable could not be conducted for the foreign-educated candidates.

Tables 2.17 and 2.18 analyze the relationship between gender and race/ethnicity for the foreign-educated candidates, first-time takers and repeat takers. Table 2.17 reports the racial/ethnic distributions of the female and the male foreign-educated first-time takers. The racial/ethnic category with the largest percentage of candidates was the Caucasian/White category, followed by the Asian/Pacific Islander category, "Other" category, Black/African American category and Hispanic/Latino category. None of the foreign-educated candidates chose the Puerto Rican, Chicano/Mexican American, or American Indian/Alaskan Native categories.

Foreign-educated first-time takers included larger percentages of non-Caucasian/White candidates compared to the domestic-educated first-time takers. Furthermore, foreign-educated first-time taking males were more likely than females to be Asian/Pacific Islander; 26.3% of the males and 23.2% of the females were Asian/Pacific Islander. Similar to domestic-educated first-time takers, females made up larger percentages of the Black/African American, and Hispanic/Latino categories for the foreign-educated first-time takers.

Table 2.17
Percentages of Foreign-Educated First-Time Takers
Female and Male Candidates in Various Race/Ethnicity Categories

Race/Ethnicity	Gender		Total* (N = 459)
	Female (n = 211)	Male (n = 209)	
Caucasian/White (n = 212)	48.8%	52.2%	46.2%
Asian/Pacific Islander (n = 104)	23.2%	26.3%	22.7%
Black/African American (n = 29)	8.5%	4.8%	6.3%
Hispanic/Latino (n = 26)	6.6%	5.7%	5.7%
Other (n = 44)	11.4%	9.6%	9.6%
Omitted (n = 44)	1.4%	1.4%	9.6%

*Total includes 39 candidates who did not record their genders.

Table 2.18 presents the percentages of females and males in each racial/ethnic group for the foreign-educated repeat takers. A slightly larger percentage of the females than of the males classified themselves as Caucasian/White (31.7% to about 26.9%). In the Asian/Pacific Islander group, males outnumbered females (47.8% to 39.5%). In the Black/African American group, males outnumbered females (14.6% to 9.3%). In the Hispanic/Latino group, females outnumbered males (7.8% to 4.1%).

Table 2.18
Percentages of Foreign-Educated Repeat Takers
Female and Male Candidates in Various Race/Ethnicity Categories

Race/Ethnicity	Gender		Total* (N = 815)
	Female (n = 334)	Male (n = 364)	
Caucasian/White (n = 206)	31.7%	26.9%	25.3%
Asian/Pacific Islander (n = 310)	39.5%	47.8%	38.0%
Black/African American (n = 86)	9.3%	14.6%	10.6%
Hispanic/Latino (n = 44)	7.8%	4.1%	5.4%
Other (n = 54)	10.2%	5.5%	6.6%
Omitted (n = 115)	1.5%	1.1%	14.1%

*Total includes 117 candidates who did not record their genders.

The results in Table 2.18 differ from those of the domestic-educated repeat takers (Table 2.13), where the Caucasian/White group constituted a smaller percentage of females than males and the Black/African American group constitutes a larger percentage of females than males. The pattern of results is similar for other groups.

The female foreign-educated candidates were generally younger than the domestic-educated female candidates when they took the NY bar exam in February 2006 and the foreign-educated males were generally older than the domestic-educated males. Among the foreign-educated candidates, females had an average age of 30.5 years when they took the bar examination (compared to 30.9 for the domestic-educated females), and males had an average age at bar attempt of 34.5 years at this point (compared to 32.0 for the domestic-educated males). Table 2.19 presents a detailed description of the relationship between gender and age at bar attempt for the foreign-educated candidates. Note that 28.6% of the foreign-educated females were under 27 and over 60% were 30 or under when they took the NY bar exam, but only 35.5% of the males were 30 or under when they took the bar examination.

Table 2.19
Percentages of Foreign-Educated Female and Male Candidates
Age at Bar Attempt (Using Age Ranges) in February 2006

Age at Bar Attempt (N = 1,274)	Gender		
	Female (n = 545)	Male (n = 573)	Omitted (n = 156)
<27 (n = 260)	28.6%	15.4%	10.3%
27-28 (n = 170)	16.9%	11.0%	9.6%
29-30 (n = 153)	14.9%	9.1%	12.8%
31-35 (n = 321)	22.0%	27.6%	27.6%
36-40 (n = 174)	9.0%	16.9%	17.9%
41-45 (n = 98)	4.8%	9.8%	10.3%
46-50 (n = 53)	2.9%	5.1%	5.1%
51-55 (n = 22)	0.7%	2.3%	3.2%
56-60 (n = 14)	--	2.1%	1.3%
>60 (n = 9)	0.2%	0.9%	1.9%

Similar percentages of foreign-educated candidates and domestic-educated candidates repeated the NY bar exam as of February 2006, with just over 63% of the domestic-educated candidates repeating and almost 64% of the foreign-educated candidates repeating. Table 2.20 provides an analysis of the number of bar attempts as of February 2006 as a function of gender for the foreign-educated candidates. Females were a bit less likely than males to be repeating the bar exam. 38.7% of the females and 36.5% of males were taking the bar examination for the first time. As of February 2006, the foreign-educated females had taken the examination an average of 2.3 times, and the foreign-educated males had taken it an average of 2.7 times (with SDs of 1.9 and 2.9 respectively). These averages are slightly higher than those of domestic-educated candidates.

Table 2.20
Percentages of Foreign-Educated Female and Male Candidates
Number of Bar Attempts

Number of Bar Attempts (N = 1,274)	Gender		
	Female (n = 545)	Male (n = 573)	Omitted (n = 156)
1 (n = 459)	38.7%	36.5%	25.0%
2 (n = 431)	36.1%	33.3%	27.6%
3 (n = 130)	9.5%	10.1%	12.8%
4 (n = 93)	7.9%	6.8%	7.1%
5 (n = 51)	3.5%	3.3%	8.3%
6 (n = 33)	1.8%	3.0%	3.8%
7 (n = 19)	0.7%	1.2%	5.1%
8 (n = 10)	0.6%	1.0%	0.6%
9 (n = 8)	0.2%	0.9%	1.3%
10 (n = 8)	0.2%	0.7%	1.9%
>10 (n = 32)	0.7%	3.1%	6.4%

Notes:

1. Adding the percentages listed in tables throughout this report may result in total percentages that differ slightly from 100% due to rounding (e.g., a total percentage of 100.1%), as percentages reported in the tables were rounded to the nearest tenth of a percent.

3. Analyses of Candidate Performance on the February 2006 New York Bar Examination

This section provides detailed descriptions of the performance of the domestic-educated candidates and the foreign-educated candidates on the February 2006 administration of the NY bar exam. It includes analyses of scores on the three different components of the NY bar exam and on the examination as a whole for various groups of candidates. The implications of these results in terms of percentages passing and failing the bar examination are examined in the next section.

The NY bar exam includes four sections, each with different kinds of questions or tasks; the Multistate Bar Examination (MBE), which includes 190 multiple-choice questions; the New York Essay Examination with five essay questions (NY Essay); one Multistate Performance Test task (MPT); and the New York multiple-choice test (NYMC) with 50 questions. In determining the scores on the NY bar exam, the five NY Essays and the MPT are combined to produce a total essay score (essay).

The scores on each component of the NY bar exam (the MBE, the essay, and the NYMC) are scaled to a 0-1,000-point scale. First, the MBE score, which is reported on a 0-200 scale, is multiplied by 5, putting it onto a 0-1,000 scale. The essay scores and the NYMC scores are then scaled to this MBEx5 scale. Scaling the essay and NYMC scores to the MBEx5 ensures that, for the total group of candidates taking the NY bar exam on a given test date, the *mean*, or average, and the SD (*standard deviation*), or spread, of the essay scores and of the NYMC scores will be the same as the mean and SD of the MBE scores on the MBEx5.

This scaling does not ensure that the means and SDs on the different components will be the same in the sample of candidates who agreed to participate in this study (the respondents), although we expect them to be similar because most of the candidates agreed to participate. Also, the scaling does not ensure that the means and SDs of the different tests will be the same in different sub-groups of respondents, and the means are not necessarily expected to be similar in these sub-groups. When reported below, scores for components of the NY bar exam will be reported on a 0-1,000 scale, unless otherwise noted.

In computing the total score for each candidate on the NY bar exam, the MBE gets a weight of 40%, and the NYMC gets a weight of 10%. The five New York essay questions together get a weight of 40%, and the MPT gets a weight of 10%, and therefore, the essay score, derived from the scores on the five essays and the MPT, is assigned a weight of 50%.

An important aspect of test scores is their *reliability*. Reliability refers to the consistency or repeatability in scores and reflects the extent to which the measurements are free of random variation (or random error). Reliability is typically reported as a correlation coefficient that varies from 0.0 to 1.0, where higher values reflect more precision and lower values indicate less precision. All measurements contain some

random (i.e., unexplained) variability; for example, if a person takes two tests covering the same content in more-or-less the same way, the two scores are not likely to be exactly the same. We expect the two scores to be similar, but we do not expect them to be identical. Such variability is typically attributed to *random errors* that have some impact on observed scores.

The reliabilities for the components of the NY bar exam are all fairly high.[1] MBE scores have a reliability of about .90. Multiple-choice tests typically have high reliabilities, and long multiple-choice tests (the MBE has 190 items) tend to have especially good reliability. The NYMC test is much shorter than the MBE, and mainly as a result of that has a somewhat lower reliability, about 0.78. The essay component (including the MPT) has a reliability of about .80. The total score on the NY bar exam that results when the three components are combined with the appropriate weights has a reliability of about .92.[2]

For purposes of this report, having the component scores of the NY bar exam on the same 0-1,000 scale facilitated comparisons of component scores across and within groups of candidates. In analyzing the patterns of performance on the NY bar exam, we will focus on the results for various groups of candidates defined in terms of the demographic variables discussed in Section 2 (e.g., domestic-educated male candidates) and then summarize the results in terms of the patterns of performance across groups. We will begin with the domestic-educated first-time takers and repeat takers, and then examine results for the foreign-educated first-time takers and repeat takers. Within each of these broadly defined groups, we will also look at performance in terms of gender, race/ethnicity, and age.

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 mean or average score based on a sample from the population being analyzed. Standard errors provide an explicit caveat about the potential for over-interpreting small differences.

The sample analyzed in this report includes over 85% of the candidates who took the NY bar exam in February 2006, and therefore provides good estimates of group means for the total population of candidates who took that exam in February 2006, and for some subgroups in that population. However, in extending the interpretation to future administrations, the inference must be more tentative. The results from February 2006 are likely to be fairly representative of those for future February NY bar exam administrations, assuming that the tests remain the same, and the educational system and candidate population do not change too much.

However, 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. From one test to another, 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 (and the sample sizes get small for groups defined in terms of several demographic variables; e.g., foreign-educated, repeat takers in a particular racial/ethnic group). 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 random variability associated with the sampling of individuals from a larger population (on any given test date). They do not include any systematic errors due to changes in the population over time.

The statistical 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 SD (standard deviation) for the group over the square root of the sample size (i.e., the number of candidates in the group), 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 group and the sample size for the group. The SDs for the various groups considered in this section vary somewhat (from about 50 to over 100), but the sample sizes vary much more (from a few individuals to sample sizes of over 2,000). Therefore, the sample size tends to be the dominant factor in determining the standard error.

Assuming a typical SD of about 70, a sample size of 100 would yield an SEM of about 7 ($70/\sqrt{100} = 7$), and a sample size of 49 would yield an SEM of about 10 ($70/\sqrt{49} = 10$). For a sample size of about 25, the SEM would be about 14. As a rule of thumb, we will not place much emphasis on group means based on fewer than 100 candidates and even less emphasis on group means 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 February 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 from the February 2006 NY bar exam administration.

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.[3]

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 February administrations.[4]

3.3 Domestic-Educated First-Time Takers

As discussed in Section 2, the domestic-educated first-time takers include candidates who had graduated from a law school in the United States and were taking the bar examination for the first time in New York during the February administration. (It is possible that some of these candidates had taken a previous bar examination in a different jurisdiction). 60.1% of this group is Caucasian/White, but it also includes substantial percentages of other racial/ethnic groups. It has a slightly larger percentage of males (45.0%) than females (42.5%).

Table 3.1 reports the means and SDs on each part of the NY bar exam and the means and SDs on the total NY bar exam for domestic-educated first-time takers. Table 3.1 includes separate rows for females, males, and the total group. The mean bar examination score for the total group of just over 710 is well above the passing score of 665 in February 2007. Note that the standard errors (ranging from 2.7 to 3.9) are fairly small because of the large sample sizes, and that the SEMs for the total sample of respondents are smaller than those for the two subgroups.

Table 3.1
Score Means, Standard Deviations, and Standard Errors
Domestic-Educated First-Time Takers: Females and Males

Gender		MBE Scaled Score x 5	Essay Scaled Score	NYMC Scaled Score	Total NY Bar Score
Female (n = 358; SEM ≈ 3.9)	Mean	701.05	713.40	693.59	706.51
	(SD)	(73.37)	(76.43)	(80.78)	(67.70)
Male (n = 379; SEM ≈ 4.1)	Mean	727.01	705.81	703.37	714.03
	(SD)	(80.34)	(83.51)	(78.99)	(73.86)
Total* (N = 843; SEM ≈ 2.7)	Mean	714.42	709.50	697.94	710.32
	(SD)	(78.84)	(80.16)	(79.30)	(71.53)

*Total includes 106 candidates in the sample of domestic-educated first-time 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).

The male candidates did better on average than the female candidates on the MBE and slightly better on the NYMC. The female candidates did better on average than the male candidates on the essay test, which includes both the NY Essay questions and the MPT task. The difference between males and females on the MBE is about 26 points (about 5 points on the MBE scale), while the difference on the essay test is about 7.6 points, and as a result the average score for males on the total NY bar exam is about 7.5 points higher than the average score for females. This difference of 7.5 points is equal to about a tenth of the SD (71.53) for the total group. A difference of a tenth of an SD would be considered a small difference in most contexts. Note also that the 7.5 point difference is not much bigger than the standard error of the difference between these two means (the SEM of the difference is about 6 points).

Table 3.2 presents similar results for the domestic-educated first-time takers, as a function of their race/ethnicity. Note that some of the sample sizes in this table are quite small (e.g., the Hispanic/Latino group had 25 candidates), and therefore, the corresponding standard errors are fairly large (15 points), and the mean scores would not be expected to be very stable for this group from one test date to another.[5]

Table 3.2
Score Means, Standard Deviations, and Standard Errors
Domestic-Educated First-Time Takers: Racial/Ethnic Groups

Race/Ethnicity		MBE Scaled Score x 5	Essay Scaled Score	NYMC Scaled Score	Total NY Bar Score
Caucasian/ White (n = 507; SEM ≈ 3.3)	Mean	725.46	719.07	707.02	720.43
	(SD)	(75.95)	(77.06)	(77.43)	(68.39)
Asian/ Pacific Islander (n = 74; SEM ≈ 9.3)	Mean	708.09	703.42	676.98	702.65
	(SD)	(82.77)	(83.09)	(82.31)	(73.23)
Black/ African American (n = 78; SEM ≈ 8.1)	Mean	669.01	671.29	676.17	670.83
	(SD)	(67.16)	(75.10)	(81.37)	(63.87)
Hispanic/ Latino (n = 25; SEM ≈ 15.1)	Mean	680.30	679.11	698.72	681.60
	(SD)	(69.59)	(84.36)	(76.89)	(71.16)
Other (n = 30; SEM ≈ 16.2)	Mean	721.58	707.08	701.50	712.30
	(SD)	(88.39)	(95.17)	(87.20)	(84.55)
Total* (N = 843; SEM ≈ 2.7)	Mean	714.42	709.50	697.94	710.32
	(SD)	(78.84)	(80.16)	(79.30)	(71.53)

*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 12 candidates) the SEM would be over 22 points.

There are two general characteristics of the data in Table 3.2 that are worthy of note. First, in general, the results do not differ substantially across test components within each racial/ethnic group; the difference between the highest average component score and the lowest average component score within each group is generally less than twenty points (over one fourth of an SD). The largest difference within racial/ethnic groups involves the NYMC scores, for which the Asian/Pacific Islander group has an unusually low average score and the Hispanic/Latino group has an unusually high average score. Second, the differences between racial/ethnic groups in Table 3.2 are large. The Caucasian/White group has the highest overall average score of the groups listed in Table 3.2, and the Black/African American group has the lowest overall average

score[6]. The difference between these two groups is almost 50 points, which is over three-quarters of a standard deviation (SD) for the total sample.

Combining these two observations, it is clear that the differences among the racial/ethnic groups are not associated with particularly high or low scores on one component of the bar examination. Rather, the differences among the group means are fairly consistent across all of the components and are considerably larger than those between test components.

Figure 3.1 displays the trends in scores for each part of the NY bar exam and for the total bar exam. In this figure, the scores within racial/ethnic groups tend to be similar across the components of the NY bar exam and total NY bar exam. In contrast, the racial/ethnic groups generally show larger differences in their average scores. That is, the lines for different racial/ethnic groups tend to be relatively flat, but they are widely separated, covering a range of nearly 50-points between the Caucasian/White group (highest scoring) and the Black/African American group (lowest scoring). There are two places where this finding does not hold. For the NYMC test, the Asian/Pacific Islander group scores relatively poorly compared to their other component scores and the Hispanic/Latino group scores relatively well compared to their other component scores.

Figure 3.1
Trends in Essay, NYMC, MBE, and Total NY Bar Exam Scores
Racial/Ethnic Groups

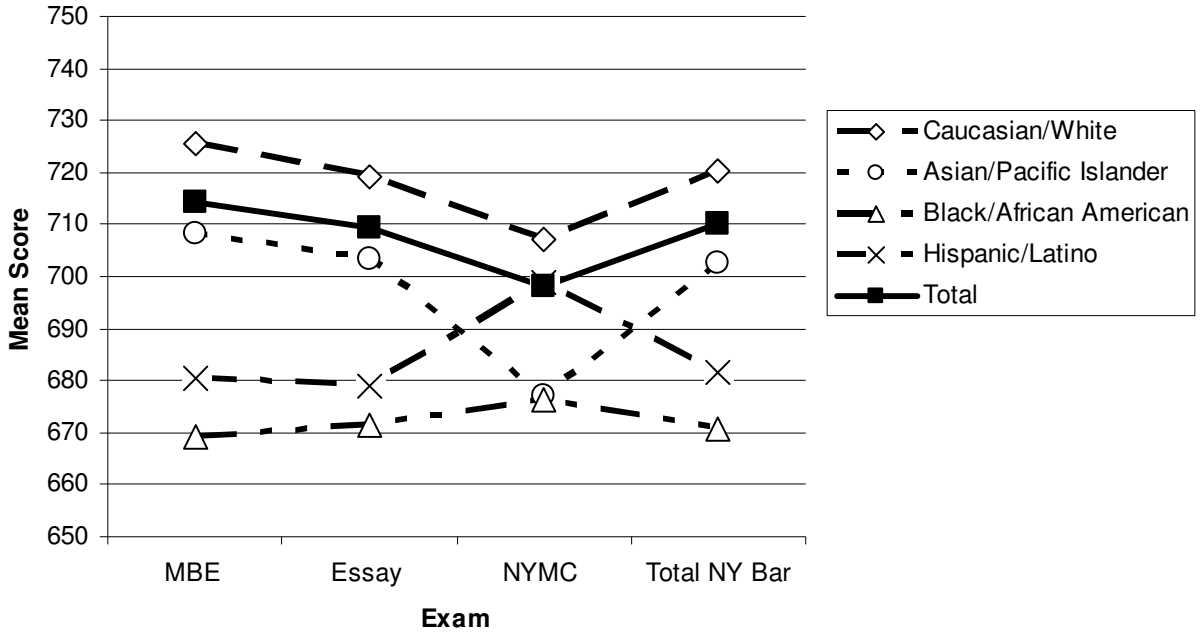


Table 3.3 examines the relationship between average test scores and age at graduation from law school for domestic-educated first-time takers. The average score for the total NY bar exam decreases systematically from the first age category (less than 27) to the sixth category (41 - 45). Age categories with fewer than 20 candidates are not included in Table 3.3 (note that the standard errors are increasing as age at graduation increases due to smaller and smaller sample sizes).

Table 3.3
Score Means, Standard Deviations, and Standard Errors
Domestic-Educated First-Time Takers: Age at Graduation

Age at Graduation		MBE Scaled Score x 5	Essay Scaled Score	NYMC Scaled Score	Total NY Bar Score
Less than 27 (n = 339; SEM ≈ 4.0)	Mean	722.72	719.78	701.59	719.15
	(SD)	(72.91)	(75.36)	(77.71)	(66.23)
27 - 28 (n = 193; SEM ≈ 5.7)	Mean	715.58	714.36	694.82	712.89
	(SD)	(81.04)	(83.83)	(75.41)	(74.40)
29 - 30 (n = 97; SEM ≈ 7.7)	Mean	713.48	703.56	700.49	707.23
	(SD)	(80.27)	(75.68)	(76.72)	(68.73)
31 - 35 (n = 116; SEM ≈ 8.1)	Mean	707.66	706.66	700.24	706.42
	(SD)	(90.52)	(86.94)	(90.69)	(80.75)
36 - 40 (n = 40; SEM ≈ 11.2)	Mean	711.68	688.55	698.59	698.83
	(SD)	(68.37)	(70.12)	(82.07)	(62.51)
41 - 45 (n = 24; SEM ≈ 14.7)	Mean	679.06	665.75	669.86	671.54
	(SD)	(74.46)	(62.27)	(89.79)	(61.51)
Total* (N = 843; SEM ≈ 2.7)	Mean	714.42	709.50	697.94	710.32
	(SD)	(78.84)	(80.16)	(79.30)	(71.53)

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

3.4 Domestic-Educated Repeat Takers

Table 3.4 reports the means and SDs on the three components of the bar examination and the means and SDs on the total NY bar exam for domestic-educated repeat takers. It reports results for females, males, and the total group of domestic-educated repeat takers.

The first thing to note in examining Table 3.4 in relation to Table 3.1 is that for both females and males and on all components of the test, the average scores for repeat takers are lower than they are for the first-time takers. For the total group of domestic-educated first-time takers, the average score on the NY bar exam is over 50 points higher than that for the repeat takers (710.32 vs. 656.37). The repeat takers have all failed the NY bar exam on at least one previous test date and generally have lower scores than the first-time takers on subsequent test dates. Past performance tends to be associated with future performance.

The female repeat takers do better on average than male repeat takers on the essay. The male repeat takers do better on average than females on the MBE and NYMC. The difference between males and females on the MBE is about 20 points on the 0-1,000-point scale, while the difference on the essay is about 11 points, and, as a result, the average scores for female repeat takers on the total NY bar exam is about 3 points lower than the average for male repeat takers. This difference of 3 points is less than one-tenth of an SD (and is less than the standard error for the difference between these two means).

Table 3.4
Score Means, Standard Deviations, and Standard Errors
Domestic-Educated Repeat takers: Females and Males

Gender		MBE Scaled Score x 5	Essay Scaled Score	NYMC Scaled Score	Total NY Bar Score
Female (n = 612; SEM ≈ 2.5)	Mean	644.42	669.45	655.93	658.10
	(SD)	(58.29)	(63.92)	(68.76)	(52.17)
Male (n = 573; SEM ≈ 2.5)	Mean	665.22	658.25	660.44	661.25
	(SD)	(59.77)	(61.48)	(64.68)	(51.53)
Total* (N = 1,447; SEM ≈ 1.6)	Mean	651.66	660.64	653.87	656.37
	(SD)	(60.95)	(63.74)	(68.77)	(52.87)

*Total includes 262 candidates in the sample of domestic-educated repeat takers who did not record their genders.

Table 3.5 presents results for the domestic-educated repeat takers as a function of their race/ethnicity. The results are fairly consistent across test components within each racial/ethnic group; the difference between the highest average component score and the lowest average component score in each group is generally less than 15 points.

The differences between racial/ethnic groups for domestic-educated repeat takers are much smaller than they are for the domestic-educated first-time takers. Among the repeat takers listed in Table 3.5, the "Other" group has the highest overall average total score, and the Black/African American group has the lowest average total score. The difference between these two groups is about 16 points, which is much smaller than the corresponding difference for first-time takers (more than 41 points).

Table 3.5
Score Means, Standard Deviations, and Standard Errors
Domestic-Educated Repeat Takers: Racial/Ethnic Groups

Race/Ethnicity		MBE Scaled Score x 5	Essay Scaled Score	NYMC Scaled Score	Total NY Bar Score
Caucasian/ White (n = 628; SEM ≈ 2.4)	Mean	659.07	670.21	664.18	665.16
	(SD)	(58.60)	(63.01)	(65.23)	(51.10)
Asian/ Pacific Islander (n = 145; SEM ≈ 4.8)	Mean	655.37	658.29	658.68	657.14
	(SD)	(60.82)	(58.09)	(66.46)	(48.22)
Black/ African American (n = 252; SEM ≈ 4.0)	Mean	644.33	654.63	648.00	649.84
	(SD)	(63.55)	(64.57)	(70.36)	(55.02)
Hispanic/ Latino (n = 70; SEM ≈ 7.6)	Mean	645.81	661.07	652.13	654.06
	(SD)	(59.17)	(67.77)	(70.83)	(55.54)
Other (n = 58; SEM ≈ 7.3)	Mean	664.45	669.51	657.97	666.43
	(SD)	(59.20)	(58.74)	(57.49)	(47.68)
Total* (N = 1,447; SEM ≈ 1.6)	Mean	651.66	660.64	653.87	656.37
	(SD)	(60.95)	(63.74)	(68.77)	(52.87)

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

Table 3.6 examines the relationship between average test scores and age at graduation from law school for domestic-educated repeat takers. The relationship between average bar scores and age at graduation in Table 3.6 is not as regular and systematic as it is for the first-time takers, but the average score tends to decline from the first category (less than 27) to the sixth category (41-45).

Table 3.6
Score Means, Standard Deviations, and Standard Errors
Domestic-Educated Repeat Takers: Age at Graduation

Age at Graduation		MBE Scaled Score x 5	Essay Scaled Score	NYMC Scaled Score	Total NY Bar Score
Less than 27 (n = 616; SEM ≈ 2.4)	Mean	652.28	673.07	654.36	662.88
	(SD)	(58.70)	(60.71)	(68.16)	(50.10)
27 - 28 (n = 270; SEM ≈ 4.0)	Mean	656.96	663.59	651.67	659.77
	(SD)	(67.76)	(70.37)	(67.38)	(59.29)
29 - 30 (n = 149; SEM ≈ 4.9)	Mean	646.88	652.63	655.12	650.62
	(SD)	(56.97)	(62.19)	(67.55)	(51.83)
31 – 35 (n = 189; SEM ≈ 4.2)	Mean	655.84	653.30	655.55	654.55
	(SD)	(58.34)	(57.04)	(66.42)	(47.44)
36 - 40 (n = 87; SEM ≈ 6.9)	Mean	643.40	642.01	646.13	642.94
	(SD)	(66.65)	(64.28)	(69.68)	(56.21)
41 - 45 (n = 61; SEM ≈ 6.2)	Mean	643.19	628.70	653.42	636.98
	(SD)	(46.30)	(48.20)	(57.88)	(41.02)
46 - 50 (n = 33; SEM ≈ 10.0)	Mean	648.74	630.27	687.92	643.42
	(SD)	(58.88)	(51.94)	(72.39)	(45.69)
51 - 55 (n = 24; SEM ≈ 17.2)	Mean	643.40	646.20	639.55	644.42
	(SD)	(78.58)	(76.95)	(113.44)	(68.80)
Total* (N = 1,447; SEM ≈ 1.6)	Mean	651.66	660.64	653.87	656.37
	(SD)	(60.95)	(63.74)	(68.77)	(52.87)

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

Table 3.7 presents the averages and the SDs of the scores for each test component and for the total NY bar exam for domestic-educated first-time takers, second-time takers, third-time takers, etc. As noted earlier, the average score for the repeat takers, as a group, is lower than that of the first-time takers. The average score on the total NY bar exam declines as we move from the first-time takers to the second-time takers, and then show a mixed pattern of decline and increase for number of bar attempts greater than 3. This pattern is similar for the MBE, the essay, and the NYMC.

Table 3.7
Score Means, Standard Deviations, and Standard Errors
Domestic-Educated Takers: Number of Bar Attempts

Number of Bar Attempts		MBE Scaled Score x 5	Essay Scaled Score	NYMC Scaled Score	Total NY Bar Score
1	Mean	714.42	709.50	697.94	710.32
(n = 843; SEM ≈ 2.7)	(SD)	(78.84)	(80.16)	(79.30)	(71.53)
2	Mean	663.96	674.60	664.00	669.29
(n = 938; SEM ≈ 1.9)	(SD)	(59.47)	(61.60)	(65.58)	(50.59)
3	Mean	637.92	638.26	632.17	637.50
(n = 131; SEM ≈ 5.1)	(SD)	(59.77)	(56.63)	(69.56)	(49.64)
4	Mean	633.78	645.81	644.27	640.86
(n = 147; SEM ≈ 4.9)	(SD)	(53.71)	(63.57)	(73.10)	(49.15)
5	Mean	633.03	631.57	633.22	632.33
(n = 79; SEM ≈ 6.4)	(SD)	(54.88)	(55.11)	(72.49)	(45.66)
6	Mean	625.52	642.34	641.61	635.52
(n = 50; SEM ≈ 7.4)	(SD)	(46.39)	(55.10)	(70.88)	(38.19)
7 or more	Mean	609.18	613.81	624.37	613.04
(n = 102; SEM ≈ 5.8)	(SD)	(60.74)	(57.88)	(66.23)	(48.67)
Total	Mean	674.76	678.63	670.09	676.23
(N = 2,290; SEM ≈ 1.5)	(SD)	(74.50)	(74.06)	(75.85)	(65.77)

In general, and not surprisingly, the repeat takers get lower scores on average than the first-time takers, and the performance tends to be worse for candidates with larger numbers of previous attempts, at least for the first three attempts. In addition, we have the consistent finding that, for domestic-educated repeat takers, females do better than males on the essay, and males do better than females on the MBE.

3.5 Foreign-Educated First-Time Takers

Table 3.8 reports the means and SDs on each component of the NY bar exam and the means and SDs on the total NY bar exam for females, males, and the total group of foreign-educated first-time takers in the sample. Foreign-educated first-time takers score considerably lower on the NY bar exam on average compared to domestic-educated first-time takers (over 78 points lower). As is the case for the domestic-educated first-time takers, males do better on average than females on the MBE, and females do better than males on the essay. The difference between males and females on the MBE is over 10 points, while the difference on the essay is almost 17 points, and the average total score for males on the bar examination is about 4.5 points lower than the average total score for females. This difference of 4.5 points is small compared to the overall SD of almost 90 points and is less than the SEM (and therefore is not statistically significant).

Table 3.8
Score Means, Standard Deviations, and Standard Errors
Foreign-Educated First-Time Takers: Females and Males

Gender		MBE Scaled Score x 5	Essay Scaled Score	NYMC Scaled Score	Total NY Bar Score
Female (n = 211; SEM ≈ 6.1)	Mean	625.68	642.03	646.05	635.89
	(SD)	(93.84)	(84.62)	(91.76)	(82.79)
Male (n = 209; SEM ≈ 6.8)	Mean	636.41	625.09	642.40	631.36
	(SD)	(103.40)	(98.67)	(94.67)	(94.18)
Total* (N = 459; SEM ≈ 4.4)	Mean	629.38	631.54	642.85	631.81
	(SD)	(98.84)	(93.35)	(94.10)	(89.40)

*Total includes 39 candidates in the sample of foreign-educated first-time test takers who did not record their genders.

Table 3.9 presents average scores on each part of the NY bar exam and on the total NY bar exam for the foreign-educated first-time takers as a function of their race/ethnicity. The results are not as consistent across test components within each racial/ethnic group as they were for the domestic-educated first-time takers. In particular, the Hispanic/Latino group has a relatively large score difference (over 40 points) between the NYMC and the MBE. The other groups are more consistent in their mean scores across the three components, though the Asian/Pacific Islander group has a 25 point score difference between the NYMC and the MBE.

Compared to the differences among test components for each racial/ethnic group, the differences across groups are generally quite large. The largest difference between racial/ethnic groups (i.e., between Caucasian/White and Hispanic/Latino) is 64

points, or about seven-tenths of an SD. Scores for the Asian/Pacific Islander and Black/African American group are closer to scores for the Hispanic/Latino group than to scores for the Caucasian/White group.

Table 3.9
Score Means, Standard Deviations, and Standard Errors
Foreign-Educated First-Time Takers: Racial/Ethnic Groups

Race/Ethnicity		MBE Scaled Score x 5	Essay Scaled Score	NYMC Scaled Score	Total NY Bar Score
Caucasian/ White (n = 212; SEM ≈ 6.0)	Mean	652.88	656.82	661.89	655.78
	(SD)	(96.05)	(87.01)	(84.78)	(83.43)
Asian/ Pacific Islander (n = 104; SEM ≈ 9.8)	Mean	609.59	601.38	626.55	607.16
	(SD)	(103.29)	(97.63)	(104.01)	(94.75)
Black/ African American (n = 29; SEM ≈ 17.0)	Mean	601.45	609.39	593.64	604.69
	(SD)	(97.45)	(89.59)	(91.90)	(86.64)
Hispanic/ Latino (n = 26; SEM ≈ 14.3)	Mean	585.71	589.63	626.94	591.77
	(SD)	(69.84)	(73.87)	(80.48)	(67.29)
Other (n = 44; SEM ≈ 13.1)	Mean	622.52	636.85	642.20	631.61
	(SD)	(92.43)	(80.20)	(95.60)	(80.00)
Total* (N = 459; SEM ≈ 4.4)	Mean	629.38	631.54	642.85	631.81
	(SD)	(98.84)	(93.35)	(94.10)	(89.40)

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

3.6 Foreign-Educated Repeat Takers

Table 3.10 reports the means and SDs on the three components of the bar examination and on the total NY bar exam for females, males, and the total group of foreign-educated repeat takers.

The average scores for both female and male foreign-educated repeat takers reported in Table 3.10 are lower than those for the foreign-educated first-time takers (see Table 3.8) on the total NY bar exam and on all components of the exam.

Table 3.10
Score Means, Standard Deviations, and Standard Errors
Foreign-Educated Repeat Takers: Females and Males

Gender		MBE Scaled Score x 5	Essay Scaled Score	NYMC Scaled Score	Total NY Bar Score
Female (n = 334; SEM ≈ 4.0)	Mean	616.05	620.74	624.32	619.22
	(SD)	(76.76)	(69.91)	(81.66)	(65.05)
Male (n = 364; SEM ≈ 3.8)	Mean	635.24	606.54	638.42	621.24
	(SD)	(77.67)	(70.45)	(77.94)	(66.34)
Total* (N = 815; SEM ≈ 2.6)	Mean	624.10	611.95	630.35	618.66
	(SD)	(77.41)	(70.62)	(80.24)	(65.74)

*Total includes 117 candidates in the sample of domestic-educated first-time test takers who did not record their genders.

Similar to foreign-educated first-time takers, foreign-educated female repeat takers have higher average essay scores compared to male repeat takers. Male candidates have higher average scores than females on the MBE and on the NYMC. The difference between males and females on the MBE is about 19 points, and the difference on the NYMC is about 14 points. The female candidates' essay scores are about 14 points larger than those of the males. Also, similar to the foreign-educated first-time takers, both female and male repeat takers have relatively higher average scores on the NYMC than on either of the other two components.

Table 3.11 presents results for the foreign-educated repeat takers as a function of their race/ethnicity. In general, scores for foreign-educated repeat takers are lower than those of foreign-educated first-time takers. The pattern of results across test components within each racial/ethnic group differs from that for the foreign-educated first-time takers. In particular, the Hispanic/Latino group has a lower average on the essay than on the MBE or the NYMC (the pattern is reversed for foreign-educated first-time takers).

Table 3.11
Score Means, Standard Deviations, and Standard Errors
Foreign-Educated Repeat Takers: Racial/Ethnic Groups

Race/Ethnicity		MBE Scaled Score x 5	Essay Scaled Score	NYMC Scaled Score	Total NY Bar Score
Caucasian/ White (n = 206; SEM ≈ 4.9)	Mean	638.15	636.00	635.74	636.81
	(SD)	(74.49)	(68.87)	(75.10)	(62.57)
Asian/ Pacific Islander (n = 310; SEM ≈ 4.2)	Mean	627.31	598.88	634.92	613.89
	(SD)	(79.40)	(69.02)	(81.79)	(66.57)
Black/ African American (n = 86; SEM ≈ 7.0)	Mean	609.35	610.58	623.37	611.40
	(SD)	(68.26)	(64.39)	(71.47)	(57.01)
Hispanic/ Latino (n = 44; SEM ≈ 11.6)	Mean	620.49	601.26	628.43	611.68
	(SD)	(82.65)	(73.07)	(81.54)	(71.29)
Other (n = 54; SEM ≈ 11.0)	Mean	603.64	622.87	613.86	614.30
	(SD)	(86.59)	(71.67)	(94.27)	(72.25)
Total* (N = 815; SEM ≈ 2.6)	Mean	624.10	611.95	630.35	618.66
	(SD)	(77.41)	(70.62)	(80.24)	(65.74)

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

Table 3.12 presents the averages and the SDs of the scores for each test component and for the total NY bar exam for foreign-educated first-time takers, second time takers, third-time takers, etc. As noted earlier, the average score for the repeat takers, as a group, is lower than that of the first-time takers. The average score on the total NY bar exam decreases slightly as we go from the first-time takers to the second-time takers. After the second attempt, average scores tend to decrease more than they increase, but the pattern is not completely consistent. The pattern is also not very consistent for the MBE, essay, and NYMC.

Table 3.12
Score Means, Standard Deviations, and Standard Errors
Foreign-Educated Takers: Number of Bar Attempts

Number of Bar Attempts		MBE Scaled Score x 5	Essay Scaled Score	NYMC Scaled Score	Total NY Bar Score
1	Mean	629.38	631.54	642.85	631.81
(n = 459; SEM ≈ 4.4)	(SD)	(98.84)	(93.35)	(94.10)	(89.40)
2	Mean	631.96	620.11	632.21	626.07
(n = 431; SEM ≈ 3.8)	(SD)	(83.88)	(73.78)	(83.82)	(70.93)
3	Mean	618.07	610.62	628.60	615.42
(n = 130; SEM ≈ 6.3)	(SD)	(73.40)	(69.14)	(79.97)	(64.13)
4	Mean	618.91	600.70	632.96	611.20
(n = 93; SEM ≈ 6.8)	(SD)	(67.82)	(63.91)	(75.29)	(56.49)
5	Mean	623.55	611.85	613.80	616.73
(n = 51; SEM ≈ 9.3)	(SD)	(60.73)	(68.45)	(80.31)	(55.45)
6	Mean	614.91	605.44	633.23	612.06
(n = 33; SEM ≈ 10.4)	(SD)	(56.34)	(61.60)	(70.11)	(50.25)
7 or more	Mean	600.86	584.99	629.44	595.79
(n = 77; SEM ≈ 7.2)	(SD)	(69.72)	(59.86)	(70.34)	(54.28)
Total	Mean	626.00	619.01	634.85	623.40
(N = 1,274; SEM ≈ 2.3)	(SD)	(85.75)	(80.08)	(85.67)	(75.36)

3.7 Correlations among Scores

The previous sections provided a description of the component and total scores on the NY bar exam by domestic-educated and foreign-educated candidates, including first-time takers and repeat takers. In this section, we examine the *correlations* among component and total scores on the NY bar exam across all candidates to obtain a

general sense of the relationships among components of the NY bar exam. In addition, we examine the relationships among NY bar exam scores for several sub-groups.

Tables 3.13 through 3.20 present correlations among scores for the total sample and separately by gender and racial/ethnic group. The analyses for racial/ethnic groups were restructured to groups with 100 or more candidates, because smaller groups result in less stable correlation coefficients. A correlation coefficient between two variables indicates the degree of linear relationship between the two variables. Correlation coefficients have values between -1.0 and +1.0, with a correlation of +1.0 indicating a perfect direct linear relationship between the two variables, and a correlation of -1.0 indicating a perfect inverse linear relationship between the two variables. In either of these two extreme cases, either variable can be predicted perfectly from the other using a simple straight-line relationship. A correlation of 0.0 indicates the complete absence of any linear relationship between the two variables, and neither variable can be predicted from the other.

A correlation matrix, like Table 3.13, presents all of the correlations among a set of variables in a relatively compact format. For example, the second column includes the correlations of the MBE with each of the other variables. The 1 in the first row and the first column indicates that the MBE is perfectly correlated with itself, which is true for all variables. The second entry in the first column indicates that the correlation between the MBE and the essay is .71.

Table 3.13
Correlations Among Scores for the Total Sample

	MBE Scaled Score	Essay Scaled Score	NYMC Scaled Score	Total NY Bar Score
MBE Scaled Score	1			
Essay Scaled Score	.71	1		
NYMC Scaled Score	.68	.59	1	
Total NY Bar Score	.91	.93	.74	1

N = 3,564

The correlations in Table 3.13 are all quite large, indicating that scores on the different component tests have strong positive relationships with each other and with the total score. A strong positive correlation with the total score is expected in part because the component scores are included in the total score. The large positive correlations among the component tests reflect the fact that they measure related and partially overlapping competencies.

Table 3.14 presents the *disattenuated correlations* among components of the NY bar exam. Disattenuated correlations are estimates of what the correlations among scores would be if each was measured without error (i.e., each was perfectly reliable) and, because of this, these correlations are the same as or larger than ordinary correlation coefficients. For example, each of the correlations in Table 3.14 is larger than those in Table 3.13. Furthermore, disattenuated correlations of MBE and essay with NY bar exam are 1, indicating that if MBE and essay were perfectly reliable we would expect them to show a perfect linear relationship with the NY bar exam. This is not surprising given that 50% of the NY bar exam score is based on the essay component and 40% is based on the MBE. Of course, none of the bar exam components are perfectly reliable, but dissattenuated correlations provide an idea of the extent to which component reliability affects the correlations among components.

Table 3.14
Disattenuated Correlations Among Scores for the Total Sample

	MBE Scaled Score	Essay Scaled Score	NYMC Scaled Score	Total NY Bar Score
MBE Scaled Score	1			
Essay Scaled Score	.84	1		
NYMC Scaled Score	.91	.75	1	
Total NY Bar Score	1	1	.87	1

N = 3,564

In Tables 3.13, and 3.15 to 3.20, the correlations are all positive, indicating that an increase in one score is associated with an increase in the other score. In all of these correlation matrices, the largest correlation is between essay scores and total NY bar exam scores, with a correlation between .91 and .94 (reflecting the fact that the essay score constitutes 50% of the total bar examination score).[7] The second largest correlation in all cases is between MBE scores and NY bar exam scores, with a correlation between .88 and .92 (reflecting the fact that the MBE score constitutes 40% of the total bar examination score). These correlations are quite large because they involve relationships between the total bar examination score and major components of the total score. The correlation between the total score and the NYMC is also consistently large (between .70 and .76) because the NYMC also contributes to the total score (although its weight, 10%, is relatively small).

The correlations among the component scores and the total scores on the bar examination are similar in magnitude across females and males. These correlations range from .58 to .94 and differ at most by .04.

The correlations among components of and the total scores on the bar examination also have similar patterns across Caucasian/White, Asian/Pacific Islander, Black/African American, and Hispanic/Latino groups. However, the Black/African American group had slightly smaller correlations among all components of the bar examination compared to other groups.

Table 3.15
Correlations Among Scores for Females

	MBE Scaled Score	Essay Scaled Score	NYMC Scaled Score	Total NY Bar Score
MBE Scaled Score	1			
Essay Scaled Score	.71	1		
NYMC Scaled Score	.65	.58	1	
Total NY Bar Score	.91	.93	.72	1

N = 1,515

Table 3.16
Correlations Among Scores for Males

	MBE Scaled Score	Essay Scaled Score	NYMC Scaled Score	Total NY Bar Score
MBE Scaled Score	1			
Essay Scaled Score	.73	1		
NYMC Scaled Score	.71	.62	1	
Total NY Bar Score	.92	.94	.76	1

N = 1,525

Table 3.17
Correlations Among Component Scores for the Caucasian/White Group

	MBE Scaled Score	Essay Scaled Score	NYMC Scaled Score	Total NY Bar Score
MBE Scaled Score	1			
Essay Scaled Score	.69	1		
NYMC Scaled Score	.65	.57	1	
Total NY Bar Score	.90	.93	.72	1

N = 1,553

Table 3.18
Correlations Among Component Scores for the Asian/Pacific Islander Group

	MBE Scaled Score	Essay Scaled Score	NYMC Scaled Score	Total NY Bar Score
MBE Scaled Score	1			
Essay Scaled Score	.70	1		
NYMC Scaled Score	.71	.61	1	
Total NY Bar Score	.91	.93	.76	1

N = 663

Table 3.19
Correlations Among Scores for the Black/African American Group

	MBE Scaled Score	Essay Scaled Score	NYMC Scaled Score	Total NY Bar Score
MBE Scaled Score	1			
Essay Scaled Score	.63	1		
NYMC Scaled Score	.62	.52	1	
Total NY Bar Score	.88	.91	.70	1

N = 445

Table 3.20
Correlations Among Scores for the Hispanic/Latino Group

	MBE Scaled Score	Essay Scaled Score	NYMC Scaled Score	Total NY Bar Score
MBE Scaled Score	1			
Essay Scaled Score	.73	1		
NYMC Scaled Score	.68	.61	1	
Total NY Bar Score	.91	.94	.74	1

N = 165

Notes:

1. The reliabilities reported here are Cronbach's alpha coefficients. The reliabilities of .78 for the NYMC and of .80 for the essay component were estimated using candidates taking the NY bar exam in July 2005.

2. The reliability of the total NY bar exam was obtained by computing the composite reliability, which uses the variances in scores, component score reliabilities, and component score weights. High-stakes examinations are generally expected to have a reliability of 0.90 or above.

3. 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.

4. 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:
    - First, in interpreting the results as an indication of what happened in February 2006, significance testing is not appropriate, because the database includes over 85% of the relevant population, making sampling error a minor concern.
    - Second, in extending the interpretation to future February 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.
    - 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.

5. The group scores reported in this section are group averages (or mean scores), the sum of the scores for the group divided by the number of candidates in the group. An alternative statistic used to describe the "typical" score for a group is the median, or middle score. The median is determined by rank-ordering the scores for the group and taking the middle score (or the average of the two

middle scores) as the median. For test-score distributions involving large sample sizes, the mean and median tend to be close to each other, and the mean is generally preferred. For example, the median score for females is 706, that for males is 718, and the median for the total group is 713, all of which are larger than the corresponding means in Table 3.1. In Table 3.2, the sample sizes are smaller and the relationship between the means and medians for different groups are more complicated, but all of the medians are larger than their corresponding means. The medians for the first five groups in Table 3.2 are, respectively, 722, 706.5, 673, 691, and 732.5.

6. Other groups with fewer than 20 candidates had larger (Chicano/Mexican American) and smaller (Puerto Rican) means, but were not included in the table.

4. Analyses of Pass Rates on the February 2006 New York Bar Examination

The effect of changes in the passing score on pass rates was examined for the NY bar exam scores (scale 0 to 1,000) using data from the February 2006 bar examination administration. The original passing score for New York was 660 (out of 1,000), it was changed to 665 beginning with the July 2005 administration, and it was to go to 670 in July 2006 and to 675 in July 2007. The last two increases, to 670 and then to 675, are currently on hold. The analyses in this section examine what the pass rates would have been for the data from the February 2006 administration for passing scores of 660, 665, 670, and 675.

As discussed earlier, because these analyses employ a fixed data set, the pass rates of all groups necessarily decrease (or remain the same) as the passing score increases. Any candidate who fails when the passing score is 665, for example, would necessarily fail if the passing score were 670 or 675. However, some candidates who pass when the passing score is 665 (those with scores of 665 to just under 670) will fail if the passing score were 670. In practice, even if the passing score is increased from one test date to another, the pass rate can increase on the second test date if candidate performance improves between the first and second date. However, in the analyses reported here, the distributions of candidate scores are fixed and the pass rate necessarily decreases (or remains the same) as higher passing scores are considered.

Note, in these analyses, the *passing score* is the total score on the NY bar exam (e.g., 665) that a candidate has to achieve in order to pass. The *pass rate* for a group of candidates is the percentage of that group that would pass if the passing score had a particular value, given the fixed data set.

The pass rates vary substantially between first-time takers and repeat takers, and between domestic-educated and foreign-educated candidates, and therefore overall pass rates are less informative than pass rates for the four groups defined by these two dichotomies. These differences are predictable, at least in general terms, from the results on score distributions presented in Section 3, in which repeat takers had lower average scores than first-time takers, and foreign-educated candidates had lower average scores than domestic-educated candidates.

4.1 Note on Standard Errors in Pass Rates

As noted earlier, we have tried to make this report as non-technical and therefore as accessible as possible, but an appropriate interpretation of many of the results in this section requires at least a general understanding of *standard errors* (SEs) in estimating percentages (a special case of the standard errors of the mean discussed in Section 3). We have not cluttered the tables with large numbers of SEs, but have tried to provide an indication of the general level of the SE in the results for different groups.

Standard errors are designed to provide an indication of the uncertainty in an estimate based on a sample from the population (the total set of candidate scores in a particular group to which the estimate is generalized). We generalize or extrapolate from the sample to the population, and in doing so, our estimate is always somewhat uncertain. The data analyzed in this report include results for a large percentage (>85%) of the candidates who took the NY bar exam in February 2006, and therefore provides a very good indication of what would happen to the pass rates for most groups if different passing scores were applied to the February 2006 results. However, generalizations of the interpretation to future February test dates are subject to uncertainty due to sampling, and this uncertainty is reflected in the standard errors.

The formulas used to estimate standard errors are based on statistical sampling theory, and reflect the level of error due to sampling from a fixed population. They do not include any systematic errors due to changes in the population over time. Like the standard error in estimates of the mean (SEM), the standard error in the percentage passing (SE) within any group depends on the *sample size* (the total number of candidates in that group). The SE is inversely related to the square root of the sample size, and therefore, as the sample size gets larger, the standard error gradually gets smaller. Conversely, as sample sizes get smaller, the SE gets larger.

The standard error in estimating the passing rate for a group also depends on the numerical value of the passing rate in the group. It tends to be largest when the passing rate is around 50% and gets quite small as the passing rate approaches 0% or 100%. However, over a fairly wide range of passing rates, the standard error does not change much. Assuming a sample size of 100, and a passing rate of 50%, the SE would be 5 percentage points. As the passing rate went up to 80% or down to 20%, the SE would gradually drop to 4 percentage points. For passing rates of 90% or 10%, the SE would drop to about 3 percentage points.

In the analyses reported here, the passing rates are generally between 20% and 80%, and the sample sizes for the sub-groups considered vary widely, from under 10 to over 900. So, sample size is the dominant factor in determining the standard error. We have included information on the standard errors mainly as a caveat about the potential for over-interpreting modest differences, especially small differences for groups with small sample sizes and therefore large standard errors.

This issue arises mainly in connection with analyses broken down by race/ethnicity, and age categories, where there are a number of groups and small sample sizes in some groups. Similar to Section 3, results for groups with fewer than 20 candidates are generally excluded in the tables because pass rates for such groups are expected to be quite unstable. As mentioned previously, as the sample sizes get smaller, the standard errors get larger, and the uncertainty in the results increases. For example, for a group with a pass rate of 80% (or 20%), a sample size of 100 would yield an SE of 4 percentage points. For a sample size of 25, the SE would be about 8 percentage points. Similar to the SEMs described in Section 3, as a rule of thumb, the passing rates for groups with fewer than 100 candidates should be viewed as relatively

uncertain and those for groups with about 50 or fewer candidates should be considered even more uncertain.

4.2 Domestic-Educated First-time Takers

Table 4.1 analyzes the impact of changes in the passing score on pass rates for the total sample of domestic-educated first-time takers and separately for females and males as the passing score increases from 660 to 675.[1] If the passing score were 660, the overall pass rate would have been 74.9% for this sample. With the current passing score of 665, 73.7% of the sample passed. If the passing score was 670, the pass rate for domestic-educated first-time takers would have been 72.5%, and if the passing score was 675, the pass rate would have been 71.2%, for a total decrease of about 3.7 percentage points as the passing score increases from 660 to 675. Between 660 and 675, the pass rate drops about one and a quarter percentage points for each five-point increase in the passing score.

Table 4.1
Projected Pass Rates for Passing Scores of 660, 665, 670, 675
Domestic-Educated First-Time Takers: Females and Males

Gender		Pass 660	Pass 665	Pass 670	Pass 675
Female (n = 358; SE ≈ 2.4%)	Percentage	74.6%	72.4%	71.2%	69.3%
	(number passing)	(267)	(259)	(255)	(248)
Male (n = 379; SE ≈ 2.3%)	Percentage	75.5%	74.9%	73.6%	72.8%
	(number passing)	(286)	(284)	(279)	(276)
Total* (N = 843; SE ≈ 1.5%)	Percentage	74.9%	73.7%	72.5%	71.2%
	(number passing)	(631)	(621)	(611)	(600)

N = the total number of candidates in this analysis
n = the number of candidates in each group
*Total includes 106 candidates who did not record their genders.
Note: The standard error (SE) in the percentages provides an indication of the uncertainty (due to sampling) in the projections of percentage passing for other test dates.

Table 4.1 also shows the pass rate for female domestic-educated first-time takers decreasing from 74.6% to 69.3% as passing scores increase from 660 to 675, a decline of 5.3 percentage points. The pass rate for males decreases from 75.5% to 72.8%, a decline of 2.7 percentage points. Males have a slightly higher pass rate for all four passing scores, and the difference in pass rates between males and females

increases from 1.1 percentage points to 3.5 percentage points as the passing score increases from 660 to 675.

Table 4.2
Projected Pass Rates for Passing Scores of 660, 665, 670, 675
Domestic-Educated First-Time Takers: Racial/Ethnic Groups

Race/Ethnicity		Pass 660	Pass 665	Pass 670	Pass 675
Caucasian/ White (n = 507; SE ≈ 1.9%)	Percentage	79.5%	78.3%	77.5%	76.1%
	(number passing)	(403)	(397)	(393)	(386)
Asian/ Pacific Islander (n = 74; SE ≈ 5.4%)	Percentage	71.6%	71.6%	68.9%	67.6%
	(number passing)	(53)	(53)	(51)	(50)
Black/ African American (n = 78; SE ≈ 5.7%)	Percentage	55.1%	52.6%	51.3%	48.7%
	(number passing)	(43)	(41)	(40)	(38)
Hispanic/ Latino (n = 25; SE ≈ 9.8%)	Percentage	68.0%	64.0%	60.0%	60.0%
	(number passing)	(17)	(16)	(15)	(15)
Other (n = 30; SE ≈ 8.2%)	Percentage	73.3%	73.3%	73.3%	73.3%
	(number passing)	(22)	(22)	(22)	(22)
Total* (N = 843; SE ≈ 1.5%)	Percentage	74.9%	73.7%	72.5%	71.2%
	(number passing)	(631)	(621)	(611)	(600)

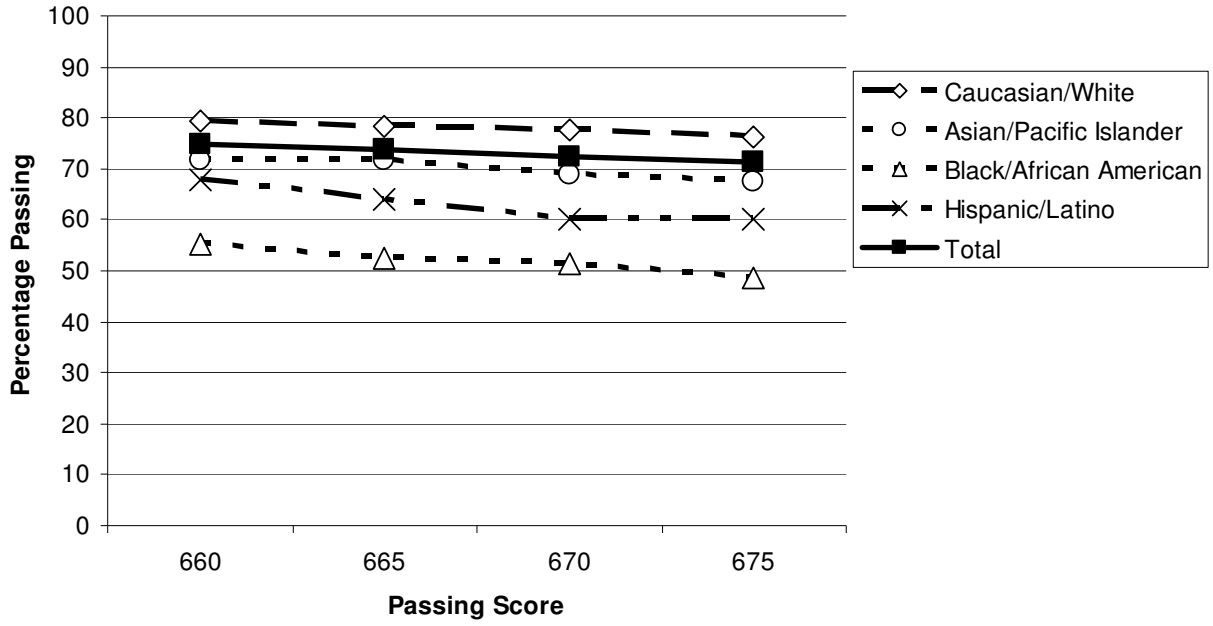
*Total includes racial/ethnic groups not separately listed in the table.
Note: The SEs tend to be large for groups with small sample sizes. For example, the SE for the Puerto Rican group, with only 12 candidates, is over 14 percentage points.

Table 4.2 examines the relationship between pass rate and passing score as the passing score increases from 660 to 675 for groups based on race/ethnicity. The overall pass rate for the total sample of domestic-educated first-time takers is included in the bottom row as a benchmark. It is clear that there are differences in pass rates across the racial/ethnic groups, and that the order of the four groups in terms of pass rates remains the same as the passing score is increased. The Caucasian/White group has the highest pass rates, the Asian/Pacific Islander group is second, the Hispanic/Latino group is third, and the Black/African American group is fourth. The order of these groups is consistent for all four passing scores. If the “Other” group is included in the comparison, it is in second place, with flat passing rates from scores of 660 to 675. The Puerto Rican, Chicano/Mexican American, and American Indian/Alaskan Native groups

have small sample sizes and are not included in Table 4.2, but their pass rates are flat because they have no candidates in the 660-675 range.

Figure 4.1 presents the relationship between pass rate and passing score at passing scores of 660, 665, 670, and 675 for groups based on race/ethnicity. It shows the differences in pass rates across the racial/ethnic groups, and it indicates that the order of the five groups in terms of pass rates remains the same as the passing score is increased.

Figure 4.1
Trends in Pass Rates at Passing Scores of 660, 665, 670, and 675
Domestic-Educated First-Time Takers: Racial/Ethnic Groups



Increasing the passing score tends to have the most impact on groups with average scores near the passing score, and therefore, pass rates near 50%. Most of the groups have score distributions that approximate what is called a *normal distribution*, with the scores concentrated around the average or mean score (see Figure 4.1). If the passing score is near the mean for a group, even a modest change in the passing score can change the pass/fail status for a relatively large number of candidates in the group. If the passing score is far from the group's mean score, a comparable change in the passing score will affect relatively few candidates, because there are few candidates in the tails of the distribution.

The vertical dashed lines in Figure 4.2 to 4.4 indicate the bar score range from 660 to 675, which includes the February 2006 passing score of 665. New York scores the essay and MPT responses of all candidates with total bar scores between 655 and 674 a second time in order to improve precision around the passing scores. This re-scoring can increase or decrease a candidate's total score and therefore can move the candidate (up or down) out of the 660-675 category. This tends to reduce the number of candidates in this score category.

Figure 4.2
Score Distribution of February 2006 NY Bar Exam Scores
Domestic-Educated First-Time Takers

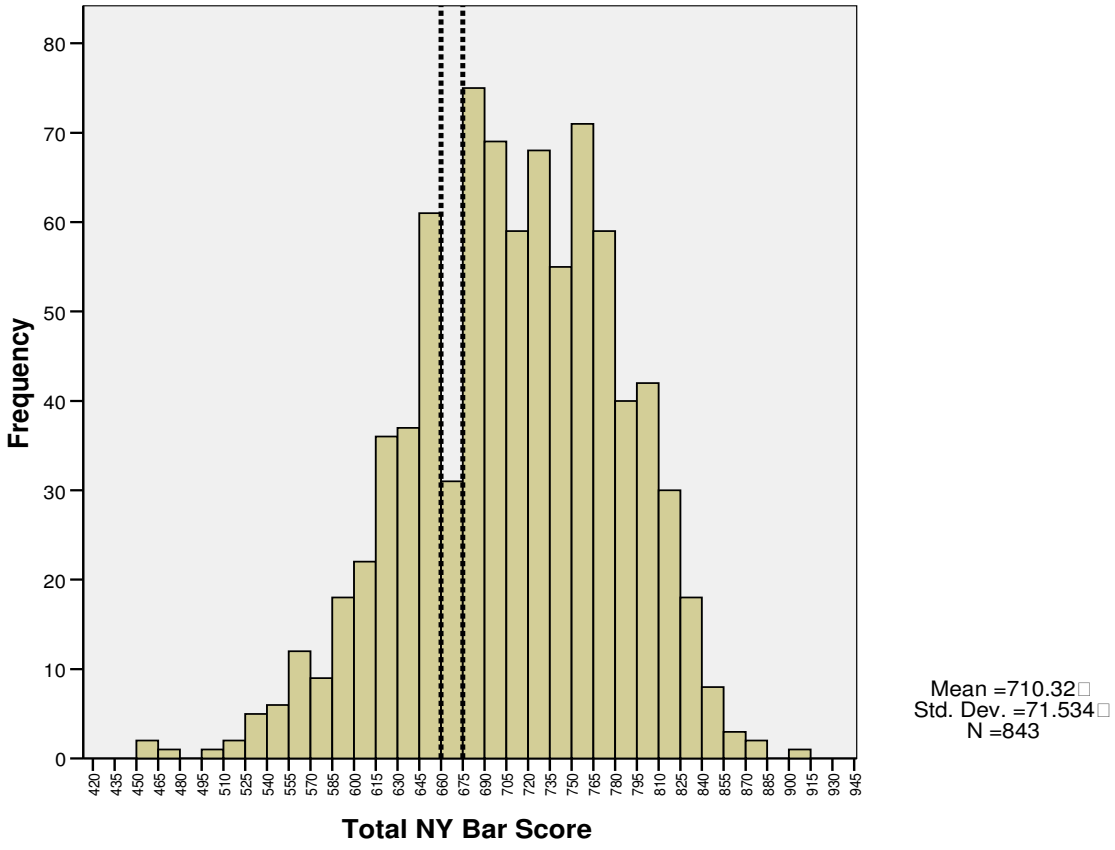
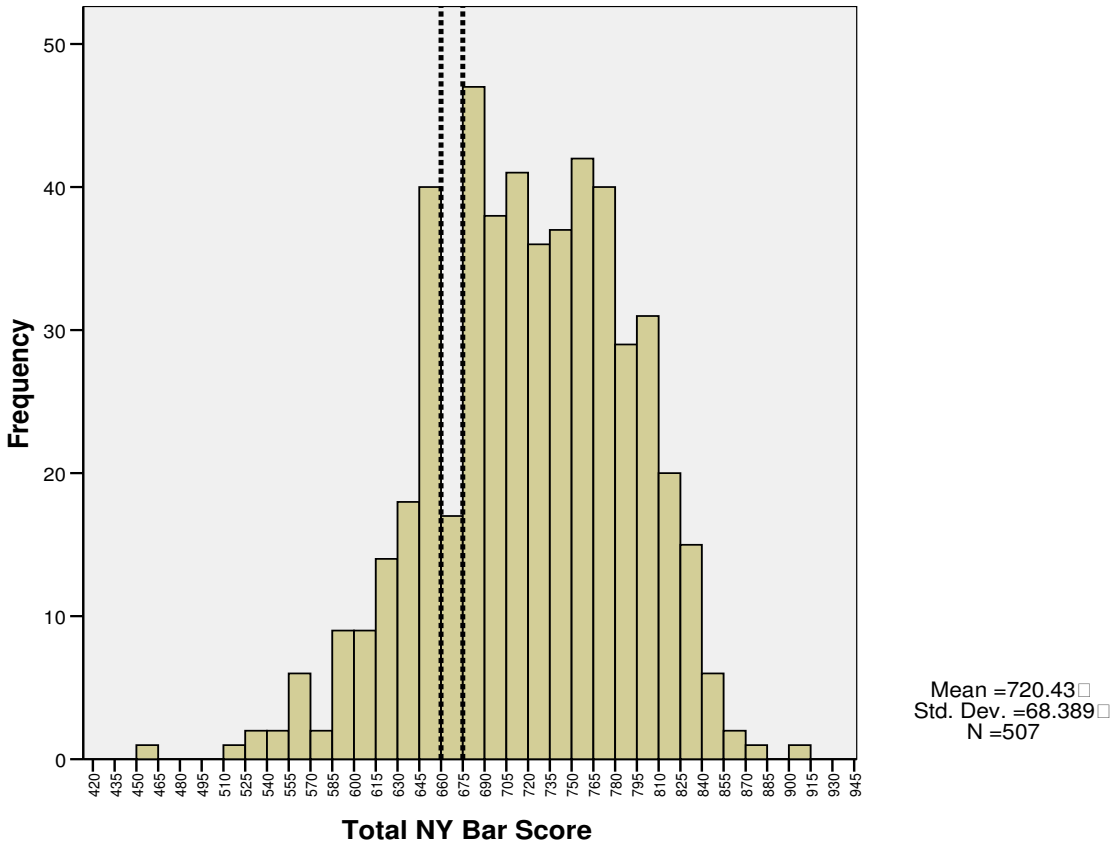


Figure 4.3 presents a graphical representation of the distribution of total scores on the NY bar exam for domestic-educated first-time takers in the Caucasian/White group. The mean for this group is 720.4, which is substantially above the current passing score of 665.[2] If the passing score were much lower to start, say around 600, the impact would be even smaller, because there are very few candidates in this group with scores around 600.

Figure 4.3
Score Distribution of February 2006 NY Bar Exam Scores
Caucasian/White Domestic-Educated First-Time Takers

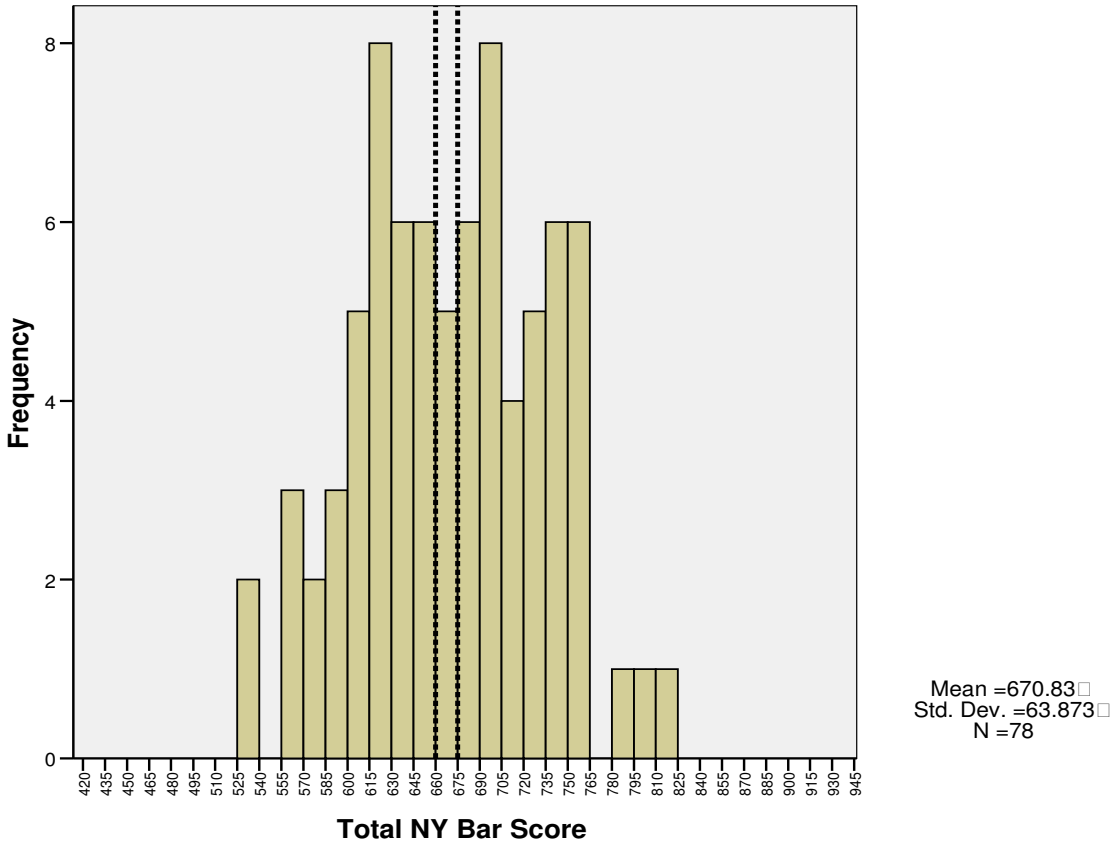


In contrast, Figure 4.4 presents a graphical representation of the distribution of scores on the February 2006 NY bar exam for Black/African American domestic-educated first time takers. The mean for this group is 670.8, which is only about six points above the current passing score of 665. Because the distribution is concentrated in this area of the score scale for the Black/African American group, any change in the passing score, either up or down tends to have a substantial impact on the proportion of Black/African American candidates passing.

In addition, a change of one percentage point in the pass rate has a larger relative impact on a group's pass rate if the initial pass rate is relatively low. A change in

pass rate of one percentage point from 90% to 89% represents a change of a little over one percent of the base rate of 90%. In contrast, a change of one percentage point in pass rate from 20% to 19% represents a change of one-twentieth, or five percent, of the base rate of 20%. The change from 20% to 19% is likely to be viewed as having more impact than a change from 90% to 89%.

Figure 4.4
Score Distribution of February 2006 NY Bar Exam Scores
Black/African American Domestic-Educated First-Time Takers



These two tendencies are relevant to the results in Table 4.2. The pass rate for the Caucasian/White group drops from 79.5% to 76.1% as the passing score increases from 660 to 675, a drop of just over 3 percentage points, or about 3.8% of the base rate of 79.5%. The pass rate for the Asian/Pacific Islander group drops from 71.6% to 67.6% as the passing score increases from 660 to 675, a drop of 4 percentage points, or about 5.6% of the base rate of 71.6%. The pass rate for the Hispanic/Latino group drops from 68.0% to 60.0% as the passing score increases, which is a drop of 8 percentage points, or about 11.8% on the base rate. The pass rate for the Black/African American group drops from 55.1% to 48.7% as the passing score increases from 660 to 675, a drop of 6.4 percentage points, or about 11.6% of the base rate.

Another way to look at the projected impact of a change in the passing score from 660 to 675 for the February 2006 sample is in terms of the candidates whose pass/fail status changes as the passing score is increased. Of the 631 candidates who would have passed if the passing score were 660, a total of 600 would pass if the passing score were 675, for a difference of 31. Of this group of 31 candidates, 17 (or 54.8%) would be Caucasian/White, 3 (or 9.7%) would be Asian/Pacific Islander, 5 (or 16.1%) would be Black/African American, and 2 (or 6.5%) would be Hispanic/Latino.

Table 4.3
Projected Pass Rates for Passing Scores of 660, 665, 670, 675
Domestic-Educated First-Time Takers: Age at Law School Graduation

Age at Law School Graduation		Pass 660	Pass 665	Pass 670	Pass 675
<27 (n = 339; SE ≈ 2.1%)	Percentage	80.8%	79.4%	78.8%	77.9%
	(number passing)	(274)	(269)	(267)	(264)
27 - 28 (n = 193; SE ≈ 3.2%)	Percentage	75.7%	74.1%	72.0%	70.5%
	(number passing)	(146)	(143)	(139)	(136)
29 - 30 (n = 97; SE ≈ 4.7%)	Percentage	72.2%	72.2%	70.1%	70.1%
	(number passing)	(70)	(70)	(68)	(68)
31 - 35 (n = 116; SE ≈ 4.3%)	Percentage	72.4%	70.7%	69.0%	66.4%
	(number passing)	(84)	(82)	(80)	(77)
36 - 40 (n = 40; SE ≈ 7.7%)	Percentage	65.0%	65.0%	65.0%	62.5%
	(number passing)	(26)	(26)	(26)	(25)
41 - 45 (n = 24; SE ≈ 10.0%)	Percentage	54.2%	54.2%	54.2%	54.2%
	(number passing)	(13)	(13)	(13)	(13)
Total* (N = 843; SE ≈ 1.5%)	Percentage	74.9%	73.7%	72.5%	71.2%
	(number passing)	(631)	(621)	(611)	(600)

*Total includes age groups not separately listed in the table.

Table 4.3 examines the relationship between pass rate and passing score as the passing score increases from 660 to 675 for groups based on age at law school graduation. The overall pass rate for the total sample of domestic-educated first-time takers is included in the bottom row as a benchmark. Pass rates decrease as passing score increases; the drop is typically 3 to 6 percentage points between 660 and 675. In

addition, pass rates decrease as age at law school graduation increases, and this pattern holds across passing scores of 660, 665, 670, and 675.

4.3 Domestic-Educated Repeat Takers

Candidates who fail the NY bar exam can repeat it on subsequent test dates. They can retake the NY bar exam as often as they wish. Table 4.4 indicates the impact of changes in the passing score from 660 to 675 for females, males, and the total sample of domestic-educated repeat takers. As indicated in the bottom row of the table, the overall pass rate for the repeat takers who took the February 2006 bar examination would decrease from 46.2% to 38.7% if the passing score were increased from 660 to 675. The pass rates for the repeat takers are clearly much lower than they are for domestic-educated first-time takers in Table 4.1. The pass rates for female repeat takers are lower than those for male repeat takers for each of the passing scores. As the passing score increases from 660 to 675, the pass rates decrease for both groups at nearly the same rate (by about 3 percentage points per 5 point increase in score). For a passing score of 660, the female pass rate is 3.7 percentage points lower than that of males. For a passing score of 675, the female pass rate is 3.1 percentage points lower than that of males.

Table 4.4
Projected Pass Rates for Passing Scores of 660, 665, 670, 675
Domestic-Educated Repeat Takers: Females and Males

Gender		Pass 660	Pass 665	Pass 670	Pass 675
Female (n = 612; SE ≈ 2.0%)	Percentage	47.1%	44.1%	41.1%	39.5%
	(number passing)	(288)	(270)	(252)	(242)
Male (n = 573; SE ≈ 2.1%)	Percentage	50.8%	47.5%	44.7%	42.6%
	(number passing)	(291)	(272)	(256)	(244)
Total* (N = 1,447; SE ≈ 1.3%)	Percentage	46.2%	43.2%	40.5%	38.7%
	(number passing)	(668)	(625)	(586)	(560)

*Total includes 262 candidates who did not record their genders.

Table 4.5 indicates the impact of a change in passing score on the pass rates for repeat takers as a function of race/ethnicity. The overall pass rate for the total sample of domestic-educated repeat takers is included in the bottom row as a benchmark. Focusing on the first four rows in Table 4.5, the order remains the same as the passing score is increased. The Caucasian/White group has the highest pass rates, the Asian/Pacific Islander group is second, the Hispanic/Latino group is third, and the Black/African American group is fourth. In general, the repeat taker pass rates are lower than first-time takers for all racial/ethnic groups, and they decrease gradually (6 to 10 percentage points) as the passing score increases from 660 to 675.

Table 4.5
Projected Pass Rates for Passing Scores of 660, 665, 670, 675
Domestic-Educated Repeat Takers: Racial/Ethnic Group

Race/Ethnicity		Pass 660	Pass 665	Pass 670	Pass 675
Caucasian/ White (n = 628; SE ≈ 2.0%)	Percentage	52.4%	49.5%	45.7%	44.1%
	(number passing)	(329)	(311)	(287)	(277)
Asian/ Pacific Islander (n = 145; SE ≈ 4.1%)	Percentage	49.0%	44.8%	41.4%	39.3%
	(number passing)	(71)	(65)	(60)	(57)
Black/ African American (n = 252; SE ≈ 3.1%)	Percentage	42.5%	40.0%	39.3%	36.9%
	(number passing)	(107)	(100)	(99)	(93)
Hispanic/ Latino (n = 70; SE ≈ 6.0%)	Percentage	47.1%	42.9%	40.0%	38.6%
	(number passing)	(33)	(30)	(28)	(27)
Other (n = 58; SE ≈ 6.6%)	Percentage	53.5%	50.0%	46.6%	43.1%
	(number passing)	(31)	(29)	(27)	(25)
Total* (N = 1,447; SE ≈ 1.3%)	Percentage	46.2%	43.2%	40.5%	38.7%
	(number passing)	(668)	(625)	(586)	(560)

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

Table 4.6 examines the relationship between pass rate and passing score as the passing score increases from 660 to 675 for groups based on number of bar attempts. The percentage of candidates passing decreases rather quickly as the number of bar attempts increases. 73.7% of candidates who are taking the NY bar exam for the first time pass at a score of 665 versus 8.8% taking the exam for the seventh time or more. At five attempts, the percentage passing at 665 drops below 25%. Similar patterns of passing percentages occur at passing scores of 660, 670, and 675.

Table 4.6
Projected Pass Rates for Passing Scores of 660, 665, 670, 675
Domestic-Educated Candidates: Number of Bar Attempts

Number of Bar Attempts		Pass 660	Pass 665	Pass 670	Pass 675
1 (n = 843; SE ≈ 1.5%)	Percentage	74.9%	73.7%	72.5%	71.2%
	(number passing)	(631)	(621)	(611)	(600)
2 (n = 938; SE ≈ 1.6%)	Percentage	57.6%	54.2%	50.9%	49.5%
	(number passing)	(540)	(508)	(477)	(464)
3 (n = 131; SE ≈ 4.0%)	Percentage	32.1%	29.8%	28.2%	25.2%
	(number passing)	(42)	(39)	(37)	(33)
4 (n = 147; SE ≈ 3.7%)	Percentage	31.3%	29.3%	27.9%	25.2%
	(number passing)	(46)	(43)	(41)	(37)
5 (n = 79; SE ≈ 4.6%)	Percentage	25.3%	21.5%	20.3%	16.5%
	(number passing)	(20)	(17)	(16)	(13)
6 (n = 50; SE ≈ 5.2%)	Percentage	22.0%	18.0%	12.0%	12.0%
	(number passing)	(11)	(9)	(6)	(6)
7 or more (n = 102; SE ≈ 2.7%)	Percentage	8.8%	8.8%	8.8%	6.9%
	(number passing)	(9)	(9)	(9)	(7)
Total (N = 2,290; SE ≈ 1.0%)	Percentage	56.7%	54.4%	52.3%	50.7%
	(number passing)	(1,299)	(1,246)	(1,197)	(1,160)

Table 4.7 examines the relationship between pass rate and passing score as the passing score increases from 660 to 675 for groups based on age at law school graduation. The overall pass rate for the total sample of domestic-educated repeat takers is included in the bottom row as a benchmark. Pass rates decrease as passing score increases; the drop is typically 5 to 10 percentage points between 660 and 675. In addition, pass rates decrease as age at law school graduation increases, and this pattern holds across passing scores of 660, 665, 670, and 675.

Table 4.7
Projected Pass Rates for Passing Scores of 660, 665, 670, 675
Domestic-Educated Repeat Takers: Age at Law School Graduation

Age at Law School Graduation		Pass 660	Pass 665	Pass 670	Pass 675
<27 (n = 616; SE ≈ 2.0%)	Percentage	50.5%	47.2%	44.0%	42.1%
	(number passing)	(311)	(291)	(271)	(259)
27 - 28 (n = 270; SE ≈ 3.0%)	Percentage	47.0%	45.6%	43.7%	41.9%
	(number passing)	(127)	(123)	(118)	(113)
29 - 30 (n = 149; SE ≈ 4.0%)	Percentage	40.9%	38.9%	35.6%	34.2%
	(number passing)	(61)	(58)	(53)	(51)
31 - 35 (n = 189; SE ≈ 3.6%)	Percentage	46.6%	42.3%	40.7%	39.7%
	(number passing)	(88)	(80)	(77)	(75)
36 - 40 (n = 87; SE ≈ 5.2%)	Percentage	40.2%	39.1%	35.6%	32.2%
	(number passing)	(35)	(34)	(31)	(28)
41 - 45 (n = 61; SE ≈ 5.5%)	Percentage	31.2%	23.0%	21.3%	21.3%
	(number passing)	(19)	(14)	(13)	(13)
46 - 50 (n = 33; SE ≈ 8.2%)	Percentage	36.4%	33.3%	30.3%	27.3%
	(number passing)	(12)	(11)	(10)	(9)
51 - 55 (n = 24; SE ≈ 9.8%)	Percentage	41.7%	37.5%	33.3%	29.2%
	(number passing)	(10)	(9)	(8)	(7)
Total* (N = 1,447; SE ≈ 1.3%)	Percentage	46.2%	43.2%	40.5%	38.7%
	(number passing)	(668)	(625)	(586)	(560)

*Total includes age groups not separately listed in the table.

In general, for the domestic-educated candidates, the repeat takers have much lower pass rates than the first-time takers for all of the passing scores under consideration. Repeat takers who are taking the bar examination for the second time generally do better than those taking it for the third time, who in turn have higher pass rates than those who have already taken the bar examination three or more times.

It is worth mentioning that the repeat takers include candidates who failed the NY bar exam under different passing scores; those who failed the NY bar exam two or more times before February 2006 (or did not take the July 2005 bar exam) likely failed when the passing score was 660. Therefore, the analyses presented here are based on some repeat takers (e.g., those repeating more than once) who had previous scores up to 659 and others (i.e., those repeating for the first time in July 2005) who had previous scores up to 664. As the passing score increases, the population of repeat takers will certainly change because the maximum previous scores of repeat takers will increase. As a result, the average previous score of the repeat takers is likely to increase.

4.4 Foreign-Educated First-Time Takers

The foreign-educated candidates generally have lower NY bar exam scores and lower pass rates than the domestic-educated candidates. Table 4.8 indicates the impact of changes in the passing score from 660 to 675 for females, males, and the total sample of foreign-educated first-time takers. As indicated in the bottom row of Table 4.8, the overall pass rate for foreign-educated first-time takers decreases from 38.8% to 34.4%, as the passing score increases from 660 to 675. These pass rates are lower than those of the domestic-educated first-time takers listed in Table 4.1, range from 74.9% to 71.2% as the passing score increases from 660 to 675. The female foreign-educated first-time takers have slightly higher pass rates than males at passing scores of 660, 665, and 670 (around a 1 percentage point difference), and the groups are about the same for passing scores of 675 (0.3 percentage point difference).

Table 4.8
Projected Pass Rates for Passing Scores of 660, 665, 670, 675
Foreign-Educated First-Time Takers: Females and Males

Gender		Pass 660	Pass 665	Pass 670	Pass 675
Female (n = 211; SE ≈ 3.4%)	Percentage	40.3%	38.9%	37.4%	35.1%
	(number passing)	(85)	(82)	(79)	(74)
Male (n = 209; SE ≈ 3.4%)	Percentage	39.2%	38.3%	35.9%	35.4%
	(number passing)	(82)	(80)	(75)	(74)
Total* (N = 459; SE ≈ 2.3%)	Percentage	38.8%	37.5%	35.7%	34.4%
	(number passing)	(178)	(172)	(164)	(158)

*Total includes 39 candidates who did not record their genders.

Table 4.9 indicates the impact of changes in passing scores from 660 to 675 on the pass rates for foreign-educated first-time takers as a function of race/ethnicity. The overall pass rate for the total group of foreign-educated first-time takers is included in the bottom row of the table for reference. Several of the sample sizes in Table 4.9 are fairly small and therefore the pass rates are likely to be too unstable to draw any strong conclusions about trends. The order of the groups in Table 4.9 remains the same as the passing score is increased from 660 to 675. The Caucasian/White candidates have the highest pass rates, the Asian/Pacific Islander group is second, the Black/African American group is third, and the Hispanic/Latino group is fourth. If the "Other" group is included, it has the second highest pass rates. None of the foreign-educated first-time takers indicated their race/ethnicity as Puerto Rican, Chicano/Mexican American, or American Indian/Alaskan Native.

Table 4.9
Projected Pass Rates for Passing Scores of 660, 665, 670, 675
Foreign-Educated First-Time Takers: Racial/Ethnic Groups

Race/Ethnicity		Pass 660	Pass 665	Pass 670	Pass 675
Caucasian/ White (n = 212; SE ≈ 3.4%)	Percentage	49.5%	48.1%	45.8%	44.8%
	(number passing)	(105)	(102)	(97)	(95)
Asian/ Pacific Islander (n = 104; SE ≈ 4.4%)	Percentage	30.8%	28.9%	27.8%	26.0%
	(number passing)	(32)	(30)	(29)	(27)
Black/ African American (n = 29; SE ≈ 7.4%)	Percentage	20.7%	20.7%	17.2%	17.2%
	(number passing)	(6)	(6)	(5)	(5)
Hispanic/ Latino (n = 26; SE ≈ 7.0%)	Percentage	15.4%	15.4%	15.4%	11.5%
	(number passing)	(4)	(4)	(4)	(3)
Other (n = 44; SE ≈ 7.5%)	Percentage	40.9%	40.9%	40.9%	38.6%
	(number passing)	(18)	(18)	(18)	(17)
Total* (N = 459; SE ≈ 2.3%)	Percentage	38.8%	37.5%	35.7%	34.4%
	(number passing)	(178)	(172)	(164)	(158)

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

As noted earlier, increasing the passing score tends to have a larger relative impact on a group if the initial pass rate is low. The pass rate for the foreign-educated first-time takers in the Caucasian/White group decreases from 49.5% to 44.8% as the passing score increases from 660 to 675, which is a drop of just under 5 percentage points, or about 9.5% of the base rate of 49.5%. The pass rate for the foreign-educated first-time takers in the Asian/Pacific Islander group decreases from 30.8% to 26.0%, a drop of just under 5 percentage points, or about 15.6% of the base rate of 30.8%. The pass rate for the "Other" group decreases from 40.9% to 38.6%, which is a drop of just over 2 percentage points, or about 5.6% of the base rate. The pass rate for the foreign-educated first-time takers in the Hispanic/Latino group decreases from 15.4% to 11.5%, a drop of 3.9 percentage points, or 25.3% of the base rate. The pass rates for the Black/African American group drops from 20.7% to 17.2% as the passing score increases, a drop of 3.5 percentage points, or 16.9% of the base rate.

4.5 Foreign-Educated Repeat Takers

Table 4.10 indicates the impact of changes in the passing score from 660 to 675 for females, males, and the total sample of foreign-educated repeat takers. As indicated in the bottom row of the table, the overall pass rate for the foreign-educated repeat takers decreases from 29.0% to 23.1% as the passing score increases from 660 to 675. The pass rates for foreign-educated repeat takers are lower than they are for foreign-educated first-time takers or for domestic-educated repeat takers. For all four potential passing scores between 660 and 675, male foreign-educated repeat takers have higher pass rates than females. As the passing score increases from 660 to 675, the pass rate decreases for both groups, and the difference between females and males decreases slightly from 3.5 percentage points to 2.2 percentage points.

Table 4.10
Projected Pass Rates for Passing Scores of 660, 665, 670, 675
Foreign-Educated Repeat Takers: Females and Males

Gender		Pass 660	Pass 665	Pass 670	Pass 675
Female (n = 334; SE ≈ 2.4%)	Percentage	28.1%	26.4%	24.9%	23.1%
	(number passing)	(94)	(88)	(83)	(77)
Male (n = 364; SE ≈ 2.4%)	Percentage	31.6%	29.1%	27.2%	25.3%
	(number passing)	(115)	(106)	(99)	(92)
Total* (N = 815; SE ≈ 1.5%)	Percentage	29.0%	26.6%	24.7%	23.1%
	(number passing)	(236)	(217)	(201)	(188)

*Total includes 117 candidates who did not record their genders.

Table 4.11 indicates the impact of a change in passing score on foreign-educated repeat takers as a function of race/ethnicity. Several of the sample sizes in Table 4.11 are fairly small and therefore the pass rates are likely to be too unstable to draw any strong conclusions about trends. The order of groups in Table 4.11 remains the same as the passing score is increased from 660 to 675. The Caucasian/White Candidates have the highest pass rates, the Asian/Pacific Islander group is second, the Hispanic/Latino group is third, and the Black/African American group is fourth. The clearest general conclusion that can be drawn from these data is that the pass rates for foreign-educated repeat takers are quite low for all passing scores and all racial/ethnic groups.

Table 4.11
Projected Pass Rates for Passing Scores of 660, 665, 670, 675
Foreign-Educated Repeat Takers: Racial/Ethnic Groups

Race/Ethnicity		Pass 660	Pass 665	Pass 670	Pass 675
Caucasian/ White (n = 206; SE ≈ 3.3%)	Percentage	37.9%	35.0%	32.0%	31.6%
	(number passing)	(78)	(72)	(66)	(65)
Asian/ Pacific Islander (n = 310; SE ≈ 2.5%)	Percentage	28.1%	26.5%	25.5%	22.9%
	(number passing)	(87)	(82)	(79)	(71)
Black/ African American (n = 86; SE ≈ 4.0%)	Percentage	18.6%	17.4%	15.1%	12.8%
	(number passing)	(16)	(15)	(13)	(11)
Hispanic/ Latino (n = 44; SE ≈ 6.3%)	Percentage	27.3%	22.7%	20.5%	18.2%
	(number passing)	(12)	(10)	(9)	(8)
Other (n = 54; SE ≈ 6.2%)	Percentage	31.5%	29.6%	27.8%	25.9%
	(number passing)	(17)	(16)	(15)	(14)
Total* (N = 815; SE ≈ 1.5%)	Percentage	29.0%	26.6%	24.7%	23.1%
	(number passing)	(236)	(217)	(201)	(188)

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

Table 4.12 examines the relationship between pass rate and passing score as the passing score increases from 660 to 675 for groups based on number of bar attempts. The percentage of candidates passing generally decreases as the number of bar attempts increases. 37.5% of candidates who are taking the NY bar exam for the first time pass at a score of 665 versus 10.4% taking the exam for seventh time or more. Similar patterns of passing percentages occur at passing scores of 660, 670, and 675.

Table 4.12
Projected Pass Rates for Passing Scores of 660, 665, 670, 675
Foreign-Educated Candidates: Number of Bar Attempts

Number of Bar Attempts		Pass 660	Pass 665	Pass 670	Pass 675
1 (n = 459; SE ≈ 2.3%)	Percentage	38.8%	37.5%	35.7%	34.4%
	(number passing)	(178)	(172)	(164)	(158)
2 (n = 431; SE ≈ 2.3%)	Percentage	36.2%	33.4%	32.0%	30.4%
	(number passing)	(156)	(144)	(138)	(131)
3 (n = 130; SE ≈ 3.8%)	Percentage	29.2%	26.2%	22.3%	20.8%
	(number passing)	(38)	(34)	(29)	(27)
4 (n = 93; SE ≈ 3.7%)	Percentage	17.2%	16.1%	14.1%	12.9%
	(number passing)	(16)	(15)	(13)	(12)
5 (n = 51; SE ≈ 5.3%)	Percentage	19.6%	17.7%	15.7%	13.7%
	(number passing)	(10)	(9)	(8)	(7)
6 (n = 33; SE ≈ 7.3%)	Percentage	24.2%	21.2%	21.2%	21.2%
	(number passing)	(8)	(7)	(7)	(7)
7 or more (n = 77; SE ≈ 3.2%)	Percentage	10.4%	10.4%	7.8%	5.2%
	(number passing)	(8)	(8)	(6)	(4)
Total (N = 1,274; SE ≈ 1.3%)	Percentage	32.5%	30.5%	28.7%	27.2%
	(number passing)	(414)	(389)	(365)	(346)

As indicated in Section 4.3, these passing rate projections apply to a group of repeat takers who had failed the NY bar exam when the passing score was either 660 or 665, depending on when they first attempted the New York bar exam. As the passing score increases, the maximum previous scores of repeat takers will also increase, and the average previous scores of the repeat takers are also likely to increase.

Notes:

1. As noted earlier, all of the results in this report are based on the sample of candidates who agreed to participate in this study, and therefore these results are not in perfect agreement with the actual pass rates for all domestic-educated first-time candidates in New York.

2. Because a score of 665 is in the lower region of the distribution for the Caucasian/White group, where there are fewer candidate scores, any change in the passing score, either up or down tends to have a modest impact on the percentage of candidates passing.

5. Conclusions

The analyses in this study were designed to examine the impact of the previous, current and proposed passing scores (i.e., 660, 665, 670, and 675) on overall pass rates, and the impact of these passing scores on pass rates for subgroups defined in terms of gender, race/ethnicity, and age using data from candidates taking the February 2006 administration of the New York Bar Examination (NY bar exam).

The database developed for this study is smaller than that previously analyzed for the July 2005 candidates, but it is still quite rich in a number of ways. It includes a large number of candidates and a wide range of data on each candidate, and therefore, makes it possible to examine the impact of passing scores and demographic variables on pass rates in some detail.

5.1 Characteristics of the Candidates

Relationships among the demographic variables (gender, race/ethnicity, age, and origin of legal education) were examined in Section 2.

Most of the candidates in New York are graduates of domestic law schools, but a substantial number (over 35%) are graduates of foreign law schools. The graduates of foreign law schools are quite different from the graduates of domestic law schools in a number of ways. The foreign-educated group has relatively large percentages of Asian/Pacific Islander candidates and relatively small percentages of Caucasian/White candidates. The foreign-educated group includes a slightly larger proportion of males (about 51%) than the domestic-educated group (about 49%). Foreign-educated candidates also tend to be a little older than domestic-educated candidates when they take the bar exam. The scores of the foreign-educated candidates are much lower than those of the domestic-educated candidates on all three parts of the NY bar exam, and their pass rates are also much lower. Given these differences, we have reported results separately for domestic-educated candidates and foreign-educated candidates.

The majority of candidates (63.5%) taking the February 2006 NY bar exam had taken it at least once before. However, candidates taking the bar examination for the first time tended to do much better on the NY bar exam than candidates who were repeating the exam. In addition, candidates who were repeating the examination for the first or second time tended to do better than candidates who had already taken the examination a number of times. Because of the differences in performance between first-time takers and repeat takers, we also analyzed the results for these two groups separately. So, results are reported separately for domestic-educated candidates and foreign-educated candidates, and within each of these major groups, for first-time takers and repeat takers.

5.2 Impact of Changes in the Passing Score on Pass Rates

The central issues examined in this study are addressed in some detail in Sections 3 and 4. Section 3 describes the performance of various groups of candidates on the different components of the NY bar exam and on the examination as a whole. Section 4 reports pass rates as a function of passing score (from 660 to 675) for various groups.

The analyses in Section 3 indicate that the results for different groups tended to be consistent across the different components of the exam. That is, groups that did well on one component (e.g., the essay) also did well on the other two components (e.g., MBE and NYMC), and groups that didn't do as well on one component also didn't do as well on the other components.

The one noteworthy exception to this result is a consistent tendency for females to do better on the essay component and for males to do better on the MBE; this effect is not very large on average, but it is consistent across racial/ethnic groups, the foreign- and domestic-educated groups, and first-time takers and repeat takers. These two tendencies (females doing better on the essay component and males doing better on the MBE) go in opposite directions, and they tend to cancel out. As a result, in most analyses, females and males did not differ substantially in terms of their total bar examination scores and pass rates.

The domestic-educated candidates did much better on the examination than the foreign-educated candidates, and, within both of these groups, the first-time takers did better than the repeat takers. Candidates who had already failed the examination a number of times had very low pass rates.

An increase in the passing score produces decreases in the pass rates. Given that these analyses were all applied to a fixed data set, this is necessarily the case. The results reported here do not necessarily represent the passing rate that would be associated with a particular passing score on any future test date, but they provide a general indication of what to expect.

The current and proposed increases in the passing score tend to have the largest impact on groups with average scores in or near the range over which the passing score is projected to vary (660 to 675). Among the domestic-educated first-time takers, the Black/African American group and other minority groups tend to suffer sharper declines in pass rates than the Caucasian/White group as the passing score increases (see Table 4.2). In addition, because the racial/ethnic minority groups have lower pass rates to begin, a decrease of a few percentage points in the pass rate has a larger proportional impact on the pass rates for these groups than it would if the initial pass rates were higher.

The domestic-educated repeat takers tend to have pass rates of about 46% for a passing score of 660. The pass rates decline to about 39% as the passing score

increases to 675. Because an increase in the passing score will yield a different population of repeat takers (one with higher scores on their previous attempts), the actual pass rates for repeat takers are likely to be somewhat higher than those reported in Section 4, especially for passing scores of 670 and 675.

As noted above, the foreign-educated first-time takers had relatively low scores on the bar examination and relatively low pass rates, and these pass rates decline from about 39% to about 34% as the projected passing score increases from 660 to 675. The foreign-educated repeat takers had low pass rates, which decline from about 29% to about 23% as the projected passing score increases from 660 to 675.

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

Confidence Intervals: A range of values around a statistic (e.g., a mean) 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 (defined below). For example, a 95% confidence interval covers 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.

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 indicate that an increase in one variable is associated with an increase in the other. Negative correlations indicate that an increase in one variable is associated with a decrease in the other.

Dissattenuated Correlation: The strength of the linear relationship (see *correlation*) between two variables after taking into account measurement error. Measurement error tends to reduce the correlations between variables, but this "attenuation" of the correlation can be corrected to get an estimate of what the correlation would be if there was no random error in either of the variables being correlated.

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.

Reliability: The consistency or repeatability of the scores produced by a measurement procedure; the precision in the scores yielded by a measurement instrument. Reliability is defined as the variance in "true" scores divided by the variance in observed scores. The observed score for an individual is assumed to consist of the true score plus an error component, and the variance in observed scores is equal to the variance in the true scores plus the error variance. So the reliability is always between 0.0 and 1.0. Reliability can also be interpreted as a correlation coefficient, with values between 0.0 and 1.0. Higher values for reliability reflect greater precision and less random error, and low values for reliability reflect a higher proportion of random error and therefore less precision.

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 normal 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.

Standard error (SE) of percentages: An indication of the uncertainty in the estimate of a percentage over repeated samples from the same population. Technically, it is the standard deviation of the percentage divided by the square root of the sample size used to calculate the percentage (i.e., the denominator used to calculate the percentage).