

# New Mexico's Adoption of the Uniform Bar Exam



UNIVERSITY OF NEW MEXICO  
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UNM

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# Bar Passage Discussion



- Decline in bar passage rate
- Significant changes in exam
- Next steps as a law school community

# National Context



- The average scores on the MBE are at the lowest level since 1988
- The mean score
  - 140.3, July 2016
  - 139.9, July 2015
- Several states' pass rate dropped in **July 2015**
  - Alabama: -5 points
  - New Mexico: -12 points
  - Oklahoma: -11 points
  - Louisiana: -8 points
  - Mississippi: -27 points
  - Vermont: -14 points

# New Mexico and UNM Bar Passage Rate



- **July 2016**
  - 64% Overall (-8%)
  - 70% First-timers (-6%)
  - 68% UNM First-timers (-13%)
  - 23% UNM Repeaters (+3%)
- **July 2015**
  - 72% Overall (-12%)
  - 76% First-timers (-12%)
  - 81% UNM First-timers (-8%)
  - 20% UNM Repeaters (-51%)

# New Mexico and UNM Bar Passage Rate



- Pass rate since 2008
  - Before the beginning of the transition to the new exam:
    - ✦ the previous overall low of 79% was in Feb 2012 (15% greater than current sitting)
    - ✦ the previous UNM first-timers low of 81% was in July 2011 (13% greater than current sitting)

# Pass Rates - Demographics



Proportionate decline comparing cumulative rates for applicants 2010-2015 (pre-UBE) with cumulative scores for 2016:

- African American (-15%)
- American Indian (-24%)
- Hispanic (-13%)
- White (-9%)

# Significant Changes-UBE



- New Mexico is now a UBE jurisdiction
- Portability of score to 20+ UBE jurisdictions
- All components of the NM Bar Exam have been identical with UBE since February 2015 sitting
- Components:
  - Multi-state Bar Exam (200 multiple choice)
  - Multi-state Essay Exam (6 30-minute essays)
  - Multi-state Performance Test (2 90-minute assignments)

# Currently Testable Subjects



- Business Associations (agency, partnership, corporations, LLC)
- Civil Procedure (federal jurisdiction and procedure)
- Conflict of Laws
- Constitutional Law (including constitutional rights)
- Contracts (common law and UCC Article 2 and Revised Article 1)
- Criminal Law & Criminal Procedure
- Evidence
- Family Law (majority rules)
- Real Property
- Torts
- Trusts & Estates
- UCC Article 9 (secured transactions)



# Changes in Testable Subjects



## Old Bar Subjects

- Administrative Law
- Community Property
- Equitable Remedies
- Family Law (NM)
- Indian Law

## New Bar Subjects

- **Civil Procedure now on MBE**
- Conflict of Laws
- Family Law (not NM)

# Significant Changes-Essay Grading



- Shift from issue spotting to IRAC
- Greater emphasis on rule memorization
- Essays now require higher-quality legal writing under time pressure
- Comparative grading
- More standardized

# Significant Changes-New Mexico Specific



- Testing majority rules in a minority rules state
  - E.g., Family Law: community property vs. equitable distribution
  - No more Indian law or administrative law
  - Rules needed for success in clinic different than rules needed for success on bar exam
- UNM Law's traditional strengths (clinical law in New Mexico, Indian Law, administrative law) are not tested by the new Uniform Bar Exam format but align with NM practice

# Bar Passage-What we have done



- Offer 2 1-credit, pass/fail bar courses
- Offer free commercial bar course supplement
- Offered resources for students who need help to cover the cost of a commercial bar course
- Incentivized grads to complete 75% of course
- Increase awareness of testable subjects and created course planner
- Discussed additional resources and support with State Bar Committee on Diversity in the Profession

# Bar Passage-What we have done



- Invite bar exam graders to speak with students
- Invite NMBBE executive director to speak with students
- Facilitated supplements with Ted O. (civ pro), George B. (evidence), and Beth K (contracts)
- Begun to track data (e.g., predictors, performance in bar subjects, 1L GPA, etc., demographics, etc.)
- Begun to collect information on supplements offered by commercial bar prep companies
- Presented at curriculum committee and LIPP committee meetings

# Bar Passage-Next Steps



## Short-term

- Leveraging alumni expertise
  - Mario Mainero-MBE
  - Justin Goodman-Essay
- Faculty's Role
  - Incorporate bar exam materials
  - Craft bar-style questions
  - Caution against open-book exams

# Bar Passage-Next Steps



## Long-term

- Taskforce
  - Charged with analyzing current results and strategically designing a responsive program
  - **All options are on the table**