

**Supreme Court  
Ad Hoc Committee on the  
NextGen Bar Examination**



**REPORT &  
RECOMMENDATIONS**

May 22, 2025

Chair: Justice Jaynee LaVecchia (retired)

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# **REPORT OF THE AD HOC COMMITTEE ON THE “NEXTGEN” BAR EXAMINATION**

## **I. INTRODUCTION**

The New Jersey Supreme Court created the Ad Hoc Committee on the “NextGen” Bar Examination to review and recommend to the Court whether New Jersey should adopt the NextGen Uniform Bar Examination (NextGen UBE) as a natural replacement for the state’s existing bar examination format.

The Court has administered the current exam -- the Uniform Bar Examination (UBE) -- since February 2017. The UBE is a standardized test drafted by the National Conference of Bar Examiners (NCBE), and contains several professionally developed testing components. The UBE is uniformly administered, graded, and scored in the forty plus jurisdictions that administer that exam. As a result, the UBE offers a considerable benefit; beyond assessing competency to practice law, the UBE provides a portable (i.e., transferrable) score that can be used to apply for admission in the other jurisdictions that administer the UBE (referred to as “score portability”).

Recently, after a three-year study to ensure that the bar exam continues to test the knowledge, skills, and abilities presently required for competent entry-level legal practice, the NCBE announced that it will sunset the UBE and transition to the NextGen UBE -- a newly refined version of its uniform exam.

Critically, the NCBE will stop producing all components of the UBE after the February 2028 exam administration and thereafter will offer only the NextGen UBE. Also, distinct parts of the NextGen UBE will not be available for separate use; the test must be used as a whole. Thus, there will no longer be available a multi-state examination component that may be combined with a locally developed bar exam, as was New Jersey's approach prior to the adoption of the UBE.

Presented with the NCBE's elimination of the current UBE, the Supreme Court charged an Ad Hoc Committee with studying the NextGen UBE, elevating public awareness of the issue and the decision-points faced by the Court, soliciting input from stakeholders and the public, and, ultimately, submitting a report setting forth its views and a recommendation on whether New Jersey should adopt for use the NextGen UBE.

The Court appointed retired Senior Associate Justice Jaynee LaVecchia as Chair of the Committee and selected a small group of subject-matter experts within the profession whose insights and experience would inform the Committee's work. The membership included representatives of New Jersey's law schools, professionals and volunteers with experience in bar admissions, and distinguished practitioners from across the state, including representatives from the organized bar.



As the Committee engaged in its work, two things became clear:

1. The NextGen UBE is a significant, but natural, evolution of the existing UBE that, in the Committee's view, is appropriately designed to assess the knowledge, skills, and abilities presently required for competent entry-level legal practice, albeit in a revised format; and
2. The issue of whether to adopt the NextGen UBE is a time-sensitive question for law students and law schools, the Board of Bar Examiners, and other stakeholders, despite yet-unsettled factors inherent in assessing a new exam and administrative processes that are still being fine-tuned.

The NCBE's detailed and methodological process for researching, developing, testing, and refining the NextGen UBE and its administration are set forth in this report. Necessarily, with an exam that is still being assessed, refined, and honed, certain information is not yet available, such as the final details of grading and scoring the exam. The Committee acknowledges and addresses those gaps in this report, while offering guidance for the stakeholders who will be directly affected by the new exam format if adopted by the Court.

Rather than awaiting the finalization of all aspects of the NextGen UBE -- a process that the Committee anticipates will continue up through and even after its initial offering in 2026 -- the Committee felt responsible to issue a report conveying its preliminary assessment that the NextGen UBE is a satisfactory tool of improved design to be used for measuring entry-level

competence to practice law. The Committee finds that the NextGen UBE should provide an appropriate measure of the minimum subject-area knowledge, analytic ability, and practical lawyering skills expected of an attorney entering legal practice in New Jersey.

In addition to being satisfied with the content and structure of the exam, the Committee notes that forty jurisdictions already have announced their adoption of the NextGen UBE. If the exam is not embraced, the considerable benefit of score portability will be lost for New Jersey applicants. In a state where the overwhelming majority of attorneys are dual-licensed, the value of score portability cannot be overstated. Having independently considered the NextGen UBE as a metric for competency, the Committee sees no reason not to join the substantial majority of jurisdictions that have announced their adoption of the NextGen UBE.

This report and the recommendations contained herein are presented to the Court in accordance with the Committee's charge. The Committee hopes to submit a supplemental report after the NCBE has released more details about grading and scoring, along with other topics related to the administration of any bar examination. The Committee members express their gratitude to the Court for the chance to contribute to this significant matter of importance for the Court, the bar, the law schools, their students, and the public.

## **II. BACKGROUND ON THE CURRENT UNIFORM BAR EXAMINATION**

### **A. Bar Admission by Examination**

The Supreme Court of New Jersey has the important responsibility of supervising the practice of law in this State, including through the process of licensing attorneys. See N.J. Const. art. VI, § 2, ¶ 3. In addition to a robust character and fitness assessment, among other threshold requirements, an applicant must pass an examination that assesses the applicant's competency and ability to practice law. See generally R. 1:24-2 (Admission by Bar Examination); R. 1:24-3 (Admission by Uniform Bar Examination Score Transfer); R. 1:24-4(b) (Admission by Motion applicant previously passed the bar exam); R. 1:27-1(a) (Qualification for Licensure). Since 2016, when the Court authorized the administration of the UBE, applicants have had the ability to satisfy that examination requirement either by taking the UBE in New Jersey, or by transferring a UBE score earned in another jurisdiction, provided that score met New Jersey's minimum passing score. R. 1:24-3.

### **B. Adoption of the Uniform Bar Exam**

Until roughly eight years ago, the New Jersey bar examination was comprised of two components: (1) seven essay questions drafted by the Board of Bar Examiners; and (2) the Multistate Bar Examination (MBE), a multiple-choice test prepared and graded by the NCBE. The Board of Bar Examiners'

essays tested general legal principles in specified areas of law, but did not test on law that was specific to New Jersey. Rather, like the MBE, the essays tested in areas of general application, including questions on civil procedure, constitutional law, contracts, criminal law, evidence, real property, and torts. The MBE, drafted and scored by the NCBE, has been used in New Jersey as a component of the bar exam since 1972. Its use continues to this day as a component of the UBE.

In 2016, following careful study by an Ad Hoc Committee, the Court adopted the UBE as a replacement for the state's then-existing bar examination format. The UBE is a standardized test drafted by the NCBE. It is uniformly administered, graded, and scored in forty-one participating jurisdictions. The test is professionally developed by the NCBE's drafting committees -- comprised of practicing attorneys, judges, and law school faculty members who are experts in the field being tested -- and then reviewed by outside experts and state boards of bar examiners. The UBE is tested for reliability, fairness, and consistency, among other critical markers of effectiveness, with

assistance from the NCBE's Technical Advisory Panel<sup>1</sup> of measurement experts who provide psychometric<sup>2</sup> guidance to the NCBE's research staff.

### **C. Components of the Current UBE**

The UBE is a standardized test of minimum competence for licensure to practice law. The UBE is designed to test the knowledge and skills that every lawyer should demonstrate prior to admission to the bar.<sup>3</sup>

The current UBE is twelve hours long and is administered over two full days. It consists of three components: (1) the MBE; (2) the Multistate Essay Examination (MEE), comprised of six essay questions testing law of general application; and (3) the Multistate Performance Test (MPT), comprised of two writing tasks designed to test practical lawyering skills. The MBE is weighted 50%, the MEE 30%, and the MPT 20% of an examinee's overall score.

Jurisdictions that use the UBE also may administer their own separate examination to test jurisdiction-specific law. When recommending the

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<sup>1</sup> National Conference of Bar Examiners, Technical Advisory Panel, <http://www.ncbex.org/statistics-research/technical-advisory-panel> (last visited May 21, 2025).

<sup>2</sup> Psychometrics is the scientific field of educational and psychological measurement, i.e., testing. Psychometricians measure the accuracy, validity, reliability, and fairness of a standardized exam. They study not only the content, but also the scoring of the test, and ensure the use of appropriate and accurate standards.

<sup>3</sup> National Conference of Bar Examiners, About the UBE, <http://www.ncbex.org/exams/ube/about-ube> (last visited May 21, 2025).

adoption of the UBE, the Ad Hoc Committee on the UBE did not recommend the implementation of a new jurisdiction-specific component, noting that the New Jersey bar exam, when authored by the Board of Bar Examiners, had never tested state-specific law. In turn, the Court also did not adopt a specific testing component on New Jersey law when adopting the UBE, thereby maintaining the Board of Bar Examiners' long-standing practice of not testing applicants on jurisdiction-specific content. Instead, the Court maintained the practice of requiring a specific set of continuing legal education requirements for new attorneys (e.g., the "new admit requirements") in enumerated subject areas. See BCLE Reg. 201:2.<sup>4</sup>

#### **D. Including a Performance Assessment (the MPT) on the Bar Exam**

As previously noted, the UBE format maintained the MBE exam, continued the use of essays (albeit no longer authored by the Board of Bar Examiners), and ushered in a new element – the Multistate Performance Test (MPT) developed by NCBE. The MPT is not a test of substantive knowledge; rather it involves a performative demonstration by the candidate. This new component marked a significant change in testing format when the UBE was adopted and so it bears some elaboration.

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<sup>4</sup> *Available at* <https://www.njcourts.gov/sites/default/files/attorneys/continuing-legal-education/cleregs.pdf>

Each of the two 90-minute items contains a factual “file” and a “library” of materials (e.g., cases, statutes, regulations, or rules) with sufficient substantive information to complete a legal task.<sup>5</sup> Rather than testing an examinee’s recall of doctrinal law, the MPT is designed to assess an examinee’s ability to apply essential lawyering skills in a practical setting and perform tasks that a novice lawyer should be able to accomplish.<sup>6</sup>

The MPT provides examinees with a set of materials from which they must complete a legal task, as set forth in a mock assignment memo from a supervising attorney. For example, examinees might be instructed to complete a memorandum to a supervising attorney, a letter to a client, a persuasive memorandum or brief, a statement of facts, a contract provision, a will, a counseling plan, a proposal for settlement or agreement, a discovery plan, a witness examination plan, or a closing argument.

The MPT “file” contains source documents – e.g., transcripts of interviews, depositions, hearings or trials, pleadings, correspondence, client documents, contracts, newspaper articles, medical records, police reports, or lawyer’s notes – for use in completing the task. Both relevant and irrelevant

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<sup>5</sup> National Conference of Bar Examiners, Preparing for the MPT, <http://www.ncbex.org/exams/mpt/preparing-mpt> (last visited May 21, 2025).

<sup>6</sup> National Conference of Bar Examiners, Multistate Performance Test, <http://www.ncbex.org/exams/mpt/about-mpt> (last visited May 21, 2025).

facts are included, and, just as in practice, facts may be ambiguous, incomplete, or even conflicting or seemingly unreliable. Examinees must recognize factual gaps and identify potential sources of additional information. In addition, examinees are expected to ascertain from the source documents the legal principles necessary to analyze the issue and complete the task within the 90 minutes allotted.

Using that format, the MPT requires examinees to perform any of a variety of lawyering tasks, including:

- sorting detailed factual materials and separating relevant from irrelevant facts;
- analyzing statutory, case, and administrative materials for applicable principles of law;
- applying the relevant law to the relevant facts in a manner likely to resolve a client's problem;
- identifying and resolving ethical dilemmas, when present;
- communicating effectively in writing; and
- completing a lawyering task within time constraints.<sup>7</sup>

These tasks represent an array of fundamental skills expected of new attorneys including problem solving, legal analysis and reasoning, factual analysis, clear

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<sup>7</sup> National Conference of Bar Examiners, Preparing for the MPT, <http://www.ncbex.org/exams/mpt/preparing-mpt> (last visited May 21, 2025).



and accurate communication, organization and management of a legal task, and recognizing and resolving ethical dilemmas.

Thus, the Court's adoption of the UBE achieved two salutary goals: maintenance of the high standards of the New Jersey Bar Exam -- i.e., demonstrating substantive knowledge and writing skills through rigorous multiple choice and essay exams -- while also embracing a new format that more practically evaluated the fundamental skills lawyers are expected to demonstrate as they enter the profession regardless of the area of law in which the skills are applied.

### **E. Scoring and Score Portability**

The adoption of the UBE brought with it considerable benefits for applicants while continuing to protect the public by ensuring the applicants' minimum competency to practice law. The test is professionally developed and tested for reliability, fairness, and consistency in scoring to broadly enable its usefulness to licensing authorities across the country, including in New Jersey.

As already noted, the UBE is prepared by the NCBE and is uniformly administered, graded, and scored by each of the forty-one participating jurisdictions (i.e., UBE jurisdictions). That said, just as when the Board of Bar Examiners drafted the essays for the New Jersey bar exam, responsibility for

scoring a candidate's performance on the UBE is shared between the NCBE and the Board of Bar Examiners. The NCBE scores the MBE component of the UBE, and the individual jurisdictions grade the MEE and MPT components for their applicants. The MEE and MPT scores are scaled to the MBE. Each candidate's UBE total score is calculated by NCBE. UBE total scores are reported based on a 400-point scale. New Jersey's minimum passing score is 266 -- the equivalent of the minimum passing score on the former New Jersey Bar exam, which was 133 out of a 200-point scale.

A key benefit derived from New Jersey's adoption of the UBE is that examinees receive a portable (i.e., transferrable) score that can be used to apply for admission in other UBE jurisdictions for a period of time fixed by the receiving jurisdiction.<sup>8</sup> If the examinee's score meets the minimum passing score set by another UBE jurisdiction, the score can be accepted for the purpose of applying for admission in that other jurisdiction. Stated differently, examinees can use a UBE score earned in New Jersey and transfer that score to another UBE jurisdiction for the purpose of seeking admission in that second jurisdiction (presuming the score satisfies the second jurisdiction's passing score). The same is similarly true for applicants who tested in another

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<sup>8</sup> National Conference of Bar Examiners, UBE Score Portability, <http://www.ncbex.org/exams/ube/ube-score-portability> (last visited May 21, 2025).

jurisdiction and wish to seek admission in New Jersey based on a score earned elsewhere (provided it meets New Jersey's minimum passing score of 266, see R. 1:24-3 (a)).

Although UBE scores are portable, applicants still must meet all of the admission requirements imposed by each jurisdiction, such as minimum passing score, educational requirements, and character and fitness certification. In other words, it is only an applicant's UBE score, and not their status as an admitted attorney in another UBE jurisdiction, that is transferrable.

Each jurisdiction retains control over critical aspects of bar admission by examination, including the discretion to set their own passing score and timeline for which they will accept a UBE score earned in another jurisdiction.<sup>9</sup> In New Jersey, applicants may seek admission based on a UBE score earned elsewhere provided it is within three years of the score being earned. See R. 1:24-3 (b).

Portable scores benefit applicants by allowing greater mobility among recent law graduates and help the public through the potential for increased legal resources in currently under-served areas. Both attorneys and employers place a high value on the ability to gain admission in multiple jurisdictions,

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<sup>9</sup> National Conference of Bar Examiners, UBE Scores, <http://www.ncbex.org/exams/ube/ube-scores> (last visited May 21, 2025).

particularly in New Jersey, where attorneys often practice in multiple legal markets and neighboring states.

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### **III. THE “NEXTGEN” UNIFORM BAR EXAM**

#### **A. NCBE’s Development of the NextGen Uniform Bar Exam**

Founded in 1931, the NCBE is a not-for-profit corporation that develops licensing tests for bar admission and provides character and fitness investigation services, in addition to other testing, research, and educational services related to bar examinations and bar admissions.

The NCBE avers that, “[b]est practices for high-stakes licensure examinations include periodic review of exam content and design.”<sup>10</sup> Consistent with that principle, in 2018, the NCBE’s Board of Trustees, chaired by Chief Justice Rebecca White Berch (ret. AZ), commissioned a comprehensive study of the bar exam.<sup>11</sup> The NCBE charged the Testing Task Force (TTF) with undertaking a broad three-year study to ensure the bar exam continues to test the knowledge, skills, and abilities required for competent entry-level legal practice.

The TTF’s study proceeded in three phases. First, the TTF conducted listening sessions with more than 400 stakeholders from bar admission agencies, Supreme Courts, the legal academy, and practitioners from across the

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<sup>10</sup> National Conference of Bar Examiners, Overview of Recommendations for the Next Generation of the Bar Examination (2021), available at Appendix A.

<sup>11</sup> National Conference of Bar Examiners, Background Information on the Next Generation of the Bar Examination (Spring 2024), available at Appendix B.

country. Second, the TTF completed a nationwide practice analysis, collecting responses from nearly 15,000 attorneys who provided data on the work performed by newly licensed lawyers and on the knowledge and skills needed for early-career competence. To ensure that the practice analysis would establish a relevant content domain for the next generation of the bar exam, the TTF surveyed both new attorneys and those who supervise them to capture current practices and identify future trends in the profession. Third, and finally, the data from Phases 1 and 2 was evaluated by two committees composed of bar admission representatives, legal educators, and legal practitioners to provide input on what content the bar exam should test and how the exam should be designed.

In April 2021, based on that assessment, the TTF issued its final report recommending the evolution of the bar exam to (1) narrow the breadth of knowledge tested by the bar exam to include those knowledge areas that cross a wide range of practice areas -- from litigation to transactional work -- that newly licensed lawyers most commonly encounter; (2) adjust the depth of knowledge assessed to more closely reflect the actual practice of law and the level of familiarity needed for competent practice by a newly licensed lawyer; and (3) integrate the exam structure to assess legal knowledge and legal skills holistically in a single, practice-related exam. See Appendix B.

According to the TTF, an integrated exam uses scenarios that are representative of real-world legal problems that newly licensed lawyers encounter in practice. Realistic scenarios are used in the current UBE, but only in discrete components comprised of stand-alone items, whereas an integrated exam includes item sets and a combination of item formats (e.g., multiple-choice, short-answer, and long form essays) within the same component. The integrated exam structure featured as a component of the NextGen UBE will allow for the holistic assessment of knowledge and skills in a single, practice-related examination. In advancing the concept of integrated design for bar admissions, the TTF noted the support of its external psychometric experts who observed, with approval, that integrated design already is employed in academia and in high-stakes licensure assessments used in other professions.

In 2021, the NCBE approved the TTF's recommendations and committed to developing the next evolution of the UBE, referred to as the NextGen UBE. The NCBE appointed the Implementation Steering Committee as well as forming four working groups and various other stakeholder entities comprised of legal educators and practitioners to guide, develop and hone the NextGen UBE material with fidelity to the findings of the TTF. To guide the process and maintain transparency in the initiative, the NCBE announced that

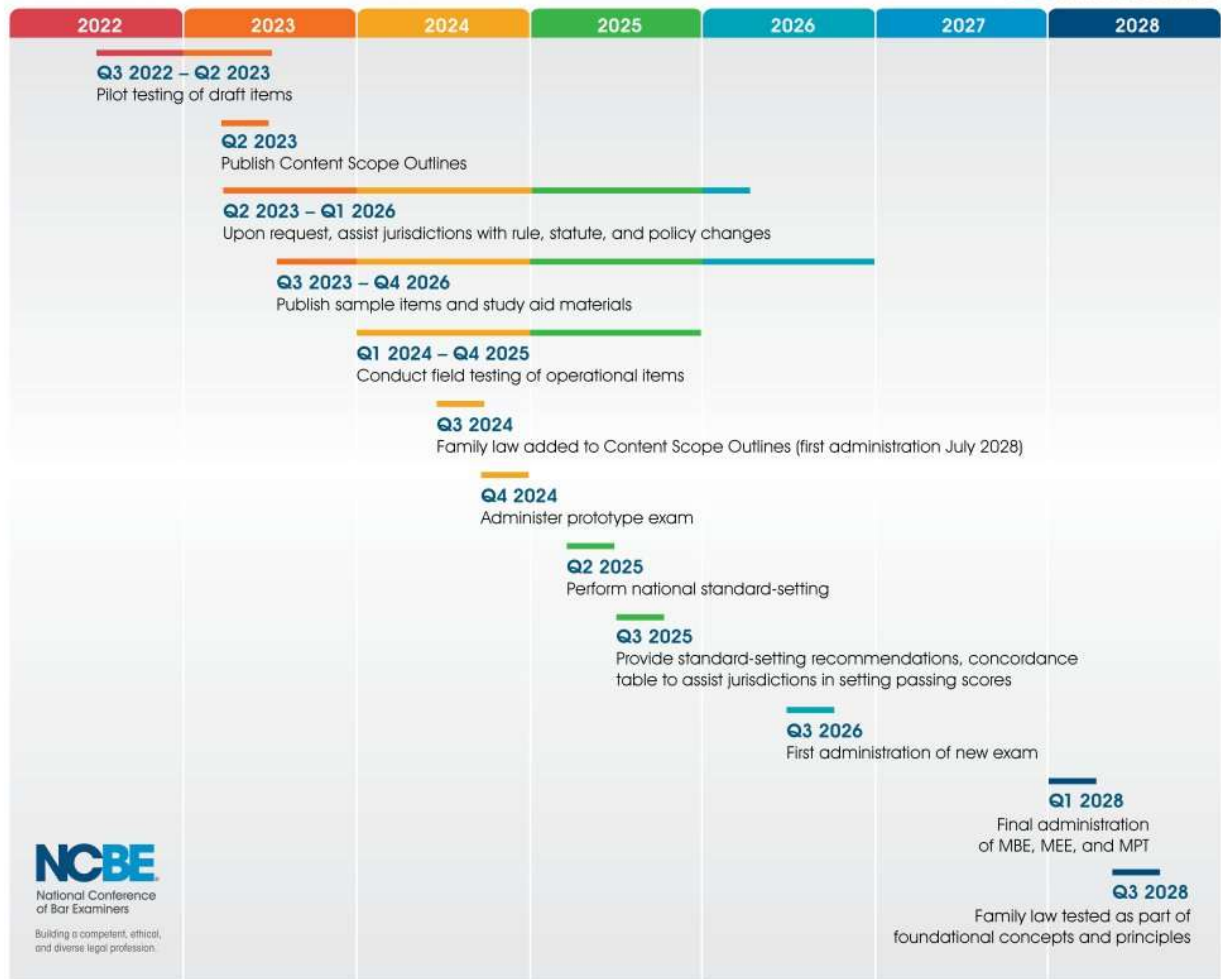
the NextGen UBE would be developed and implemented methodically over a five-year timeline, including the following steps, to highlight only a few:

- Publication of content scope outlines to inform stakeholders of the breadth of the topics to be assessed in the eight Foundational Concepts and Principles and of the lawyering tasks to be assessed in the seven Foundational Skills;
- Public comments (received from 394 stakeholders including law school deans, faculty, and administrators; practicing attorneys; judges and justices; law students; and bar examiners and admission staff) and revision to the content scope outlines based on those comments;
- Pilot testing, Field Testing, and Prototype Testing; and
- Publication of standard-setting recommendations and concordance table to assist participating jurisdictions in setting passing scores.



## Implementing the NextGen Bar Exam, 2022–2028

**NextGen**  
Bar Exam of the Future



[Source: National Conference of Bar Examiners, Implementation Timeline, <https://www.ncbex.org/exams/nextgen-july-2026/about/implementation-timeline> (last visited May 21, 2025).]

At each step, the NCBE published information and responded to comments from stakeholders. For example, based on feedback from the legal community, including the Conference of Chief Justices, the NCBE added Family Law as a Foundational Concept and Principle to be tested with the 2028 administration of the exam.

Now, three years into the development of the NextGen UBE, refinement of the test content and delivery format is reaching its final stages. The NCBE conducted field tests and administered a prototype exam from which it gleaned feedback about the exam content, delivery platform, and grading process, and is incorporating refinements based on that experience and input. As for scoring, the NCBE is currently working with its psychometric experts to develop a concordance table of equivalencies between current UBE scores and scores on the NextGen UBE. That tool, scheduled to be available in July 2025, is intended to aid jurisdictions as they establish their passing scores on the NextGen UBE. Additionally, the NCBE is finalizing test administration policies and procedures and developing study materials and additional sample test questions to help candidates and law schools prepare for the transition to the new exam format.

The NCBE is preparing to administer the NextGen UBE for the first time in July 2026. To date, nine jurisdictions have announced their adoption of the NextGen UBE for that first administration.<sup>12</sup> An additional thirty-one jurisdictions, for a total of forty, have announced their adoption of the

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<sup>12</sup> Jurisdictions administering the NextGen UBE in July 2026 include Connecticut, Guam, Idaho, Maryland, Missouri, Northern Mariana Islands, Oregon, Virgin Islands, Washington. National Conference of Bar Examiners, NextGen UBE (July 2026), <http://www.ncbex.org/exams/nextgen> (last visited May 21, 2025).

NextGen exam and will debut it in their respective jurisdictions between 2026 and 2028 (when the current UBE sunsets).<sup>13</sup>

## **B. Components of the NextGen UBE**

The NCBE assures that the NextGen UBE “will test a broad range of foundational lawyering skills, utilizing a focused set of clearly identified fundamental legal concepts and principles needed in today’s practice of law.”<sup>14</sup> To that end, it was crafted to balance the skills and knowledge necessary in both a litigation setting and transactional legal practice.<sup>15</sup>

As designed, content-wise, the NextGen UBE will assess Foundational Lawyering Skills, including legal research, legal writing, issue spotting and analysis, investigation and evaluation, client counseling and advising, negotiation and dispute resolution, client relationship and management.<sup>16</sup>

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<sup>13</sup> National Conference of Bar Examiners, NextGen UBE (July 2026), <http://www.ncbex.org/exams/nextgen> (last visited May 13, 2025).

<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

In addition to those lawyering skills, the NextGen UBE will test Foundational Concepts and Principles (i.e., substantive knowledge). The Foundational Concepts and Principles to be tested include:<sup>17</sup>

- Business Associations
- Civil Procedure
- Constitutional Law
- Contract Law (including Art. 2 of the UCC)
- Criminal Law
- Evidence
- Real Property
- Torts
- Family Law (*will be added with the July 2028 NextGen bar exam as a ninth foundational concept and principle*)

Furthermore, two additional areas – Family Law and Trusts and Estates – are guaranteed to appear on every NextGen exam from July 2026 through February 2028 in a performance task and may also be included in integrated question sets. During that time, Family Law and Trusts and Estates will be tested with the aid of applicable legal resources. Starting in July 2028, Family Law will become one of the Foundational Concepts and Principles; the NCBE has not announced the treatment of Trusts and Estates beyond February 2028.

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<sup>17</sup> Ibid.

Although not considered a Foundational Concept or Principle, the NextGen UBE also will test on select American Bar Association Model Rules of Professional Conduct.<sup>18</sup>

Other substantive areas of legal knowledge will appear on the NextGen UBE in the context of the exam's assessment of one or more foundational lawyering skills, but examinees are not expected to develop a base of knowledge in those areas. For those questions, examinees will be provided with the necessary legal resources (e.g., statutes, regulations, and case law) to demonstrate the skills being tested.

In terms of structure, the NextGen UBE will be a nine-hour exam administered over 1 ½ days. It will consist of three sections, each three hours in length. The NextGen UBE will feature three categories of question types:<sup>19</sup>

- **Multiple Choice Questions:** Approximately 40% of the exam time will be dedicated to stand-alone multiple-choice questions with four to six answer options and one or more correct answers. According to the NCBE, the initial NextGen UBE will closely resemble MBE questions. This will ensure stability between scores for the current and NextGen bar exams. In future administrations, the variety of multiple-choice question types will increase.
- **Performance Tasks:** The NextGen UBE will include three performance tasks that will comprise approximately a third of the

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<sup>18</sup> National Conference of Bar Examiners, NextGen UBE Sample Questions, <http://www.ncbex.org/exams/nextgen/sample-questions> (last visited May 21, 2025).

<sup>19</sup> Ibid.

exam time. These tasks, like current MPT questions, will require examinees to demonstrate their ability to use fundamental lawyering skills in realistic situations, completing tasks that a beginning lawyer should be able to accomplish. These tasks may feature areas of doctrinal law, with accompanying legal resources, not included in the Foundational Concepts and Principles. These areas of doctrinal law might include, for example, Trusts and Estates, Intellectual Property, or Administrative Law. One of the longer performance tasks will include several multiple-choice questions and short constructed response questions focused on research skills, followed by a longer writing assignment.

- **Integrated Question Sets:** Just under a quarter of the exam time will be devoted to integrated question sets. Each of these sets is based on a common fact scenario and may include some legal resources (e.g., excerpts of statutes or judicial opinions) and/or supplemental documents (e.g., a police report or excerpt from a deposition) and include a mixture of multiple-choice and short-answer questions. In addition to testing doctrinal law, some integrated question sets will be focused on drafting or editing a legal document; other sets will be focused on counseling and/or dispute resolution.

The NCBE has made available sample questions, outlines, and other resources to assist Courts, bar administrators, practitioners, and the public in their assessment of the material, as well as giving law schools and students an opportunity to evaluate the knowledge and skills contemplated for assessment on the NextGen UBE.

From a technological standpoint, the exam will be taken on examinees' own laptops at in-person, proctored testing locations run by the Board of Bar Examiners. A secure, online assessment platform will be used to present the exam and to collect examinees' responses. The platform will offer a range of

assistive technologies and custom-created formats for examinees who require testing accommodations.<sup>20</sup>

### **C. Scoring and Score Portability**

As stated above, the NCBE is currently in the process of establishing scoring processes and psychometric methods for equating and scaling scores and developing test administration policies and procedures. Publication of that detailed material is expected in the third quarter of 2025. With that process still in its final development, the specifics of the grading process are not yet fully available. That said, certain fundamentals are available for the Committee's and the Court's consideration.

The NCBE's planned scoring process for the NextGen UBE is expected to share attributes with the current bar exam. For example, the NCBE will grade the multiple-choice questions. Also like the current bar exam, the written portions of the exam will be graded by the individual jurisdictions, meaning the Board of Bar Examiners will grade the written components of the NextGen UBE for New Jersey applicants. What is not yet clear is how that will work as a practical matter for integrated questions sets that include multiple choice, short-answer questions, and longer-form responses. The

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<sup>20</sup> National Conference of Bar Examiners, About the NextGen Uniform Bar Examination, <http://www.ncbex.org/exams/nextgen/about-nextgen> (last visited May 21, 2025).

NCBE has committed to providing the technology platform to conduct the grading, taking advantage of the latest advances in grading best practices and technology, but more detail is needed (and expected) with regard to the mechanics of the grading.

Similarly, there is little available on the topic of scoring, specifically the exercise of establishing a passing score. The NCBE has committed to providing a concordance table that will assist the individual jurisdictions in establishing their passing scores, and that too is expected in Q3 of 2025.

As with the current UBE, examinees may transfer their NextGen UBE scores between participating jurisdictions. During the transition period between the current UBE and the NextGen UBE, it appears presumed that UBE jurisdictions will accept both the current UBE and NextGen scores for portability purposes, with current UBE scores remaining valid until the time limit set by each participating jurisdiction. That said, jurisdictions that do not elect to participate in score portability may administer the NextGen UBE without accepting scores for transfer. That would mean, however, that scores earned in their jurisdictions likely could not be transferred to other UBE or NextGen jurisdictions.



## **IV. COMMITTEE DISCUSSION AND ANALYSIS**

### **A. The Backdrop of the Upcoming Discontinuation of the UBE**

Faced with the NCBE's discontinuation of the current testing format, the Court is, again, presented with the question of how to measure minimum competence to practice law for the purpose of attorney licensure in New Jersey. However, unlike in 2016 when the Court was presented with the question of whether to retain the then-existing format or to embrace the uniform exam offered by the NCBE, the Committee's charge in this instance is not a hypothetical exercise. In 2016, the Court was presented with real, practical challenges for bar applicants, most critically for those who sought dual licensure in New York and Pennsylvania, but the Court had the option of continuing to administer the New Jersey exam authored by the Board of Bar Examiners. For a variety of well-founded reasons that served the public and the applicants, the Court determined to embrace the UBE, thereby gaining its practical, performance assessment tool (the MPT) and the benefit of score portability.

In this instance, maintaining the status quo is not an option; the UBE (in its current form) soon will be discontinued, and New Jersey must identify a replacement for that exam that can be implemented by July 2028. In essence, the question is whether the Court should continue along the course it set in

2016 and adopt the NextGen UBE, or whether to craft a new, home-grown solution. For the reasons set forth in this Report, the Committee strongly recommends that the Court embrace the NextGen UBE as the logical evolution of the standardized test used to assess competence to practice law.

### **B. The Committee's Review and Investigative Process**

Following the NCBE's announcement to discontinue the UBE and to offer instead the refashioned NextGen UBE, the Supreme Court charged the Ad Hoc Committee with studying the NextGen exam. The Court asked the Committee to elevate public awareness of the issue and the decision-point faced by the Court, solicit input from stakeholders and the public, and, ultimately, submit a report setting forth its views and a recommendation on whether New Jersey should adopt the NextGen exam. The Court also asked the Committee to opine on ancillary decisions that could flow from the adoption of NextGen, including potential implementation date, scoring, and other administrative issues.

To lead the NextGen Committee, the Court selected retired Senior Associate Justice Jaynee LaVecchia to serve as the Chair – a position she held previously when the Court convened the Ad Hoc Committee on the UBE. The membership included representatives of New Jersey's law schools, the Chair of the Board of Bar Examiners, the Statewide Chair of the Committee on Character, the Clerk of the Supreme Court, and distinguished practitioners

from across the state, including representatives from the organized bar. The Executive Manager of the Board of Bar Examiners was designated to serve as staff to the Committee, and the Committee benefitted from the contributions of Counsel to the Committee on Character.

After several initial meetings delving into the background, form, and content of the NextGen exam, the Committee, on February 19, 2025, issued a Notice to the Bar and solicited public input regarding the potential change in the bar examination format. See Appendix C.

The Committee received a small number of comments, and none that opposed the adoption of the NextGen UBE. One commentor favored adopting the NextGen format, and seemed to acknowledge that drafting questions, particularly multiple choice questions, would be cumbersome for the Board of Bar Examiners. The same commentor also favored the addition of New Jersey specific essays to supplement the NextGen UBE, and further suggested that the Committee review NextGen in 2026 after it is administered in other jurisdictions before considering implementation in 2028.

The State Bar Association also submitted a comment in favor of adopting the NextGen UBE. The State Bar highlighted the importance of adequate testing for bar applicants and the benefits of score portability, and determined that the NextGen UBE “presents both advantages.” Based on its assessment, the State Bar

Association recommends the adoption of the NextGen UBE beginning in 2028 to coincide with the exam's implementation in New York. The State Bar further suggests that the Board of Bar Examiners explore whether a written version of the exam could be available for those who experience technological difficulties or who otherwise need an accommodation.

In addition to the comments submitted in response to the Notice to the Bar, the Committee took note of relevant publications regarding the potential adoption of the NextGen UBE. On March 21, 2025, the Law Journal Editorial Board published an editorial supporting the adoption of the NextGen UBE, noting the value of score portability and the impracticality of New Jersey drafting a wholly new exam and calibrating scores without the MBE as a standard-bearer. See Appendix D. Even while endorsing the NextGen UBE, however, the Editorial Board expressed disappointment that Trusts and Estates was not included as a doctrinal area, and expressed hope that the Board of Bar Examiners would test that subject matter as foundational knowledge for New Jersey examinees.

The Editorial Board is not alone in their hope to see Trusts and Estates covered as a Foundational Concept and Principle on the bar exam. Indeed, the organized bar of Trusts and Estates attorneys (e.g., the American College of Trust and Estate Counsel) is bringing national attention to the absence of wills

and estates on the revamped UBE, and calling for it to be added to the NextGen UBE.<sup>21</sup> They observe that Trusts and Estates is an area that touches nearly all members of the public, and they opine that if it is not tested as a foundational concept on the bar exam, students will not be incentivized to take such courses in law school. The result, they contend, will be that new attorneys will not have the knowledge necessary to counsel clients and protect the public in this critical area of the law.

In addition to assessing the substantive content of the exam, the Committee also explored practical considerations of transitioning to a new bar exam, whether that be the NextGen UBE or the possible alternative of administering an exam specific to New Jersey. For those issues, the Committee was fortunate to rely on the considerable expertise of the Court's internal stakeholders and volunteers to inform its understanding of exam drafting and administration.

Our three law school representatives provided the perspectives of legal academic institutions and the experiences of the professors and students who they serve. Schools need time to assess and adapt curricula to ensure coverage of fundamental concepts and skills and to design and staff courses in areas that

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<sup>21</sup> Trust and Estate Talk: The NextGen Bar Exam Threat to Wills and Trusts, ACTEC Foundation (July 2024), <https://actecfoundation.org/podcasts/nextgen-bar-exam-threat-to-wills-trusts/>.

might be expanded on the new bar exam. For example, the NextGen UBE will test skills that have long been a part of a legal education -- such as legal research, legal writing, issue spotting and analysis, etc. -- but also will contain as foundational skills case investigation and evaluation, client counseling and advising, negotiation and dispute resolution, and client relationship and management. The law schools will evaluate the Fundamental Concepts and Principles as well as Skills to ensure that they are prioritized in academic programming, and to ensure that staffing and resources are allocated so students continue to obtain the skills and knowledge necessary to enter the profession. Significant planning time is required to ensure not only that law students have a sound foundation in the doctrinal law that will be tested on the exam, but also that they have practical experience demonstrating that knowledge in the formats that will be relevant to the bar exam, perhaps through the use of integrated question sets for final exams during law school.

Relatedly, the law school administrators advised that students need accurate information to make informed decisions about elective and skills courses. In particular, part-time students who typically are on a four-year schedule are already selecting courses without knowing what concepts and skills the bar exam will cover. Similarly, the full-time students who begin to matriculate in the Fall of 2025 will know that the UBE will not be

administered when they graduate in the Summer of 2028 but they will not know what metric will be used to assess their ability to enter the profession as they begin to contemplate selection of courses and extracurricular activities.

Any fulsome study of whether to adopt the NextGen UBE must consider viable alternatives, and for that inquiry the Committee was informed by the experience of the current and former Chairs of the Board of Bar Examiners and the other bar administrators and volunteers on the Committee. Chair Bindi C. Patel, Esq., and former Chair Elizabeth A. Weiler, Esq., collectively reported on the challenges to New Jersey drafting its own bar exam in a scenario where the MBE is not available for purchase.

As both the Chair and former Chair noted, the Board of Bar Examiners used to draft the essays for the New Jersey Bar Exam. The essays comprised one component of a two-day exam. The other component was the MBE -- the 200 multiple-choice questions purchased from the NCBE and administered throughout the country. The Board of Bar Examiners has no experience with drafting multiple-choice questions, and the time and expertise required to keep pace with generating two exams per year would require the Board to contract with an outside vendor for the multiple-choice questions. Indeed, even if the Board could theoretically draft enough questions for the exam, the Board would have to retain the proper experts to conduct extensive review and pilot

test the questions to ensure they are fair and reliable for all examinees and across testing populations from year-to-year. It was the MBE, a standardized exam offered widely throughout the county, that served as the metric against which our essay scores were calibrated for reliability. Without the MBE as an anchor from year-to-year, the Board would be hampered in guaranteeing reliability and comparability of home-grown exams.

Shortly after the Chair and former Chair reported their collective impression of the infeasibility of drafting our own bar exam, the bar administrators and examinees in California had a regrettably tumultuous experience with their own bar exam. The State Bar of California used a third-party vendor to write a new bar exam and a technology vendor was contracted to deploy the test. The experience was reported as “disastrous.”<sup>22</sup> In the lead up to the exam for which 5,600 originally registered, 1,066 withdrew due in part to issues with testing locations, scheduling issues, technical issues, and communication lapses that distracted applicants from their studies and caused confusion among test takers.<sup>23</sup> For those who took the exam, technical difficulties and customer service problems so substantially affected test takers,

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<sup>22</sup> Julianne Hill, As Fallout Reigns Down, California Considers Return to In-Person Bar Exam, Mar. 4, 2025. See Appendix E.

<sup>23</sup> Orlando Mayorquin, Problems With New California Bar Exam Enrage Test Takers and Cloud Their Futures, N.Y. Times, Mar. 2, 2025. See Appendix F.



that the State Bar of California was forced to consider options for readministering the exam after only the first day.<sup>24</sup> It was reported that the initial dates earmarked for makeup opportunities could not be utilized because of a prohibited online disclosure of an essay question. The ABA Journal quoted one contributor as stating “I feel like if someone were to have predicted the worst-case scenario for the rollout of the new California bar exam, that prediction would have been slightly better than what ended up as the reality.”<sup>25</sup> The State Bar of California has since conducted a hearing and directed general counsel of the Board of Trustees to retain an independent investigator to conduct an investigation into the issues related to the exam.<sup>26</sup> In the meantime, the California Supreme Court lowered the passing score for February 2025 applicants and ordered bar administrators to revert to the NCBE’s MBE.<sup>27</sup> The Committee discussed the disappointing experiences of administrators and examinees and viewed it as a regrettable illustration of the problems that could arise if New Jersey were to create a new exam on an extremely expedited

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<sup>24</sup> Julianne Hill, California Fails New Bar Exam, Offers Retake, ABA Journal, Feb. 26, 2025. See Appendix G.

<sup>25</sup> Ibid.

<sup>26</sup> News Release, The State Bar of California, Board of Trustees Orders Independent Investigation into February 2025 Bar Exam Issues (Mar. 6, 2025). See Appendix H.

<sup>27</sup> Administrative Order, Order Approving Raw Passing Score and Scoring Adjustment for the February 2025 California Bar Examination, No. S290627 (Supreme Court of California May 2, 2025), See Appendix I.

timeline without any of the expertise that we now enjoy from our relationship with the NCBE.

Following its detailed review of the NextGen UBE literature, development documents, sample questions, public comments, and numerous presentations from bar administrators and other stakeholders, the Committee was satisfied that it could answer the predominant question -- in the Committee's respectful view, New Jersey should adopt the NextGen UBE. Although the Committee is disappointed that detailed grading and scoring information is not available and could not be considered as part of its threshold analysis, the Committee understands that the stakeholders cannot continue to wait for a decision. Law schools, law students, and bar administrators need to take preparatory steps now to facilitate an orderly and successful transition to a new bar exam format.

Because of that time sensitivity, the Committee offers this preliminary report endorsing the NextGen UBE, and looks forward to convening again in the Fall to discuss important questions attendant to adopting the NextGen UBE, such as setting a passing score. The Committee respectfully highlights for the Court the additional questions that remain unresolved at this stage, and which the Committee hopes to revisit in the Fall with the Court's permission.

### **C. NextGen is an Accurate Measure of Competence to Practice Law**

In assessing the threshold question of whether to recommend adoption of the NextGen UBE, the Committee approached its task from the perspective of evaluating the exam as a measure to protect the public through a test of minimum competence. As in 2016, when the Court evaluated and blessed the UBE, the fundamental question is whether the NextGen UBE is a fair, accurate, and reliable means of measuring competence to practice law.

Detailed throughout this report are the comprehensive facts and perspectives that the Committee drew upon in its meticulous review of the NextGen UBE's content and development. The Committee notes that the NextGen UBE was created and is being refined utilizing a rigorous process that includes multiple phases of research testing and statistical analysis. The development process is being conducted in accordance with the same best practices in licensure exam development utilized by a broad range of exams, including those for medicine, dentistry, pharmacy, engineering, accounting, and other licensed professions. Questions for the NextGen UBE are written by diverse teams of law professors and deans, practicing attorneys, and judges drawn from jurisdictions throughout the US,<sup>28</sup> which ensures that the exam is written in a way that is sound, neutral, and fair.

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<sup>28</sup> National Conference of Bar Examiners, About the NextGen Uniform Bar Examination, <http://www.ncbex.org/exams/nextgen/about-nextgen> (last visited May 21, 2025).

The Committee also delved deeply into the exhaustive and collaborative process by which the NCBE identified the foundational knowledge and skills to be tested, and agrees that the revisions -- particularly to the skills assessment -- encompass what is expected of a new attorney in the modern practice of law. By expanding the use of task-based and integrated questions, the exam will focus on a broader array of lawyering skills and will call on examinees to demonstrate the professional judgment that is critical of an attorney from the outset of their career. In addition to the critical skills of research, writing, and analysis, which have always been paramount on the exam, examinees will have an opportunity to showcase their abilities in the areas of investigation and evaluation, client counseling and advising, negotiation and dispute resolution, and client relationship and management. In this way, the NextGen UBE, developed consistently with its intent and design, promises to be a more practical assessment of the knowledge necessary to begin one's legal career and the lawyering skills expected of someone starting out in the profession.

The Committee, therefore, is satisfied that the NextGen UBE is an accurate measure of an applicant's minimum competence to practice law and that it will continue to uphold New Jersey's unwavering commitment to protecting the public.

When the Committee assessed the adequacy of the NextGen UBE as a measure of minimum competency, the members took care to address the principles identified by the NCBE as foundational concepts for which doctrinal law (i.e., substantive knowledge) would be tested. The Committee is in general agreement that the core subjects -- Business Associations, Civil Procedure, Constitutional Law, Contract Law, Criminal Law, Evidence, Real Property, Torts, and Family Law (beginning July 2028) -- as detailed and amplified in the Content Scope Outlines, see Appendix J, represent a substantial body of knowledge that all new attorneys should possess.

The Committee is mindful of the concerns raised by those who advocate for the inclusion of Trusts and Estates on the exam. The Committee agrees that Trusts and Estates is an important and expansive area of law that is relevant for most members of the public in some way during their lifetimes. That said, the Committee understands that Trusts and Estates will be tested on every NextGen exam in the coming years with the provision of legal resources. Specifically, the NCBE has guaranteed that Trusts and Estates questions will appear in a performance task and may also be included in integrated question sets. Thus, the Committee is satisfied that Trusts and Estates will be covered in a fashion adequate to approximate a new attorney's interaction with those important topics, where knowledge is certainly an asset for issue spotting but

reliance on resources is encouraged. The Committee would encourage law students to continue to pursue Trusts and Estates coursework during law school to be successful on the bar exam and as a practitioner.

Should there be any doubt, the Committee observes that the subject of Trusts and Estates (along with Family Law) initially were absent from the NextGen UBE, and were added back based on thoughtful feedback from the bench, bar, academia, and other contributors. Based on the NCBE's collaborative process and its demonstrated commitment to upholding the relevancy of the bar exam as a measure of minimum competence, the Committee is confident that the NCBE will continue to monitor Trusts and Estates and make adjustments based on feedback from the courts and bar administrators, when necessary. Any concerns about the absence of the topic were allayed by the fact that it will be tested and its viability assessed in a systematic and scientific way.

Finally, as an additional measure of assurance regarding Trusts and Estates, New Jersey has the benefit of estate planning and estate administration being included as two of the subjects emphasized for newly admitted attorneys to engage with as part of their mandatory CLE requirements. In New Jersey, newly admitted attorneys must obtain sixteen credits in any six of the following twelve subjects during the first full two-year compliance period:

New Jersey basic estate administration; New Jersey basic estate planning; New Jersey civil or criminal trial preparation; New Jersey family law practice; New Jersey real estate closing procedures; New Jersey attorney trust and business account fundamentals; New Jersey landlord/tenant practice; New Jersey municipal court practice; New Jersey law office management; New Jersey administrative law; New Jersey labor and employment law; and New Jersey workers' compensation law.

[See BCLE Reg. 201:2.]

To satisfy the rule, those courses must be not only topical but specific to New Jersey practice, which fosters an attorney's knowledge not only of these important topics overall, but as pertains to the practice of law in this state.

On a related note, the Committee acknowledges that the shorter duration of the exam (1 ½ days instead of 2 days) leaves room for the addition of a new component to assess the examinees' knowledge of New Jersey specific law. The Committee discussed that possibility and notes its receipt of a public comment opining that the shorter duration of the NextGen UBE leaves room for a jurisdiction-specific assessment.

After discussing the issue, the Committee declines to recommend the addition of a new component to licensure that would test the examinees' knowledge of specific New Jersey laws. The Committee is mindful that the Court declined to adopt that approach in 2016 when it implemented the UBE, and instead has continued to ensure familiarity with New Jersey law through the educational requirements applicable to newly admitted attorneys.

Specifically, the Court requires new attorneys to study New Jersey legal topics through dedicated coursework in areas of local law, see BCLE Reg. 201:2, including the subjects the Court has identified as priority areas of knowledge for newly admitted attorneys. The requirements were designed to ensure that newly admitted attorneys are knowledgeable on current New Jersey law in important areas and possess the skills necessary to fulfill their professional obligations to New Jersey clients. The Committee sees no reason to deviate from that education-based approach to ensuring knowledge of New Jersey law.

#### **D. Score Portability**

Having determined that the NextGen UBE is an effective measure of competency, the Committee turned to consider whether New Jersey should embrace the exam in lieu of the current testing paradigm. Throughout the course of its deliberations, the Committee discussed portability as a considerable advantage that would be lost if New Jersey exited the symbiotic UBE relationship. As noted above, transferrable scores (a function of participation in the UBE and soon-to-be NextGen UBE) allow applicants to earn a score that can be used to apply for admission in other UBE jurisdictions. In addition to other benefits, portability recognizes that the modern practice of law increasingly calls for geographic flexibility and multijurisdictional practice. Of course, each jurisdiction retains control of their individual



application and admission requirements, including character review, transfer timelines, and passing scores. Thus, the benefits of score portability and professional autonomy inure to the benefit of attorneys and their employers without undermining the Court’s authority to set limits on the practice of law in this state. Those attorneys who are called upon to relocate for work or service reasons, such as military spouses, are particularly well served by earning scores that are transferrable for a limited period of time.<sup>29</sup>

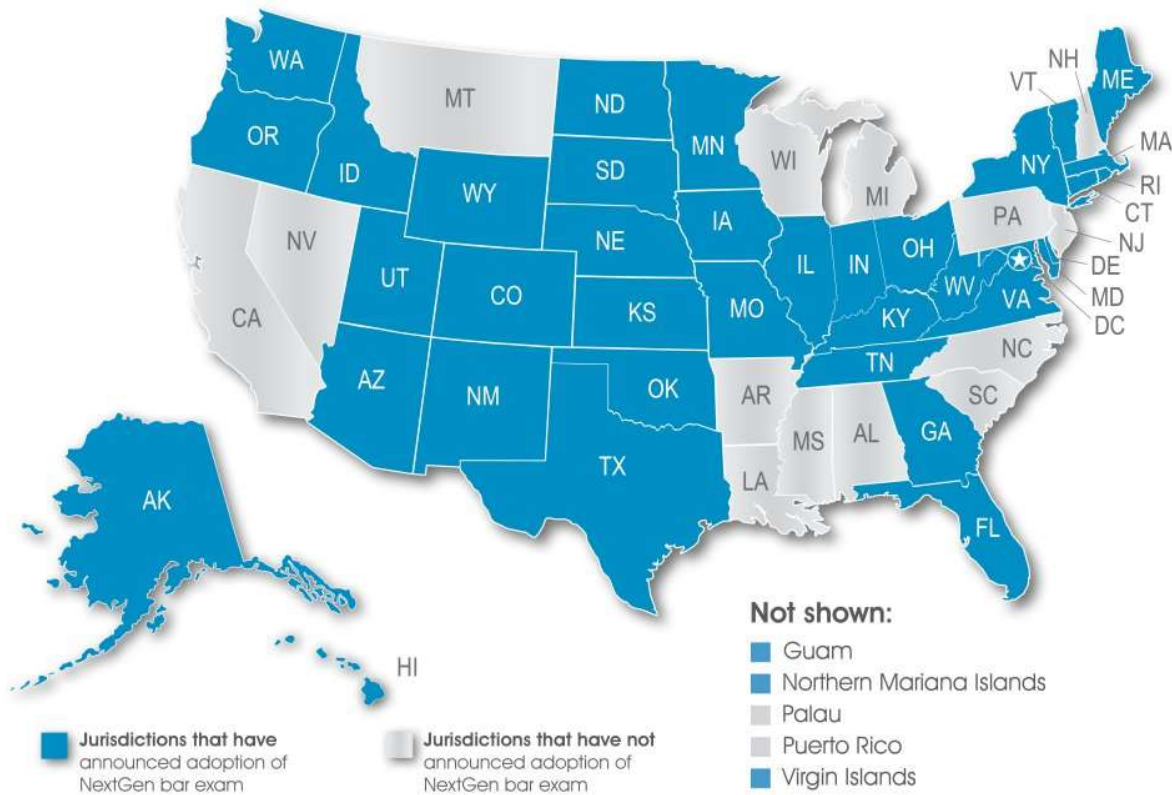
Importantly, New Jersey’s legal profession is particularly affected by score portability because the overwhelming majority of those who hold a New Jersey license also hold a license in another jurisdiction. Most notably, 46% of New Jersey’s attorneys are also licensed in New York, and 27% are also licensed in Pennsylvania. Of those two jurisdictions, New York already has announced its adoption of the NextGen exam beginning in July 2028,<sup>30</sup> and the Committee understands that Pennsylvania (currently a UBE jurisdiction) is considering adoption of the NextGen exam as well.

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<sup>29</sup> For completeness, the Committee notes that in addition to score transfers available to newly admitted attorneys who took a recent UBE, there are additional ways that practitioners may gain admission in New Jersey based on their licensure and practice experience elsewhere. See, e.g., R. 1:24-4 (Admission by motion for more experienced attorneys who meet certain criteria); R. 1:27-4 (Temporary admission of a Military Spouse during military assignment).

<sup>30</sup> State of New York Court of Appeals, Notice to the Bar: NextGen Bar Examination (Jan. 8, 2025), available at <https://www.nycourts.gov/ctapps/news/nottobar/nottobar010825.pdf>.

Currently, there are forty-one jurisdictions that administer the UBE and forty have announced their adoption of the NextGen exam in the coming years.



[Source: National Conference of Bar Examiners, Jurisdictions, <https://www.ncbex.org/exams/nextgen> (last visited May 21, 2025).]

Notably, the list of jurisdictions adopting the NextGen UBE presently includes eight jurisdictions (Delaware, Florida, Georgia, Guam, Hawaii, Northern Mariana Islands, South Dakota, and Virginia) that were among the few that did not previously administer the current UBE.<sup>31</sup> Their adoption of

<sup>31</sup> See National Conference of Bar Examiners, Uniform Bar Examination, <http://www.ncbex.org/exams/list-ube-jurisdictions> (last visited May 13, 2025).

the NextGen UBE renders score portability an even greater benefit for those who participate in the uniform exam.

As in 2016, when the Court adopted the UBE, the decisions of other jurisdictions, and particularly our neighboring states, weigh in favor of transitioning to the NextGen UBE, since a significant majority of jurisdictions will phase in that new format in the next three years. Although the Committee would not endorse the NextGen UBE simply to follow the crowd, the Committee cannot ignore the considerable benefit of score portability that would be lost if New Jersey did not embrace the NextGen UBE. Having independently confirmed that the NextGen UBE will satisfactorily measure competency to practice law, the Committee is confident that the NextGen UBE will protect the public while also maintaining score portability and professional flexibility, particularly in a state where practitioners serve clients in multiple legal markets and routinely seek dual licensure.

#### **E. Practical Barriers to Drafting and Administering a New Jersey Specific Examination**

On a practical note, the continuation of the UBE beyond February 2028 is not an option since the NCBE will stop producing that exam. One might consider the feasibility of returning to something akin to the pre-UBE format, when the Board of Bar Examiners drafted the essay questions for the exam. But such an endeavor would be an unprecedented undertaking when one

considers that the MBE will no longer be available for purchase. The unavailability of the multiple-choice questions would be a loss in terms of both exam content and as a means to calibrate essay scores.

The Committee agrees that knowledge of New Jersey law is important for newly admitted attorneys, but it cannot conclude that stepping back from the uniform exam is the best and fairest way to achieve that end. To the contrary, the Committee notes that the Board of Bar Examiners has had a long and successful relationship with the NCBE, which currently provides testing materials in some derivation to nearly all jurisdictions. Indeed, the Committee is satisfied that the professional, proactive approach that the NCBE took to assess the bar exam, and the methodical and collaborative measures it implemented to develop and refine the NextGen UBE has resulted in a test that will be fair and reliable for all examinees. In the Committee's view, an individual jurisdiction, regardless of size, simply could not marshal the resources necessary to derive a product of comparable quality and reliability, and certainly not by July 2028. To attempt to do so without an infusion of financial and staffing resources would be a disservice to the examinees and the public who rely on the Court and the Board to accurately, fairly, and consistently assess competency to enter the profession.

## **F. Time-Sensitive Preparation for Successful Implementation**

In addition to considering whether to recommend adoption of the new exam format, the Committee discussed ancillary issues related to the discontinuation of the UBE and the introduction of a new exam format and platform. The most prominent secondary consideration is when to implement a new exam. The Committee's discussion on this topic was thoughtful and brief, as the group quickly coalesced around recommending July 2028 for implementation of the NextGen UBE, and not sooner.

In advancing July 2028 as the proposed implementation date, the Committee took note of the significant preparatory work that must be done by the law schools, law students, and bar administrators before a new bar exam is administered. In addition to the curricular and pedagogical changes that might be needed at the law school level, there are administrative considerations for the Board of Bar Examiners to address to ensure a smooth transition. The orderly administration of the exam is critical not only for those who sit for the high-stakes exam, but also for the public who relies on the bar exam to accurately and predictably measure minimum competency to practice law.

It would be daunting if not impossible to enumerate the countless administrative considerations that go into planning and executing a successful standardized test on the scale of the bar exam. That said, an example can

illustrate the way that a new exam, and in this case a new testing platform, must be evaluated from an administrative standpoint.

Currently, the overwhelming majority of applicants elect to take the UBE on their laptops, although a paper copy is available. The current exam content is delivered through a secure application that runs offline, meaning that the applicant does not need to have internet access during the exam. Answers are uploaded securely when the test concludes and applicants connect to the Internet. Like the current UBE, the NextGen UBE will be taken on examinees' own laptops at in-person, proctored testing locations. However, unlike the current UBE, the NextGen UBE will require a wifi connection, and a paper copy of the exam would be available only for examinees requiring an ADA accommodation.<sup>32</sup> The Board of Bar Examiners will need to revisit its agreements with existing vendors to ensure that adequate bandwidth is available to accommodate wifi usage on that scale. According to Board staff, the need for wifi will not be a barrier to the administration of the NextGen exam, but it is offered in this report as an example of just one new

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<sup>32</sup> In their public comment, the State Bar Association recommends that the Court press the NCBE for the availability of a paper copy for those who experience a technological failure during the exam. We recommend that the Court seek clarity from the NCBE regarding that issue, and whether a paper copy is a suitable way to address an individual examinee's technological issue during the exam.

consideration that must be addressed methodically so that a secure, user-friendly experience can be assured to the fullest extent possible.

In addition to accommodating the preparation that must be done to implement a new exam, the July 2028 date serves two other important goals. It maintains alignment between New Jersey and New York test takers (with New York having announced its implementation of the NextGen UBE for July 2028), and allows the maximum amount of time for the NCBE to monitor and adjust the exam after its launch in 2026. Based on the significant body of materials related to its careful development, the Committee has confidence that the NextGen UBE will be professionally administered from inception. That said, the Committee believes that there is no downside to waiting until July 2028 when the lived experiences of other jurisdictions can inform our planning and the NCBE will have had the opportunity to fold in feedback from those who were early adopters of the new format.

## **V. ADDITIONAL CONSIDERATIONS**

As noted throughout, the Committee is confident that the NextGen UBE is an appropriate measure of the knowledge and skills necessary for licensure in New Jersey, and on that basis, recommends its adoption for the July 2028 administration of the bar exam. With that having been said, the Committee highlights two areas for the Court's further consideration. The Committee welcomes the opportunity to continue its work and to submit a supplemental report to the Court when relevant information becomes available.

### **A. Continue to Monitor Grading and Scoring Protocols and Assess the Sufficiency of Scoring Concordance**

Although much has been written about the content and skills to be tested on the exam, and the development of the exam itself, little has been issued on the topic of grading and scoring.

Grading and scoring presumably are concepts that take shape after the test content has been identified and the material substantially developed. Indeed, the prototype exam, which took place in October 2024, was an opportunity for the NCBE to deploy the grading processes then in development and to receive feedback from experienced exam administrators and other legal professionals.

As the next phase of that ongoing work, the NCBE has a Notional Standard-Setting Study scheduled for May 2025. That standard setting



exercise will use content-based data gathered during the 2024 prototype exam to ensure that responses are grounded in the skills and knowledge necessary for entry-level practice. Overall, using a competency-based model of assessment, administrators from across the country will be trying to determine the most accepted answer and expected performance for each NextGen UBE question.

Over the course of two-and-one-half days, the NCBE’s psychometric team will assist participants from forty-three jurisdictions in the standard-setting exercise, with further assistance provided by an outside psychometric and research team -- the Human Resources Research Organization (HumRRO).<sup>33</sup> Those participants will include attorneys who supervise newly licensed attorneys (and may include graders from individual jurisdictions), trial level judges with recent and significant experience with newly licensed attorneys, law faculty (including clinical faculty), and early-career lawyers with fewer than seven years in practice. The outcome of the National Standard-Setting Study is intended to provide data from a national sample to

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<sup>33</sup> HumRRO is a nonprofit corporation that “conducts studies to ensure that the various components of an educational assessment system are soundly built and solidly linked.” Human Resources Research Organization, Education Research & Evaluation, <https://www.humrro.org/corpsite/what-we-do/education-research-evaluation/> (last visited May 21, 2025).

inform each jurisdiction's individual policy decisions about the appropriate passing score for the NextGen UBE.

Finally, following that National Study, the NCBE will offer a concordance table to assist each jurisdiction in making an independent decision about passing score. Comparative scoring data will be used from candidates who took a recent UBE and the October 2024 prototype of the NextGen UBE. In essence, the concordance is expected to offer score equivalences between the UBE and the NextGen UBE. The NCBE has committed to releasing the concordance in July 2025.

While the standard-setting workshop and the concordance table are distinct efforts, the outcome of the standard-setting will be considered by the NCBE's psychometricians in the concordance table. The Committee expects that the score concordance material will be detailed and well tested with the benefit of the experts and psychometricians that the NCBE utilized throughout the development and implementation of the NextGen UBE. If the Court finds that tool lacking as an aid in setting a passing score, it may wish to outreach to the NCBE for greater clarity and refinement, given the resources available to the national organization.

Because those efforts regarding grading and scoring are ongoing and the resources intended to aid each jurisdiction's analysis are not yet available, the

Committee is not able to propose a passing score or even offer any comment on the subject. At this juncture, the Committee is only able to repeat the observation shared by the UBE Committee in 2016 -- namely, that implementing a change to the passing score at the same time as adopting a new exam format would prevent an apples-to-apples comparison of examinee performance on the new exam. Besides that given, and without the forthcoming concordance, the Committee is not in a position to comment on an appropriate passing score at this time. That said, the Committee did not want to delay until the Fall or Winter of 2025 to address the pressing question of the NextGen UBE's adoption. The Committee is interested in the topic and would be pleased to continue its work and to reengage with the material in the Fall of 2025 after the scoring concordance has been issued, if that would aid the Court in its decision-making.

#### **B. Acceptance of NextGen UBE Scores Prior to July 2028**

A final question of administration bears mention in this report. If New Jersey adopts the NextGen UBE for July 2028, the Court must determine how it will treat UBE and NextGen UBE scores earned in other jurisdictions during the overlap period from July 2026 to February 2028, when both exam formats are being administered across the country. The Committee presumes that the Court will continue to accept UBE scores through the last available

administration in February 2028, since New Jersey will still be administering that exam if the Court adopts the recommendations of this Committee. The more nuanced question is whether New Jersey will begin to accept NextGen UBE scores for the purpose of allowing applicants to seek admission in New Jersey based on a NextGen UBE score earned in another jurisdiction (from July 2026 through February 2028). The NCBE and the bar administration community appear to view the transferability of NextGen UBE scores as a given once a jurisdiction has announced an intent to offer the new exam at some date in the future. That said, the Committee took time to consider the possibilities and to include a recommendation here.

Having determined that the NextGen UBE is an accurate measure of competency that was thoughtfully and methodically developed, and based on the desire to foster score portability, the Committee recommends that the Court begin to accept NextGen UBE scores for transfer before administering the exam in this state. That approach also was taken in 2016 when the Court announced its adoption of the UBE and permitted the transfer of scores before the Board first administered the UBE in New Jersey in 2017. Should the Court wish to have more information, the Committee would be happy to delve more fully into the topic and to file a supplemental report with the Court.

## **VI. RECOMMENDATIONS**

In light of the above findings, the Committee respectfully recommends that New Jersey adopt the NextGen UBE as a replacement for the current bar exam format, effective with the July 2028 administration.

The Committee believes that the NextGen UBE is a thoughtful evolution of the licensure exam that is keyed to the skills and knowledge necessary for an attorney entering the profession. The refined format, including the introduction of integrated question sets, blends long-tested competencies such as reading, writing, and legal analysis, with the skills of investigation and evaluation, client counseling and advising, negotiation and dispute resolution, and client relationship and management. This enhancement to the format is a natural extension of the practical approach that the Court embraced when adopting the UBE (and with it, the MPT performance-based test), and ensures that the bar exam remains a relevant and reliable tool for measuring ability to practice law. The Committee is of the view that, if the NextGen UBE continues to fulfill the promise of its design and all accounts to date, it will provide an enhanced gauge of an applicant's competency upon entry into the profession.

In addition to the independent assessment of the NextGen UBE's sufficiency, the Committee's recommendation is bolstered by our state's more-

than-fifty-year history of success with the proven, quality products we have garnered from the NCBE. The Committee is confident that the material is well-written and well-researched, and therefore an appropriate tool to protect the public as a measure of competency to practice law. The test material also will be offered through a secure platform and with a range of assistive technologies, both of which are critical for a modern bar exam administration.

Embracing the NextGen UBE will continue New Jersey on the path set in 2016 when the Court entered into a symbiotic and synergistic relationship with other UBE jurisdictions with the introduction of the benefit of score portability for newly admitted attorneys. The value that transferrable scores have bestowed on new attorneys and their employers since 2016 cannot be overstated. Adopting the NextGen UBE will continue to foster professional mobility, autonomy, and versatility -- all of which are particularly relevant for New Jersey practitioners and are increasingly desirable in the current and evolving legal market.

The Committee is confident that this course will benefit New Jersey's legal community and protect the public through the continued administration of a rigorous and relevant licensure exam. The Committee welcomes the opportunity to address any questions, and will gladly reconvene, with any

direction from the Court, to delve further into the issues that were not ripe as of the date of this report, including those related to grading and scoring.

## COMMITTEE MEMBERSHIP

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### *Staff:*

Karen June – Executive Manager, Board of Bar Examiners

Sahbra Jacobs, Esq. – Counsel to the Committee on Character



## APPENDICES

- Appendix A: National Conference of Bar Examiners, Overview of Recommendations for the Next Generation of the Bar Examination (2021).
- Appendix B: National Conference of Bar Examiners, Background Information on the Next Generation of the Bar Examination (Spring 2024).
- Appendix C: Notice to the Bar (Feb. 19, 2025).
- Appendix D: Law Journal Editorial Board, We Support NextGen Bar Exam but Urge Continued Testing for Wills and Trusts, Mar. 21, 2025.
- Appendix E: Julianne Hill, As Fallout Reigns Down, California Considers Return to In-Person Bar Exam, Mar. 4, 2025.
- Appendix F: Orlando Mayorquin, Problems with New California Bar Exam Enrage Test Takers and Cloud Their Futures, N.Y. Times, Mar. 2, 2025.
- Appendix G: Julianne Hill, California Fails New Bar Exam, Offers Retake, ABA Journal, Feb. 26, 2025.
- Appendix H: News Release, The State Bar of California, Board of Trustees Orders Independent Investigation into February 2025 Bar Exam Issues (Mar. 6, 2025).
- Appendix I: Administrative Order, Order Approving Raw Passing Score and Scoring Adjustment for the February 2025 California Bar Examination, No. S290627 (Supreme Court of California May 2, 2025).
- Appendix J: NextGen Bar Exam Content Scope Outlines (May 2023).