

Developing Additional
Pathways to Admission
to the Oregon State Bar

OSB Licensure Pathways Developmental Committee

ORS 9.220

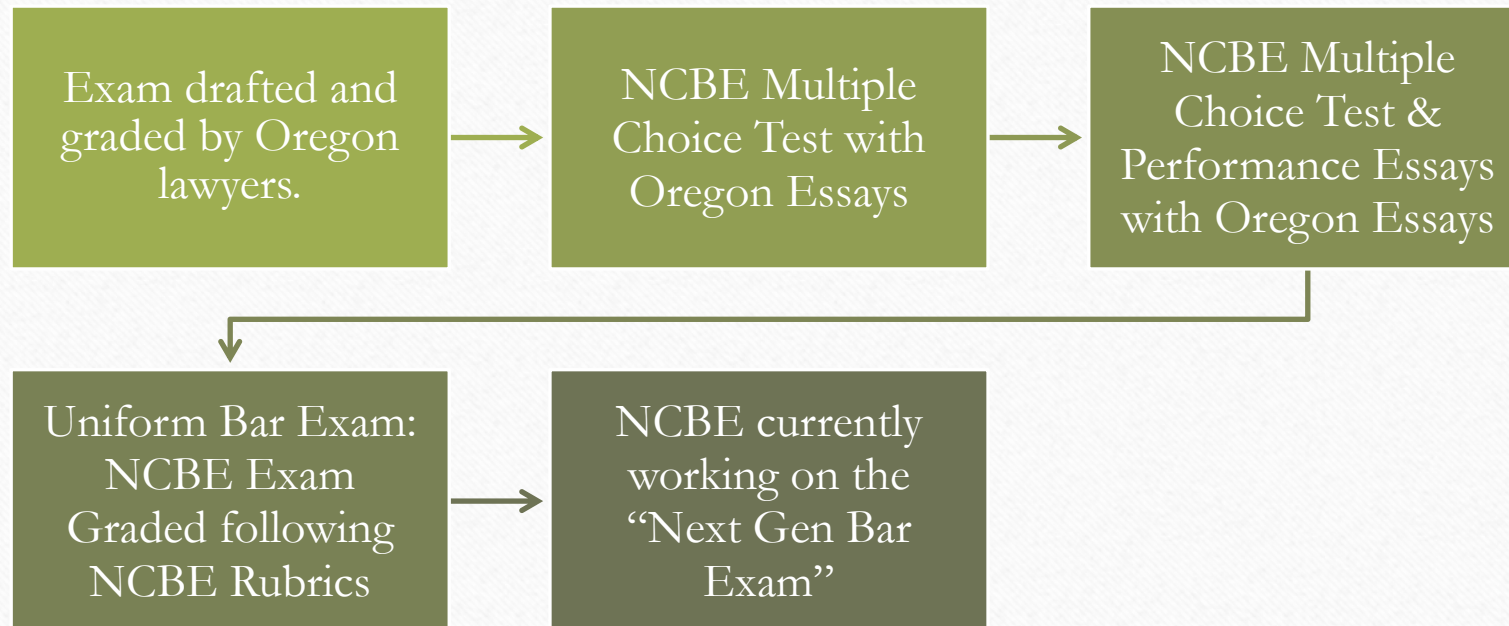
Requirements
for admission
to practice in
Oregon.

Demonstrate to Supreme Court the applicant is:

- 18 years old.
- Is a person of good moral character and fit to practice law.
- Has the requisite learning and ability necessary for admission.

Supreme Court directs the Oregon Board of Bar Examiners to make recommendations on admission consistent with this statute.

“Requisite learning & ability”
has traditionally been demonstrated through a bar exam,
but the bar exam itself has evolved over the years.



2020 “Diploma Privilege”

In addition to offering a bar examination in February, July and October 2020, the spring of 2020, the Supreme Court granted diploma privilege to applicants to the July 2020 Oregon Bar Examination who:

- Had graduated in 2020 (or who will graduate in 2020) from an Oregon law school
- OR
- 2020 graduates from all ABA-accredited law schools if the law school had a first-time pass rate of at least 86% in 2019.

In September 2020, the Oregon Supreme Court directed the Oregon Board of Bar Examiners (BBX) to convene a task force to explore whether—in addition to the Uniform Bar Exam (UBE)—are there other pathways to admission Court should consider?

Court Sought Alternatives to, Not Replacement for, Bar Examination

Bar Exam Will Continue

- Scalable Measure (hundreds of people can take it annually);
- Portable: an Oregon applicant can use their UBE score in 40 other jurisdictions;
- History of Success as to *Admitted Members*: Members admitted via this pathway are largely proven to be competent.
 - Must acknowledge that success of those admitted does not address whether there are applicants who have the requisite learning and ability who do not get admitted via this pathway

Bar Exam will Continue to Evolve

- NCBE Next Gen Bar Exam
 - Over the next five years, NCBE is entirely revamping the exam to create the “NextGen Bar Exam” that it believes will more effectively “assesses knowledge and skills holistically, with a mix of item types and formats.”
<https://nextgenbarexam.ncbex.org/>
- Task force would explore whether there should be other valid pathways to admission.

Alternatives to the Exam Task Force: Organizing Principles

ENSURE CONSUMER PROTECTION

- Develop programs that are designed to ensure all licensed attorneys are competent to practice law:
- Oregon Essential Eligibility Requirements
(<https://taskforces.osbar.org/files/RFA1.20and1.25EssentialEligibilityRequirementandGuidelinesforAdmission.pdf>)
- IAALS Report on Building a Better Bar
(https://iaals.du.edu/sites/default/files/documents/publications/building_a_better_bar.pdf)

INCREASE EQUITY

- Remove unnecessary barriers to admission.
- Provide alternatives to expand the way applicants can demonstrate requisite learning and ability.

ENSURE BBX OVERSIGHT

While attorneys /educators will be heavily involved, the BBX will maintain the responsibility of assessing whether an applicant has the requisite learning and ability to practice. The Court will continue to make the final decision on admission.

Alternatives to the Exam Task Force: Process

- ATE explored what was being done in other jurisdictions:
 - Wisconsin model – “Diploma Privilege”
 - New Hampshire Model – Experiential curriculum
 - Canada/Utah/Washington D.C. Model – apprenticeship/supervised practice
- ATE focused not on adopting another jurisdictions approach, but developing a program that would work in Oregon.
- ATE recommended two additional pathways to Court in reports issued in June 2021 & November 2021 (<https://taskforces.osbar.org/files/Bar-Exam-Alternatives-TFReport.pdf>)
- In January 2022, the Court authorized development of two additional pathways for consideration: Supervised Practice Pathway (SPP) // Oregon Experiential Pathway (OEP)

Oregon Experiential Pathway

Modeled after New Hampshire's Daniel Webster's Honors Program

2L and 3L years focused on experiential learning and courses critical for practice

- Curriculum to be developed between the BBX and Oregon law schools, but (a) must be approved by the Court and (b) will be structured so it can be adopted by schools in other jurisdictions.
- Key components:
 - Mix of guided experiential learning (clinics or experiential courses) and externships
 - Practice-based courses like evidence, ethics, administrative law, statutory interpretation, criminal procedure, etc.

BBX Review of “Portfolio” work product produced throughout 2L and 3L year

- Feedback from BBX allows for course correction if applicant is not meeting standards
- Simulated real world work samples allow a true assessment of competence to practice

Following a ramp up period, BBX anticipates the pathway would be open to all students who are able to participate in the required curriculum in law school

Supervised Practice Pathway

Post-graduation (paid) apprenticeship for 1000-1500 hours of legal work under qualified supervising attorneys

- Qualified supervisors defined by regulation; supervisors given training (CLE) and have clear guidelines for supervision.
- Supervisors can be changed during the program either to increase diversity of practice or to change employers.
- What constitutes legal work explicitly defined by regulation to ensure that is substantive legal work, legal education, practice management training.
- Diversity of legal training accomplished through CLE requirements and/or a legal “scavenger hunt” requirement (modeled after a Delaware program (<https://www.courts.delaware.gov/forms/download.aspx?id=28478>))
- When the hours can be earned covered by regulation so that there is flexibility but the training is sufficiently timely to be deemed meaningful.

BBX Review of a Portfolio of Work Product throughout the apprenticeship

- Assessment of real and simulated work samples allows a true assessment of competence to practice.
- Feedback from BBX allows for course correction if applicant is not meeting standards

Open to any applicant qualified to sit for the Oregon Bar Exam

Three pathways at the end of the process: UBE / SPP / OEP

Breadth of knowledge requirements in all pathways

- Examination categories in UBE
- Mandatory courses through the OEP
- CLE requirements or “scavenger hunt” requirements for the SPP

The Board of Bar Examiners continues to make the recommendation to the Supreme Court regarding admission

- Applicants must meet all other requirements for admission
- BBX continues:
 - To grade the UBE of Oregon applicants
 - Review work of SPP / OEP applicants

Flexible Options for Applicants

- Applicants can pursue admission in each distinct pathway simultaneously or sequentially.
- For example, a student who completes an OEP curriculum can opt to take the UBE to secure a portable score; a recent grad who opts to take the UBE in July and fails, may opt to enter the SPP; that SPP applicant while completing those program requirements, can take the UBE again.

Addressing Equity Concerns of Each Pathway

- NCBE NextGen Bar Exam (and continued evolution)
- OEP
 - Concern: Program is exclusionary ► following ramp-up period, making it accessible to larger and larger cohorts
 - Concern: Non-blind grading of work product may introduce bias ► work with experienced professors and psychometrician to identify a rubric that applies to all students' work to limit possible bias
- SPP
 - Concern: Applicant feels “trapped” with bad supervisor ► allow for multiple supervisors
 - Concern: First generation students struggle with finding supervisors ► leverage Oregon's first-year mentorship and other bar associations to assist applicants with finding supervisors (as program develops, attempt to create partnerships that match apprentices to need (e.g., corporate sponsor funding an apprentice position at a non-profit)
- Multiple pathways to admission (hopefully) mitigates overall equity concerns
- Recognize it is an on-going effort that does not stop when a program is adopted

Outreach Process

- Licensing Pathways Development Committee (LPDC) is crafting the parameters of these pathways now
- LPDC has tried to invite as many bar associations and affinity groups as possible to serve as liaisons to keep the process transparent, hear suggestions and keep membership informed.
- If you are apart of an organization that is interested in joining in this process, please reach out. [EMAIL](#)
- For more information on the LPDC (including materials, feedback session dates, and public meeting schedule): [Website.](#)
- If you would like to provide public comment on this proposal, please visit: [QR Code](#)