

出國類別：考察

美國、日本 律師考選業務參訪報告

服務機關：考選部

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派赴國家：美國、日本

出國期間：96年8月6日至14日

報告日期：96年11月

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壹、前言

一、緣起

近十餘年來，我國在政治、文化、社會、經濟等方面正面臨全球化與國際化之鉅大挑戰，尤其是在進入 WTO 後以及近年來在 APEC 積極推動專業人才交流之下，本部各項專門職業及技術人員考試制度，莫不謀求改革以應付當前社會的變遷。

我國司法官、檢察官、律師之養成制度，無論是在教育、考試或訓練方面，長期以來可說並無重大變革，雖然從民國 88 年起即有「三合一」之結論建議，惟經多次送立法院審議結果，至今仍未定案。反觀日本起步稍晚卻已於去年進入改革實施階段，鑑於日本主要的改革方向是學習美國法學院（Law school）制度，故除日本法務省外另選擇美國東西兩岸不同特性之州，分別拜訪其考選機構，並收集相關資料，就其制度上之異同作進一步之比較，以供本部考試相關業務改進之參考。

二、考察項目

（一）美國律師公會及全美律師考試聯合會方面

1. 美國律師之社會評價為何？律師公會的角色為何？是否所有律師都要加入公會？

What is the society's evaluation of lawyers in the United States? What role do lawyers' associations play? Is it required for lawyers to join the professional association?

2. 美國法官由資深優秀之律師轉任，此項制度的優缺點為何？

What are the advantages and disadvantages of the system of American judges being chosen from among seasoned and distinguished lawyers?

3.美國律師考試應考者須在全國律師公會所認可之法學院(Law School)畢業，請問如何建立法學教育認可制度？

Given that candidates for the bar exam must have graduated from law schools accredited by the national lawyers' association, how is the system for evaluating and certifying the education of the law schools established?

4.法學院學生入學條件為何？

What are the prerequisites for students to enter law school?

5.請問律師考試委員處理準則(Code of Recommended Standards for Bar Examiners)內容為何？

What is the content of the Code of Recommended Standards for Bar Examiners?

6.美國律師考試報名時，是否調查應考人個人紀錄？如個人之刑事紀錄與破產紀錄。

When candidates register for the bar examination, is there a check on their personal background? For example, records of criminal activity or bankruptcy?

7.美國律師考試前是否需實務經驗？如有，如何審查確認？

Is practical work experience a precondition for taking the bar examination? If so, how can this be verified and certified?

8.美國律師考試是否有部分科目或全部免試之規定？

Are there any provisions allowing full or partial exemption from the bar examination?

9.請問下列考試內容及目的：

Please explain the content and the purpose of the following examinations:

(1)聯合多州律師考試(the Multi-state Bar Examination, MBE)。

(2)聯合多州申論考試(the Multi-state Essay Examination, MEE)。

(3)聯合多州職業責任考試(the Multi-state Professional Responsibility Examination, MPRE)。

(4)聯合多州實作考試(the Multi-state Performance Test, MPT)。

10.美國律師考試是否公布命題委員名單？命題委員有無酬勞？

Are the names of those who serve as question drafters for the bar examination made public? Is remuneration given to the question drafters?

11.美國律師考試及格率為何？及格人數及素質是否符合社會需求？

What is the rate of passing the bar examination? Do the numbers and quality of those who pass meet the demands of society?

(二) 華府高等法院律師登錄委員會、馬里蘭州律師考試委員會、加州律師公會等方面：

1.美國律師之社會評價為何？律師公會的角色為何？是否所有律師都要加入公會？

What is the society's evaluation of lawyers in the United States? What role do lawyers' associations play? Is it required for lawyers to join the professional association?

2.美國法官由資深優秀之律師轉任，此項制度的優缺點為何？

What are the advantages and disadvantages of the system of American judges being chosen from among seasoned and distinguished lawyers?

3. D.C.律師考試應考資格為何？

What are the eligibility prerequisites for the D.C. bar examination?

4. D.C.律師考試報名時，是否調查應考人個人紀錄？如個人之刑事紀錄與破產紀錄，應考人反應如何？

When candidates register for the D.C. bar examination, is there a check on their personal background? For example, records of criminal activity or bankruptcy? What are the candidates' reaction to this?

5. D.C.律師考試前是否需實務經驗？如有，如何審查確認？

Is practical work experience a precondition for taking the D.C. bar examination? If so, how can this be verified and certified?

6. D.C.律師考試是否有部分科目或全部免試之規定？
Are there any provisions allowing full or partial exemption from the D.C. bar examination?

7. D.C.律師考試方式為何？試題採測驗題或申論題？
What is the means of testing in the D.C. bar examination? Are the questions multiple-choice or essay?

8. D.C.律師考試是否將職業倫理納入考試範圍？
Is professional ethics included in the scope of the D.C. bar examination?

9. D.C.律師考試是否均採電腦化測驗？
Does the D.C. bar examination utilize fully computerized testing?

10. D.C.律師考試及格率為何？及格人數及素質是否符合社會需求？
What is the rate of passing the D.C. bar examination? Do the numbers and quality of those who pass meet the demands of society?

(三) 日本法務省方面

1. 司法試験報名時，是否調查應考人個人紀錄？
受願者の個人情報をおらかじめ調べますか？
2. 司法試験考試前是否需實務經驗？如有，如何審查確認？
受験者の實務經驗は必要ですか？どのように審査しますか？
3. 司法試験是否採行分試？如有，有無第一試免試規定？
司法試験は第一次と第二次試験に分けますか？第一次試験が免除になるのはどのような場合ですか？
4. 司法試験考試方式為何？試題採測驗題或申論題？
司法試験はどのような試験ですか？試験問題は短答式（択一式）それとも論文式ですか？
5. 司法試験是否採電腦化測驗？每年辦理幾次？是否建立題庫？
司法試験はコンピュータ化になりますか？毎年何回に実施されますか？試験問題を作成するための試験問題集（question bank）が作られますか？
6. 司法試験是否公布命題委員名單？命題委員有無酬勞？
司法試験考査委員名簿が公布されますか？考査委員に報酬を出しますか？
7. 司法試験如何處理試題疑義？試題與答案是否公布？
試験問題の疑義はどのように処置しますか？試験問題と正解が公布されますか？
8. 司法試験及格率為何？及格人數及素質是否符合社會需求？
司法試験の合格率は？合格者数とその質は社会情勢

にこたえることができますか？

9. 日本法官、檢察官及律師之社會評價為何？請說明法務省的角色。

日本の裁判官、檢察官、弁護士の社会評価は？また、法務省の役割について説明してください。

10. 日本之「司法試験」、將司法官與律師考試「合考合訓」、請問此項制度之背景為何？考試及格者訓練方式為何？訓練費用由誰負擔？及格人員如何選擇擔任法官、檢察官或律師？

日本司法試験は「試験」と「司法修習」を結合します。この制度の趣旨は？司法修習はどのように実施されますか？修習のため、費用は要りますか？司法修習終了者の進路はどのように選択しますか？

11. 日本司法制度改革審議會的改革內容為何？新的法科大學院架構為何？

日本司法制度改革審議會の改革内容は？法科大学院の仕組みは？

12. 日本法學改革後之司法試験，其應考資格為何？舊制有無過渡期保障其應考資格？

司法試験制度の改正した後、受験資格はどのようになりますか？旧司法試験と新司法試験の併行実施期間中において、旧司法試験に関する経過措置は？

13. 法學改革後之司法試験是否評估？評估結果如何？司法試験制度の改正について検討しますか？その結果は？

貳、訪察機構介紹

本次出國訪察期間自本（96）年 8 月 6 日起至 8 月 14 日止，共計 9 天。分別於美國拜訪 4 個單位，於日本拜訪 1 個單位，現分別扼要介紹如下：

一、美國方面

（一）美國律師公會華府辦公室（American Bar Association D.C. Office）：

美國為聯邦制國家，各州都有獨立的司法機構，長期以來各州都建立自己的律師考試制度，故在應考資格、考試類科、以及及格標準等各方面均有不同的規定，雖各州有不同之制度，但在一些非營利組織努力之下，也建立了一些共同標準或基礎，供各州參考選用，亦可減少重複浪費，如美國律師公會及美國律師考試聯合會。

本次拜訪由該會亞洲區 Program & Finance Associate, Ms. Theresa Luong, 及 Program Manager, Mr. Xie Gang 二人負責接待，並經該會協助下與總部設在威斯康辛州之美國律師考試聯合會（National Conference of Bar Examiners, NCBE）總裁 Ms. Erica Moeser (President of NCBE, co-Editor of the "Comprehensive Guide to Bar Admission Requirements 2007", and Vice Chairman of the 2006-2007 Bar Admissions Committee) 以語音遠距會議 (Teleconference) 方式進行交談。

美國律師公會早於 1878 年即已於紐約成立，當時僅有 21 州 100 位律師為會員，截至 2006 年其會員已超過 41 萬 3 千人以上，包含執業律師、法官、法院行政人員、法學教授及學生、公職律師及其他政府企業人士等，可說是世界上最龐大的專業組織。該會並無懲處律師的權力，其年度預算超過美金 10 億元，其主要工作

包括全美法學院教育評鑑工作（截至今（2007）年 6 月以前，經該會評鑑通過之法學院除軍事院校外共計有 195 所，其中有 8 所僅暫時通過）、提供永續司法教育課程、提供律師及法官相關法律資訊及對律師與法官在工作上提供一些協助計畫。其主要目的除為了不斷提升司法專業水準外，也積極發展一些自律規範以期所有律師及司法人員能為民眾提供更好的服務。

美國律師考試委員聯合會成立於 1931 年，是一個非營利性組織，其主要任務是與一些學術機構合作針對律師考試應考資格有關教育及品德方面發展維護並提供一套合理且也一致性之標準，同時提供統一且高品質之試題供各州試務機關選用，以及提供相關資訊及調查服務。其中四種考試試題如下：

- a. **MBE** (Multi-state bar examination 選擇題)
- b. **MEE** (Multi-state essay examination 申論題)
- c. **MPT** (Multi-state performance Test 實作能力測驗)
- d. **MPRE** (Multi-state Professional Responsibility Examination 專業責任測驗)

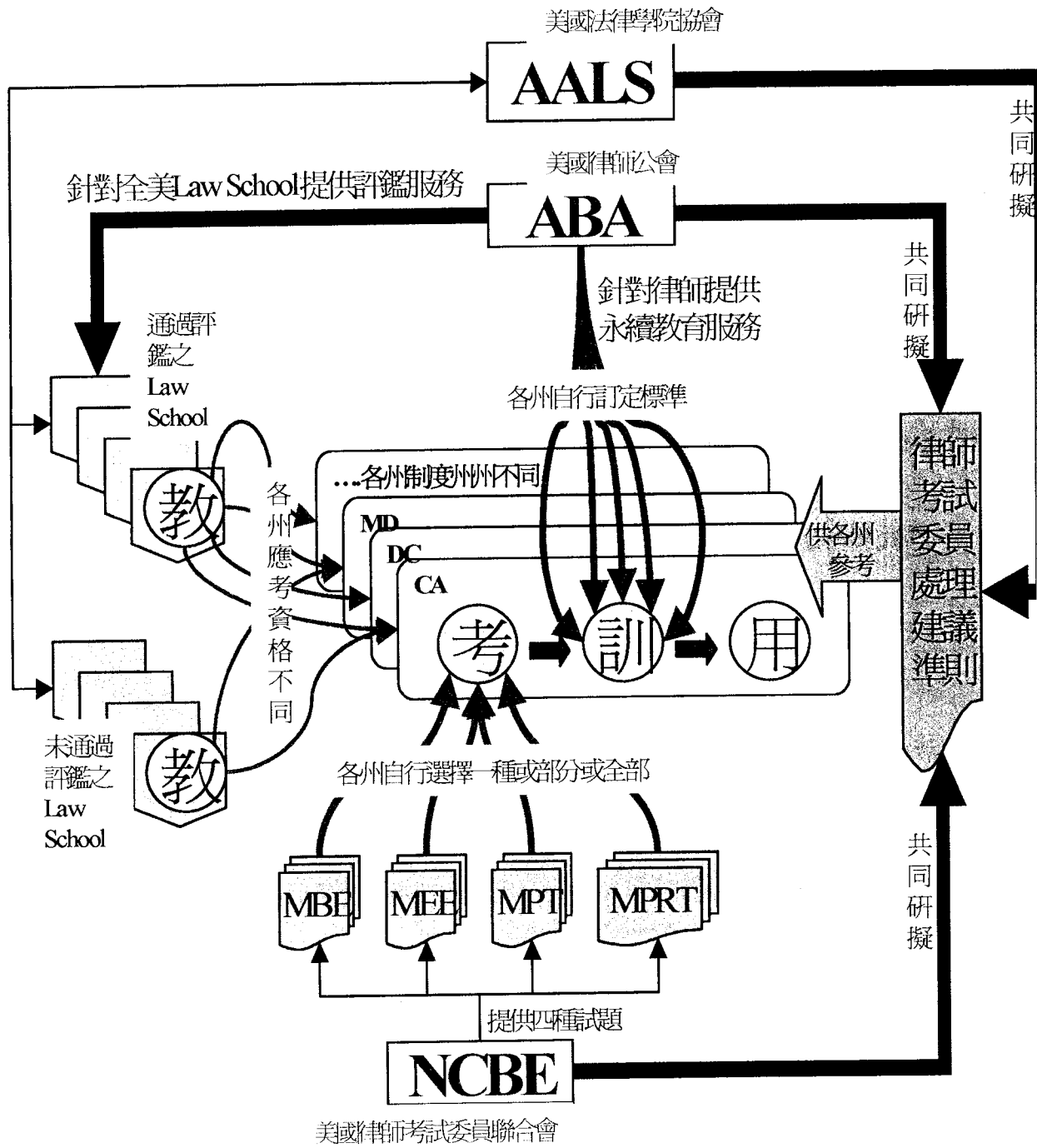
各州可自行選擇一種或部分或全部，再配合各州自行命題之類科部分合併辦理之。採用較多的是 **MBE**（2007 年共有 53 州或區採用），已形成全美國律師聯考最重要的部分，每年 2 次，分別在 2 月底和 7 月底舉行，均為選擇題共 200 題，考畢由 NCBE 統一閱卷，並負責成績傳送服務。其次是 **MPRE**（2007 年已有 52 州或區採用）一年 3 次，均為選擇題共 60 題，其中 10 題為預試用，滿分為 100 分，各州及格標準亦不一，加州是 79 分，華府特區是 75 分，而馬里蘭州則未採用，但成績全國有效。**MEE** 及 **MPT** 部分則由各州自行選題或命題，且均由各州自行評閱，所有成績計算均採量尺化，及格標準亦由各州自行訂定。四種考試試題內容特性如下表一：

表一：四種試題特性對照比較表

	MBE	MEE	MPT	MPRE
考試內容	法律知識	實務與寫作	法律事實分析能力,組織管理溝通及解決問題之能力	律師職業行為
題型	(單)選擇題	申論題	申論題	(複)選擇題
題數	200題(含10題預試)	各州可自選6題	各州可自選1-3套	60題(含10題預試)
考試次數	每年2、7月	每年2、7月	各州併MEE組合	每年3、8、11月
考試節次	上午1節 下午1節	1節		1節
考試時間	每節3小時	3小時	90分/每套	2小時
閱卷方式	集中NCBE	各州自閱, NCBE提供樣本答案	各州自閱, NCBE提供評分指南	集中NCBE
2007年採用州數含特區	53	19	33	52

在美國各類民間專業團體向來歷史久遠,組織功能強大,運作也非常健全,在律師方面也不例外,除了美國律師公會(ABA)及美國律師考試委員聯合會(NCBE)外,較重要的尚有美國法律學院協會(The Association of American Law Schools, AALS),無論在律師教育、考試或訓練方面對各州均提供莫大的助益,其組織分工關聯圖如下圖一:

圖一、美國律師考選機構關聯圖



早於 1959 年，在上述三機構共同努力之下，即已擬定律師考試委員處理準則 (Code of Recommended Standards for Bar Examiners) 一種，作為各州辦理考試業務之共同基礎，其主要項目內容綱要如下表二：

表二、律師考試委員處理準則綱要

項目	內容
I. 考試委員 (BAR EXAMINERS)	1. Qualifications. 2. Tenure. 3. Conflicts of Interest.
II. 應考資格 (ELIGIBILITY OF APPLICANTS)	4. Burden of Proof. 5. College Education. 6. Law School Education.
III. 品行道德與合適性 (MORAL CHARACTER AND FITNESS)	7. Purpose. 8. Organization and Funding. 9. Development and Publication of Standards. 10. The Investigative Process. 11. Confidentiality and Due Process. 12. Standard of Character and Fitness. 13. Relevant Conduct. 14. Access to Information. 15. Use of Information.
IV. 律師考試 (BAR EXAMINATIONS)	16. Necessity of Written Examination. 17. Opportunity for Examination. 18. Purpose of Examination. 19. Subjects of Examination. 20. Questions and Format. 21. Preparation of Questions. 22. Handicapped Applicants.
V. 閱卷評分 (GRADING BAR EXAMINATIONS)	23. Non-Identity Grading. 24. Grading Process. 25. Rights of Failing Applicants. 26. Re-examination.
VI. 試政試務管理 (ADMINISTRATION)	27. Adequacy of Staff. 28. Publication of Results. 29. Periodic Studies. 30. Conferences with Applicants. 31. Committee on Cooperation.

【詳細內容請參考 <http://www.ncbex.org/comprehensive-guide-to-bar-admissions/>】

(二) 華府高等法院律師登錄委員會 (Committee on Admissions of D.C. Courts of Appeals) :

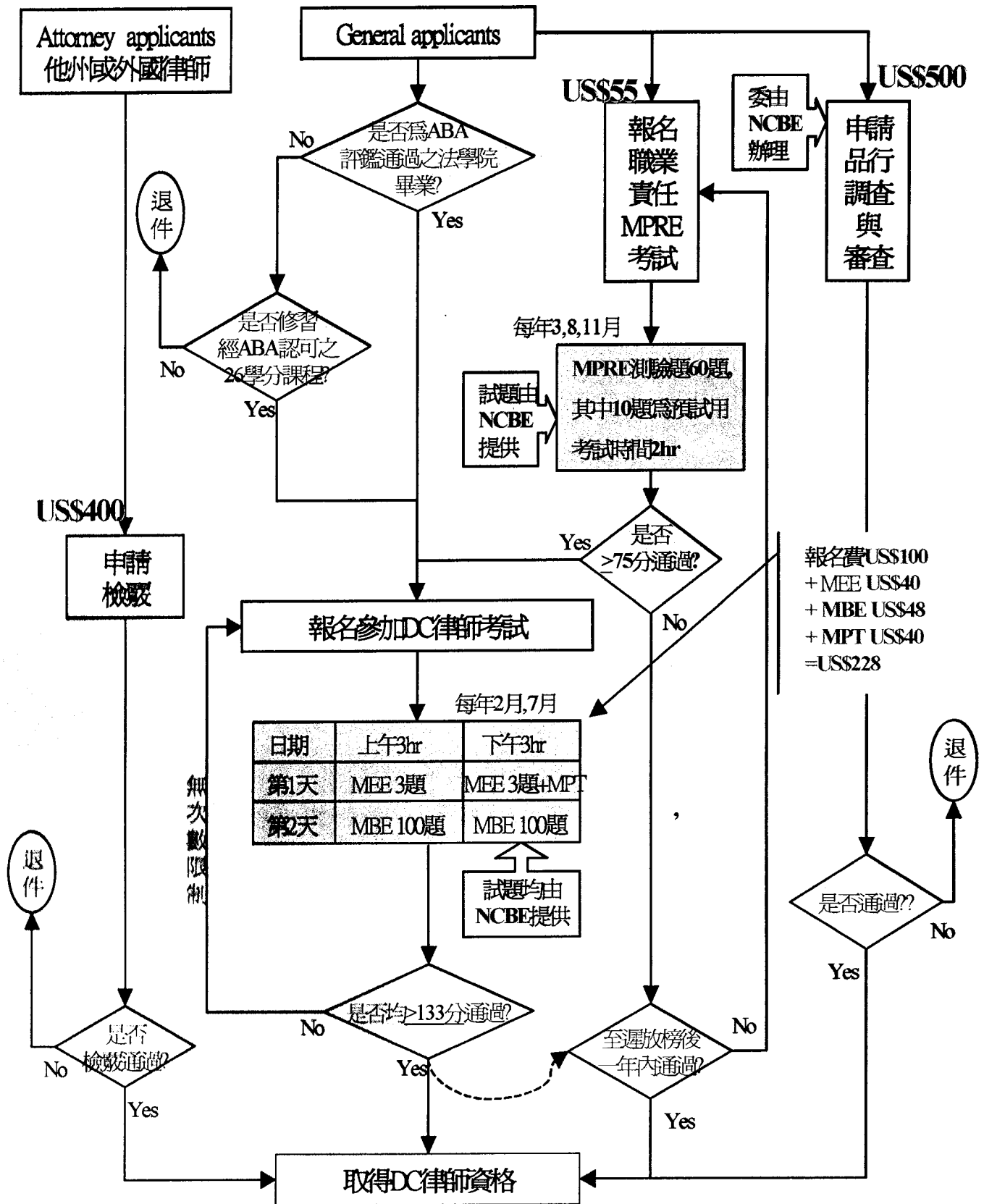
美國華府所在之哥倫比亞特區，人口約 572,059 人，律師執業人數為 45,231 人 (2007 年統計)，人口數與律師人數比約為 13 比 1。近 10 年來律師考試及格率有逐漸下降趨勢，最高為 59%，近 4 年來 (2003 至 2006) 均下降至 51%，每年及格人數平均約 350 人左右。因國會之授權在聯邦上訴法院 (United States Court of Appeals，相當於我國高等法院) 組織下設律師執業許可委員會 (Committee on Admission)，該委員會行政人員僅 6 人，其中 1 人相當於試務主任 (Director)，負責舉辦律師考試、檢覈、登錄及管理等行政業務。本次拜訪即由該試務主任 Ms. Jacqueline Smith 及其助理 2 人負責接待。

在考試政策或專業方面則另經法院任命考試委員若干人，負責品德與適任性等實質審查工作，考試委員為榮譽職，任期 3 年，得連任 1 次。考試委員通常為該法院轄區內的法律專家及聲譽卓著之資深律師。

在考試試務方面其相關流程如圖二，另較特別之處說明如下：

- 1、因組織人力較簡，各項考試均採用 NCBE 提供之 MBE、MEE、MPT、MPRE 等試題，甚至連同品德調查亦委由 NCBE 辦理，最後由考試委員確認。
- 2、在申論題閱卷方面，特別針對及格邊緣者 (量尺化後，低於及格標準 5 分者) 進行複閱，本部之閱卷則係針對及格邊緣者採形式觀察，僅檢查是否有遺漏或計分錯誤等，而不複閱。
- 3、放榜後試卷可開放閱覽，惟限制 3 小時，所有試卷只保留 30 天後銷燬。且不接受試題疑義處理，因試題皆由 NCBE 提供。
- 4、對執業律師並無永續教育之規定。

圖二：美國 DC 律師考試流程



(三) 馬里蘭州律師考試委員會 (State Board of Law Examiners of MD) :

馬里蘭州人口約 5,296,486 人，律師執業人數為 20,999 人(2007 年統計)，人口數與律師人數比約為 252 比 1。近 10 年來律師考試及格率呈小幅變動，平均在 65%左右，每年及格人數平均約 1,400 人左右。馬里蘭州的法院管轄區域除州政府所在地外，其他地區可分成 7 個巡迴法院 (Circuit Courts)，最高法院 (Court of Appeals) 除於每個巡迴法院選派一位擔任考試委員會委員共 7 人外，亦針對每個巡迴區成立一個品德委員會 (Character Committee)，每個委員會至少有 5 位委員，任期為 5 年，且為有給職，負責審查各應考人之品德與適任性，其主席亦由最高法院指派。另由最高法院指定秘書 1 人 (即 Character & Fitness 部門主管) 及工作人員 6 人負責所有行政工作，同時亦指派若干具律師身分者擔任該考試委員會之有給職助理。本次拜訪即由該委員會 Character & Fitness 部門主管 Ms. Hergenroeder 負責接待。

在考試試務方面其相關流程如圖三，另較特別之處說明如下：

1、品德審查：

任何應考人均須填寫申請表忠實回答各項問題向品德審查委員會申請，審查過程包含面談、確認申請者每項回答是否真實、評估申請者是否適合擔任律師，最後將調查報告送交該州律師考試委員會並提出是否通過之建議。如初審未獲通過，考試委員會可安排聽證會，申請者可再提出證明。無論初審通過與否，最後均須通過法院之複審。

2、錄取標準及量尺化：

錄取標準為總分 406 分，其總分計算公式如下：

$$\text{Total Scale Score} = (\text{Essay Scale Score} \times 2) + \text{MBE Scale Score}$$

其中 $\text{Essay Scale Score} = [(A-B)/C][D] + E$, where

A = the sum of the applicant's raw scores on the 12 Essay questions

B = the mean of the A values across all applicants

C = the standard deviation of the A values across all applicants

D = the standard deviation of the Maryland applicants' MBE scale scores

E = the mean of the Maryland applicants' MBE scale scores

3、複閱政策 (REGRADE POLICY) :

複閱標準因隨時會變動, 故複閱標準並不對外公布, 僅供內部作業依據。目前係針對低於標準以下 10 分者 (即 396 to 405 分) 就申論題部分展開複閱, 唯複閱僅限於放榜之前, 放榜後則不接受複閱申請或控訴 (**NO FURTHER REGRADE PROCEDURE AND NO APPEAL IS PERMITTED**)。

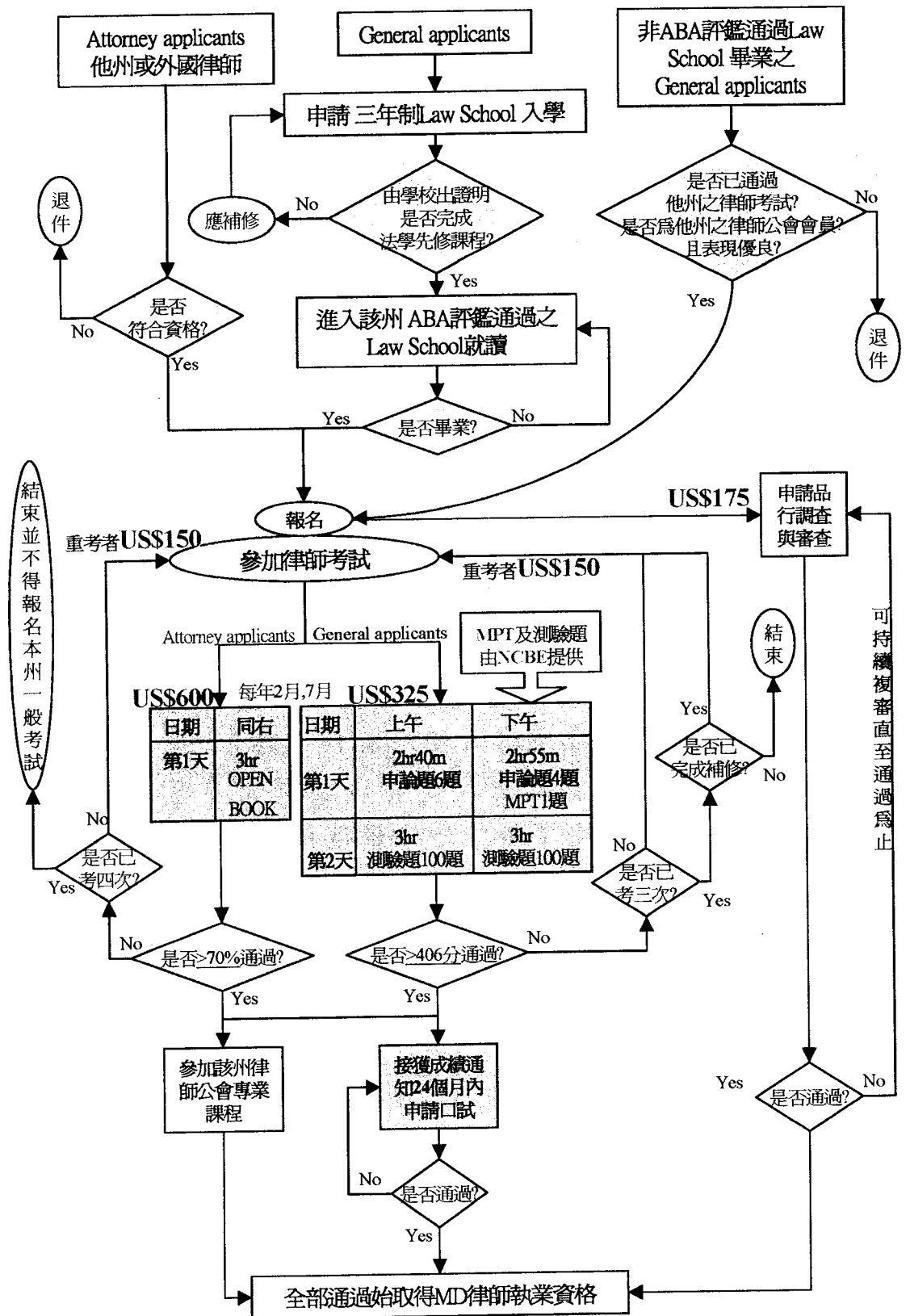
4、公布好答案 (good answer) 及答題分析 :

為了讓應考人檢討其作答情形, 考試委員會針對每一申論題除了就當次應考人中選擇作答較佳之答案 (除了拼字外不作任何修正) 公布外, 亦就每一申論題在法律原則及案例方面進行答題分析。

5、申論題線上作答 :

申論題部分應考人可申請自備手提電腦 (Laptop computer) 作答 (需向專責服務公司繳額外費用), 目前僅提供 480 座位 (佔報名總人數 1/4), 依申請次序安排座位至額滿為止。考場集中於一處已備妥區域網路, 應考人須先行測試, 如臨時發生狀況, 可就地於原座位上改紙筆作答。

圖三：美國馬里蘭州律師考試流程



(四) 加州律師公會 (State Bar of California) :

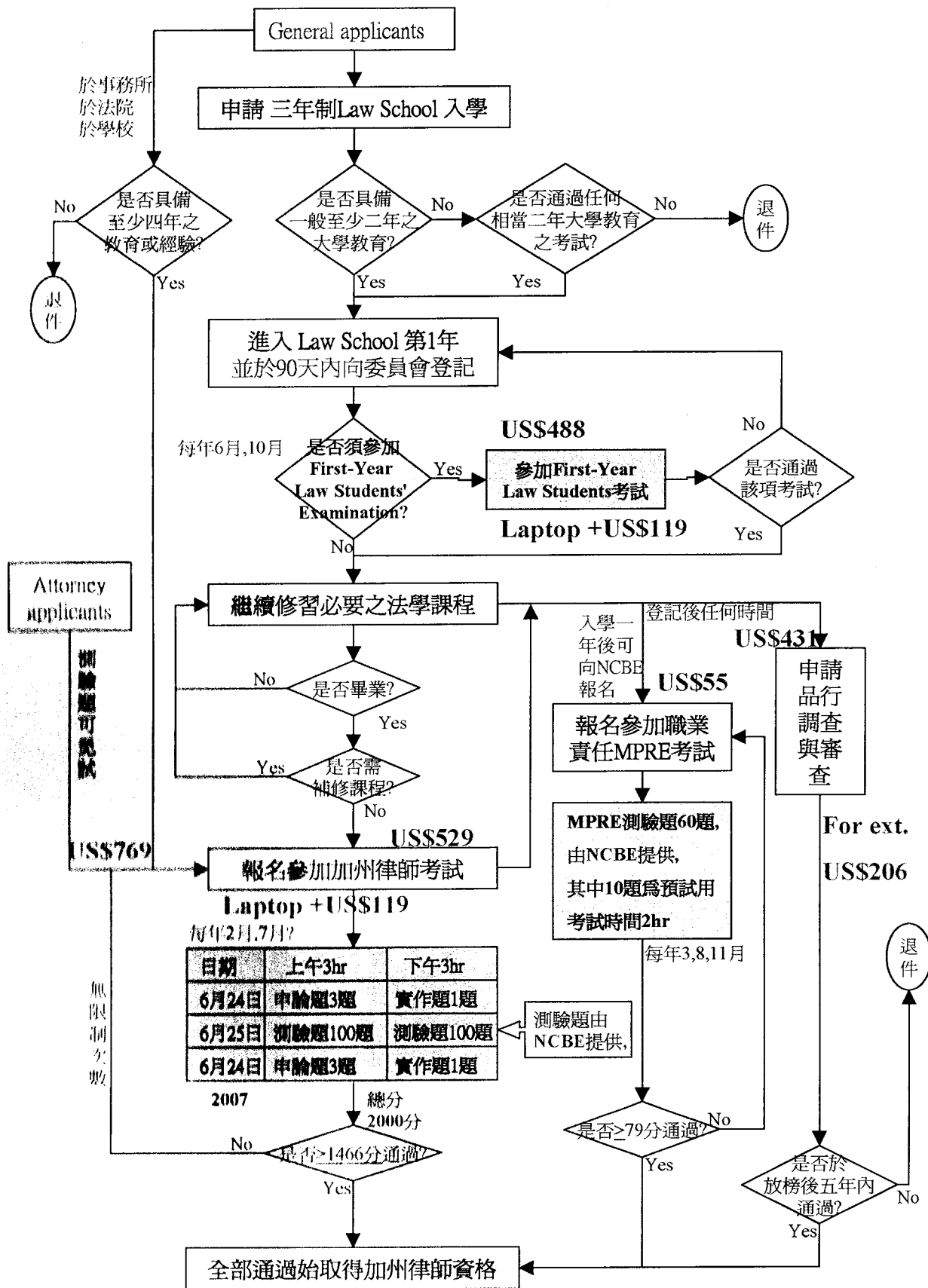
加州律師之考試與職業管理係於 1927 年經加州最高法院授權由該州律師公會統籌負責，該公會組織龐大，依任務之不同分設 8 個部門，工作人員超過 600 餘人，每年預算超過 9,000 萬美元，大部分均來自報名費與會費。統計至 2006 年 1 月止該公會會員人數達 202,000 人，其中律師執業人數為 145,355 人 (2007 年統計)，加州人口約 33,871,648 人，人口數與律師人數比約為 233 比 1。近 10 年來律師考試及格率呈小幅震盪，平均在 47% 左右，為全美及格率最低之州，因報名人數較多，故每年及格人數平均高達 6,500 人左右。

加州因位居西岸，外來移民較多，故考試制度與其他各州顯有不同，據 2006 年 7 月與 2007 年 2 月兩次考試統計結果，其一般應考人與他州律師、各種不同型態之法學院、不同人種以及性別等之到考人數、及格人數、及格率均有詳細之統計，其中仍以通過 ABA 評鑑之法學院及格率最高，外國律師報考者及格率約 10~20%。白種人及格率較高約為 50~70%，亞洲人其次約為 40~60%，性別方面則差異不大。另外針對 2006 年各種不同型態之法學院之及格率亦有詳細之統計，其中經 ABA 評鑑通過且位於加州之各法學院中報名人數最多約為 4,000 人左右，以史丹福大學之法學院及格率高達 89% 為最高，至於加州以外經 ABA 評鑑通過之法學院報名人數亦不少，約為 1,500 人，其中以哈佛大學人數 111 人及格者 103 人，及格率高達 93% (詳如附錄一)。該公會曾於 2005 至 2006 年期間從會員中挑選 1,771 人辦理問卷調查，其中 1,134 人係從資料庫中隨機抽樣，且經過當面訪談者有 1,038 人。調查報告 (詳如附錄二) 中指出近 5 年來超過 54 歲之律師增加了 10%，為各年齡層人數最多者；人種方面仍維持不變，以白種人最多高達 84% 左右；在女性及 LGBT (Lesbian, Gay, Bisexual, Transgender) 方面，則有略增趨勢，目前已達

5.2%；在公司組成方面有大公司減少小公司增多之現象；在業務方面則以民眾爭訟 16%及商業簽約 14%為最多；整體而言，工作時數有增加而待遇有下降趨勢，或許已顯示該州律師人數已漸趨飽合狀態。本次拜訪係由該局 Director for Examinations, Mr. Dean E. Barbieri 及其助理二人負責接待。在考試試務方面其相關流程如圖四，另較特別之處說明如下：

- 1、教育條件方面：加州並不限於須經 ABA 評鑑通過之法學院，其他各種型態之法學院均可報考，惟須於進入法學院後 90 天內應向該公會登記，並視修習法學課程狀況而決定是否須參加 First-Year LAW Students 考試，通過者才能開始修課，在報名時尚需審查各階段課程是否均修習完畢，否則應補修。
- 2、應考資格方面：除一般法學院畢業者外，加州亦開放其他於律師事務所或法院或於大學任教而至少有四年以上經驗者亦得報考，他州律師亦可直接報名考試，且測驗題 (MBE) 部分可免試。
- 3、命題及閱卷方面：除 MBE、MPRE 係採用 NCBE 試題外，其餘申論題均由該公會自行命題及閱卷，均採單題評閱，申論題佔 65%，測驗題佔 35%，總分為 2000 分，及格標準為 1466 分。
- 4、重考限制方面：一般律師考試並無次數限制，未及格者均可再次報考，惟筆試通過後，而品德審查尚未通過者，筆試成績至多保留 5 年，如經 5 年仍未通過，則筆試成績將取消，而無法取得加州律師資格。
- 5、申論題線上作答：如同 Maryland 州律師考試，申論題部分應考人可申請自備手提電腦 (Laptop computer) 作答，也需向專責服務公司 (與 Maryland 州相同) 繳額外費用。應考人須先行測試，如臨時發生狀況，可就地於原座位上改紙筆作答。

圖四、美國加州律師考試流程

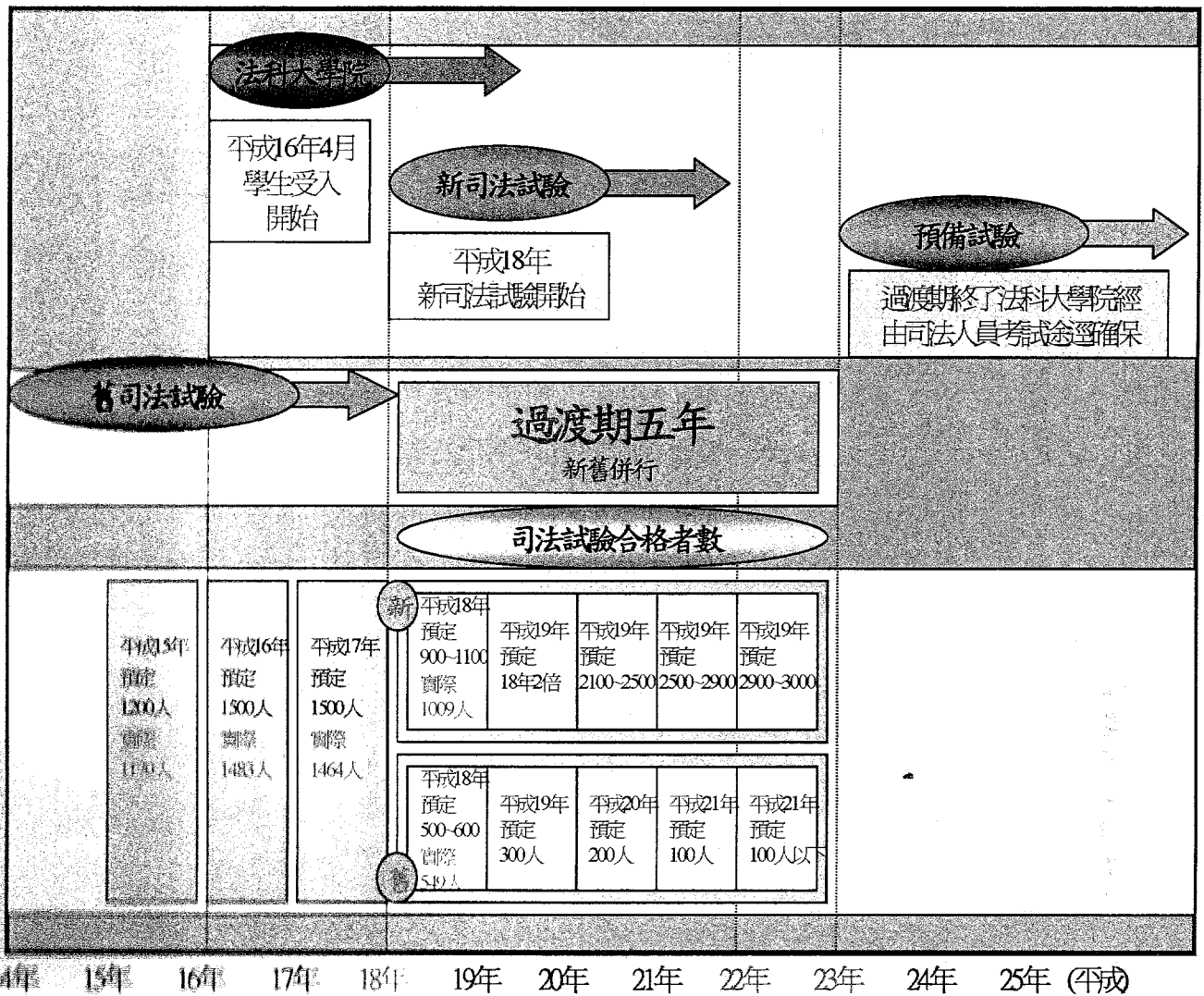


二、日本法務省

日本鑑於國內社會、經濟環境的複雜多樣化及因應國際情勢的詭譎多變與全球化時代之趨勢，同時為適應新時代對法律專業人員質與量的要求，1999年6月國會公布『司法制度改革審議會設置法』，同年7月設司法制度改革審議會，並參照美國 Law School 模式，將大學的法學教育與律師、司法人員考試及訓練制度相結合，法學教育界和司法實務界並提出建立「法科大學院」（即法律專業研究所）構想。2001年6月成立司法制度改革推進本部，2002年制定『法科大學院教育與司法試驗相銜接的法律』及『部分修改司法試驗法和法院法的法律』，並自2004年4月1日起正式實施法科大學院教育。去年（2006年）5月針對首屆法科大學院畢業生開始舉辦新司法考試。實施新制主要是為建立法官、檢察官、律師三者統一的司法考試制度，統一選拔標準，將司法考試制度定位在「以判斷是否具備擔任法官、檢察官、律師所需學識和應用能力為目的」。本次參訪由該省大臣官房司法法治部部付，野原一郎負責接待。日本實施新制特點如下：

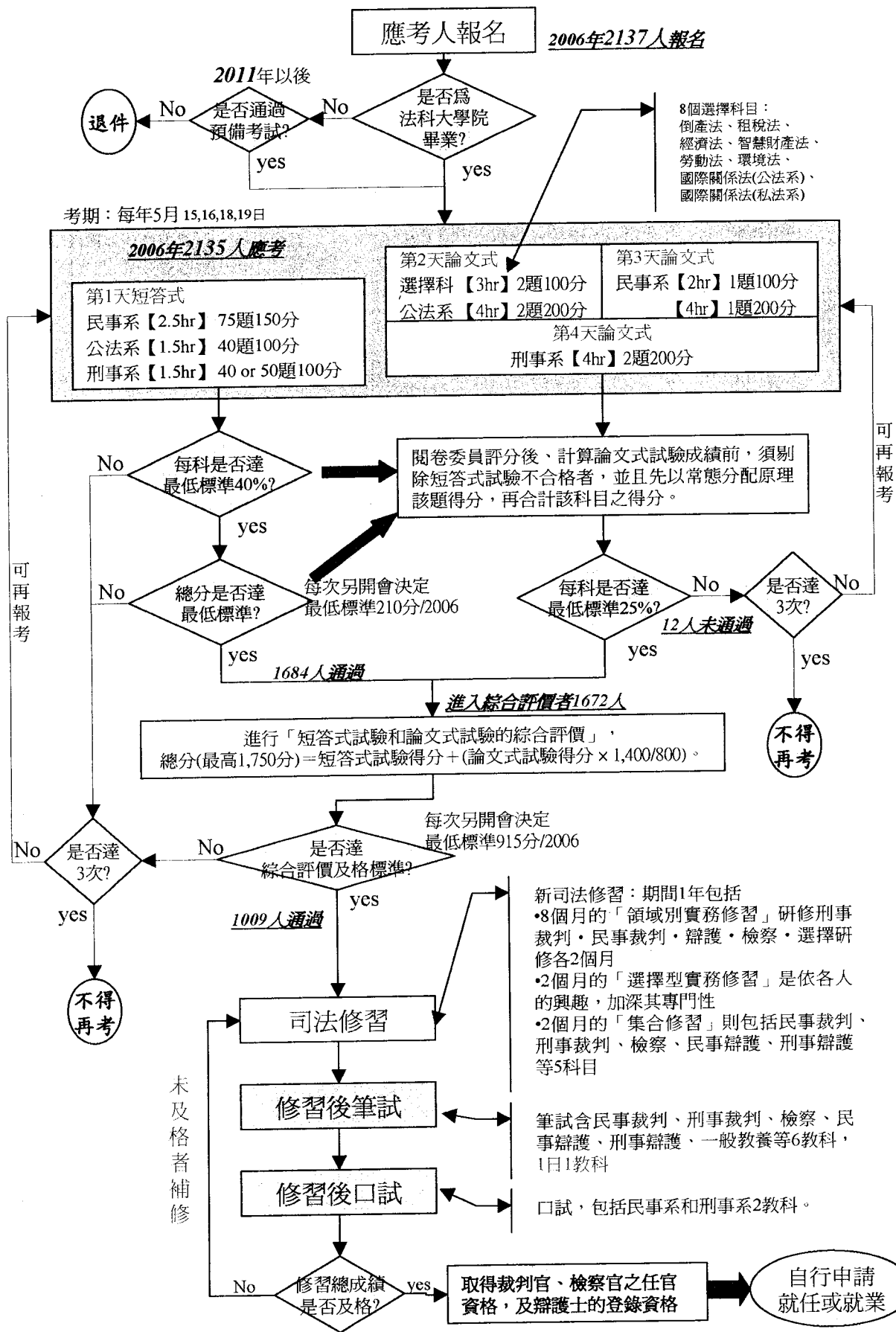
- 1、為降低對舊制之衝擊，過渡期間設為6年（2006年至2011年），於2011年前採兩制併行，應考人僅能擇一報考（不能同時報考新、舊二制考試）。新制除其應考資格以法科大學院畢業者為必要條件外，並限制5年內僅能考3次。
- 2、在導入新制時同時配合量的提升，新制及格人數第1年預定900~1,100人，第2年為第1年二倍，第3年預定2,100~2,500人，第4年預定2,500~2,900人，第5年預定2,900~3,000人。舊制及格人數第1年即由原1,500人降為500~600人，接著逐年降低至100人以下，最後廢止，詳如圖五。（按2006年為實施第1年，報名人數2,137人，及格人數為1,009人，及格率約47%，而舊制及格人數已降為549人，均達到預定目標，今年已舉行第二次考試，預定9月才放榜。）其新司法考試評分與成績評鑑等之實施方法、基準詳附錄三。

圖五、法科大學院制度及新司法試驗導入示意圖

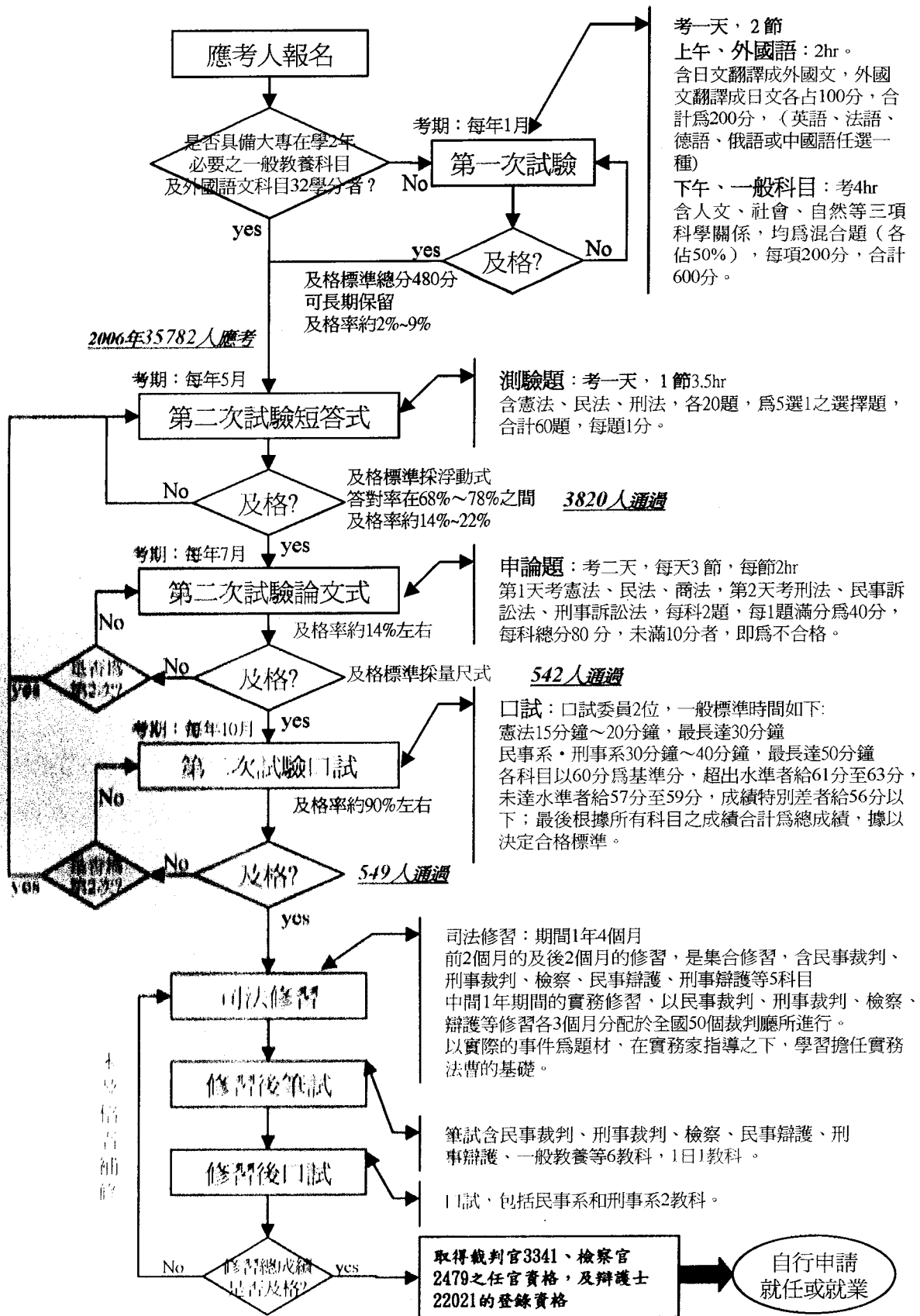


- 3、2011年過渡期一結束，僅法科大學院畢業生始可報考的新司法考試制度，期望爾後及格人數，能以每年3,000人為目標。同時規定如未經法科大學院畢業者，可經司法預備考試及格，亦可取得新司法考試的應考資格。
- 4、法科大學院之設立係由文部科學省負責，目前依標準設立者已達74所，似嫌過多，且自2004年開始設立以來，報考就讀法科大學院者卻有逐年降低現象，未來將實施總量管制，並預訂每5年評鑑一次。
- 5、在考後訓練方面，因法科大學院教學已增列相當實務課程，故新司法考試及格者，其司法修習生之研修時間自1年4個月縮短為1年。在考試試務方面其新舊考試相關流程如圖六、圖七：

圖六、日本新司法試驗流程



圖七、日本舊司法試驗流程



參、心得感想

在美國方面，美國各州絕大部分要求必須是 ABA 評鑑通過之法學院畢業之學生始能報考，加州雖然未作此規定，惟要求進入法學院第一年即應申請登記並應通過各階段之審查後始能報考，同時也允許其他有四年以上實務經驗之人報名應考，是全美最多元、程序最複雜的州。在品德調查 (Character and Fitness Investigations) 方面，全美各州均規定除通過上述各種考試之外，還必須通過品德調查，確認無不良記錄才能被授予執業資格。至於跨州執業，在美國取得了某個州的執照，通常只能在該州執業。跨州執業要另行申請，一般需要 4 到 7 年的執業經驗才可以申請到其他州免試或部分科目免試，經過後才能執業，加州只免除 MBE，華府特區則可申請檢覈而全免，馬里蘭州則規定須經過一個 Open book 的考試。

在日本方面，日本不以單從「增加司法考試及格人數」之方式來尋求解決方案，而是突破司法考試制度框架，將法學教育與法律執業人員之選拔結合在一起，建立既保證法律專業人員之素質，又能大規模增加數量的機制，期能解決長久以來司法人員嚴重不足的問題，同時也能擴增司法人員專業領域。

目前全美執業律師已達 114 萬 3,358 人，加州人口多，經濟也發達，因此每年考生人數多達一萬餘人，雖然加州律師的考試通過率近 10 年來均比較低（與其他州相對比較多在 50% 以下，全國平均約 80%），唯加州執業律師已多達 14 萬 5,355 人，是除紐約市以外人數最多的州。目前日本法曹人數共計 27,887 人，如律師人數以人口每 100,000 人之比例來說，美國有 372.05 位，日本只有 18.91 位，與我國同為低比例國家。此次赴美、日參訪律師考試制度相關業務，對我國法官、檢察官、律師在教、考、訓、用等方面正朝向「合考分訓」邁進之際，有許多值得重視與借鏡之處；另各項參訪行程由外館悉心聯繫安排，得以順利拜會，實地與相關機關、團體代表會晤，深入訪談並相互交換意見，獲益甚多。

附錄一、1：2006年7月加州律師考試結果統計表(3-1)

GENERAL STATISTICS REPORT JULY 2006 CALIFORNIA BAR EXAMINATION¹ OVERALL STATISTICS

Applicant Group	First-Timers			Repeaters			All Takers		
	Took	Pass	%Pass	Took	Pass	%Pass	Took	Pass	%Pass
General Bar Examination	6261	4221	67.4	2647	395	14.9	8908	4616	51.8
Attorneys' Examination	199	93	46.7	120	21	17.5	319	114	35.7
Total	6460	4314	66.8	2767	416	15.0	9227	4730	51.3

GENERAL BAR EXAMINATION STATISTICS

Law School Type	First-Timers			Repeaters			All Takers		
	Took	Pass	%Pass	Took	Pass	%Pass	Took	Pass	%Pass
CA ABA Approved	3982	2933	73.7	1060	204	19.2	5042	3137	62.2
Out-of-State ABA	1447	989	68.3	404	70	17.3	1851	1059	57.2
CA Accredited	290	78	26.9	521	34	6.5	811	112	13.8
CA Unaccredited	42	5	11.9	153	8	5.2	195	13	6.7
Correspondence	68	16	23.5	116	11	9.5	184	27	14.7
Law Office/Judge's Chambers	0	0	0.0	1	0	0.0	1	0	0.0
US Attorneys Taking the General Bar Exam ²	283	171	60.4	173	51	29.5	456	222	48.7
Foreign Attorneys Taking the General Bar Exam ³	130	27	19.9	190	15	7.9	326	42	12.9
4-Year Qualification ⁴	12	2	16.7	21	1	4.8	33	3	9.1
Others ⁵	1	0	0.0	8	1	12.5	9	1	11.1
Total	6261	4221	67.4	2647	395	14.9	8908	4616	51.8

¹ These statistics were compiled using data available as of the date results from the examination were released.

² Attorneys admitted in other jurisdictions less than four years must take and those admitted four or more years may elect to take the General Bar Examination.

³ Attorneys admitted in foreign jurisdictions must take the General Bar Examination.

⁴ Applicants may qualify to take the General Bar Examination through a combination of four years of law study without graduating from a law school.

⁵ Applicants in this category qualified to take the examination but do not meet the requirements for allocation to any of the other categories.

附錄一、1：2006年7月加州律師考試結果統計表(3-2)

JULY 2006 CALIFORNIA BAR EXAMINATION
 NUMBER OF TAKERS AND PERCENT PASSING BY RACIAL/ETHNIC GROUP
 GENERAL BAR EXAMINATION FIRST-TIME TAKERS ONLY*

School Type	White		Black		Hispanic		Asian		Other Minority	
	Took	% Pass	Took	% Pass	Took	% Pass	Took	% Pass	Took	% Pass
CA ABA Approved	2486	79.0	127	54.3	309	62.5	645	70.1	231	61.0
Out-of-State ABA	863	74.7	72	51.4	87	55.2	216	67.6	86	51.2
CA Accredited	193	31.1	18	5.6	34	8.8	14	35.7	23	26.1
CA Unaccredited	21	19.0	3	0.0	9	0.0	6	0.0	2	0.0
Correspondence	46	28.3	5	0.0	5	0.0	9	22.2	1	0.0
Other	228	60.5	28	25.0	39	20.5	79	32.9	41	31.7
Total*	3837	73.6	253	45.1	483	52.2	969	65.1	384	53.7

NUMBER OF TAKERS AND PERCENT PASSING BY RACIAL/ETHNIC GROUP: REPEATERS*

School Type	White		Black		Hispanic		Asian		Other Minority	
	Took	% Pass	Took	% Pass	Took	% Pass	Took	% Pass	Took	% Pass
CA ABA Approved	531	23.4	88	11.4	165	13.3	159	22.0	82	12.2
Out-of-State ABA	166	20.5	62	4.8	48	14.6	73	19.2	39	23.1
CA Accredited	273	7.7	73	5.5	76	5.3	42	4.8	44	6.8
CA Unaccredited	79	6.3	21	0.0	31	9.7	8	0.0	11	0.0
Correspondence	78	12.8	6	0.0	9	0.0	19	0.0	4	25.0
Other	160	25.6	45	2.2	48	14.6	65	15.4	66	12.1
Total*	1287	18.3	295	6.1	377	11.4	366	16.7	246	12.6

*Totals are for those reporting racial/ethnic group.

附錄一、1：2006年7月加州律師考試結果統計表(3-3)

**JULY 2006 CALIFORNIA BAR EXAMINATION
NUMBER OF FIRST-TIMERS AND REPEATERS PASSING BY GENDER***

School Type	First-Timers						Repeaters					
	Males			Females			Males			Females		
	Took	% Pass	Took	% Pass	Took	% Pass	Took	% Pass	Took	% Pass	Took	% Pass
CA ABA Approved	1983	74.6	1999	72.7	555	20.0	505	18.4				
Out-of-State ABA	793	67.0	653	70.1	223	14.8	181	20.4				
CA Accredited	143	30.1	147	23.8	270	4.8	251	8.4				
Unaccredited	23	13.0	19	10.5	92	1.1	61	11.5				
Correspondence	48	18.8	20	35.0	78	12.8	38	2.6				
Other	239	44.4	191	48.7	224	14.7	169	20.7				
Total*	3229	67.2	3029	67.6	1442	13.9	1205	16.1				

* Totals are for those reporting gender.

附錄一、2：2006年7月加州律師考試不同型態之法學院及格率統計表(7-1)

JULY 2006 CALIFORNIA BAR EXAMINATION
GENERAL BAR EXAMINATION STATISTICS
CALIFORNIA ABA APPROVED LAW SCHOOLS

LAW SCHOOL	FIRST-TIMERS			REPEATERS		
	TOOK	PASS	%PASS	TOOK	PASS	%PASS
California Western School of Law	165	113	68	74	14	19
Chapman University School of Law	139	87	63	34	7	21
Golden Gate University School of Law	157	93	59	94	15	16
Loyola Law School-Los Angeles	370	278	75	76	19	25
McGeorge School of Law	254	185	73	65	9	14
Pepperdine University School of Law	198	166	84	31	7	23
Santa Clara University School of Law	236	186	79	54	11	20
Southwestern University School of Law	220	141	64	65	21	32
Stanford Law School	93	83	89	3	2	67
Thomas Jefferson School of Law	133	68	51	96	13	14
University of California - Berkeley	221	188	85	17	6	35
University of California - Davis	165	126	76	25	8	32
University of California - Hastings College of The Law	362	303	84	45	15	33
University of California - Los Angeles	273	236	86	21	4	19
University of La Verne College of Law	48	28	58	21	3	14
University of San Diego School of Law	236	185	78	38	13	34
University of San Francisco School of Law	199	147	74	40	7	18
University of Southern California The Law School	191	164	86	21	4	19
Western State University College of Law	113	32	28	115	8	7
Whittier Law School	209	124	59	125	18	14
Total	3982	2933	74	1060	204	19

附錄一、2：2006年7月加州律師考試不同型態之法學院及格率統計表(7-2)

JULY 2006 CALIFORNIA BAR EXAMINATION
GENERAL BAR EXAMINATION STATISTICS
CALIFORNIA ACCREDITED, NOT ABA APPROVED LAW SCHOOLS

LAW SCHOOL	FIRST-TIMERS			REPEATERS		
	TOOK	PASS	%PASS	TOOK	PASS	%PASS
Cal Northern School of Law	11	2	18	18	2	11
Empire College School of Law	26	8	31	17	0	0
Glendale University College of Law	10	4	40	19	1	5
Humphreys College School of Law	7	4	57	9	0	0
John F. Kennedy University School of Law	19	6	32	54	4	7
Lincoln Law School of Sacramento	23	12	52	28	1	4
Lincoln Law School of San Jose	19	6	32	32	2	6
Monterey College of Law	14	3	21	19	3	16
New College of California School of Law	38	5	13	39	5	13
San Francisco Law School	6	2	33	29	1	3
San Joaquin College of Law	49	16	33	28	1	4
Santa Barbara College of Law	6	1	17	15	3	20
Southern California Institute of Law - Santa Barbara	0	0	0	7	1	14
Southern California Institute of Law - Ventura	4	0	0	16	1	6
Trinity Law School	20	1	5	61	1	2
University of West Los Angeles School of Law - San Fernando Valley	4	0	0	31	3	10
University of West Los Angeles School of Law - West Los Angeles	25	4	16	73	3	4
Ventura College of Law	9	4	44	21	2	10
Schools No Longer in Operation	0	0	0	5	0	0
Total	290	78	27	521	34	7

附錄一、2：2006年7月加州律師考試不同型態之法學院及格率統計表(7-3)

JULY 2006 CALIFORNIA BAR EXAMINATION
GENERAL BAR EXAMINATION STATISTICS
CALIFORNIA UNACCREDITED LAW SCHOOLS

LAW SCHOOL	FIRST-TIMERS			REPEATERS		
	TOOK	PASS	%PASS	TOOK	PASS	%PASS
American College of Law	1	0	0	30	0	0
California Southern Law School	9	1	11	29	2	7
Desert College of Law	0	0	0	1	0	0
Irvine University College of Law	0	0	0	2	1	50
Larry H. Layton School of Law	0	0	0	2	0	0
Pacific Coast University School of Law	14	2	14	17	2	12
Pacific West College of Law	1	0	0	9	0	0
Peoples College of Law	1	0	0	7	0	0
Ridgecrest School of Law	1	0	0	10	1	10
University of Northern California Lorenzo Patino School of Law	10	2	20	31	2	6
Western Sierra Law School	5	0	0	9	0	0
Schools No Longer Registered	0	0	0	6	0	0
Total	42	5	12	153	8	5

附錄一、2：2006年7月加州律師考試不同型態之法學院及格率統計表(7-4)

JULY 2006 CALIFORNIA BAR EXAMINATION
GENERAL BAR EXAMINATION STATISTICS
CALIFORNIA CORRESPONDENCE LAW SCHOOLS

LAW SCHOOL	FIRST-TIMERS			REPEATERS		
	TOOK	PASS	%PASS	TOOK	PASS	%PASS
Abraham Lincoln University	16	0	0	30	2	7
Concord Law School	33	12	36	33	3	9
Newport University School of Law	0	0	0	6	0	0
Northwestern California University School of Law	6	1	17	9	2	22
Oak Brook College of Law & Government Policy	6	2	33	7	2	29
Southern California University For Professional Studies College of Law	2	0	0	7	2	29
University of Honolulu School of Law	0	0	0	1	0	0
West Coast School of Law	1	0	0	0	0	0
William Howard Taft University	3	1	33	17	0	0
Schools No Longer Registered	1	0	0	6	0	0
Total	68	16	24	116	11	9

附錄一、2：2006年7月加州律師考試不同型態之法學院及格率統計表(7-5)

JULY 2006 CALIFORNIA BAR EXAMINATION
GENERAL BAR EXAMINATION STATISTICS
OUT-OF-STATE ABA SCHOOLS WITH 10 OR MORE TAKERS

Law School	Took	Pass	%Pass	Took	Pass	%Pass
American University	27	15	56	7	2	29
Arizona State University	10	7	70	5	1	20
Benjamin N. Cardozo School of Law	10	5	50	10	3	30
Boston College	14	9	64	1	1	100
Boston University	37	27	73	5	2	40
Brigham Young University	15	14	93	1	0	0
Brooklyn Law School	13	9	69	3	0	0
Case Western Reserve University	10	6	60	3	0	0
Catholic University of America	12	7	58	3	1	33
Columbia University	56	51	91	5	1	20
Cornell University	21	16	76	2	0	0
DePaul University	5	2	40	6	2	33
Detroit University	7	2	29	6	0	0
Duke University	18	14	78	2	0	0
Emory University	11	8	73	0	0	0
Fordham University	10	6	60	3	1	33
Franklin Pierce Law Center	10	5	50	2	0	0
George Washington University	69	50	72	4	1	25
Georgetown University	74	57	77	9	1	11
Harvard Univ. Law School	111	103	93	4	2	50
Howard University	8	7	88	8	1	13
Indiana University - Bloomington	14	9	64	6	2	33
Indiana University - Indianapolis	7	4	57	3	0	0
John Marshal Law School - Chicago	8	3	38	3	0	0
Lewis and Clark College	20	15	75	10	1	10
New England School of Law	11	4	36	13	3	23

附錄一、2：2006年7月加州律師考試不同型態之法學院及格率統計表(7-6)

JULY 2006 CALIFORNIA BAR EXAMINATION
GENERAL BAR EXAMINATION STATISTICS
OUT-OF-STATE ABA SCHOOLS WITH 10 OR MORE TAKERS (Continued)

Law School	Took	Pass	%Pass	Took	Pass	%Pass
New York Law School	10	1	10	7	1	14
New York University	63	56	89	5	1	20
Northwestern University	8	5	63	5	1	20
Northwestern University	34	23	68	6	3	50
Ohio State University	7	5	71	4	0	0
Potomac The State University-Camden	15	7	47	7	0	0
Seattle University	11	3	27	5	0	0
Suffolk University	5	3	60	6	1	17
Syracuse University	11	3	27	13	3	23
Thomas M. Cooley Law School	10	2	20	14	0	0
Tulane University	29	21	72	3	0	0
University of Arizona	12	5	42	2	0	0
University of Chicago	28	24	86	1	1	100
University of Denver	3	2	67	9	2	22
University of Houston	11	6	55	4	1	25
University of Illinois	11	10	91	2	0	0
University of Iowa	7	6	86	6	0	0
University of Miami	16	8	50	2	0	0
University of Michigan	56	46	82	3	1	33
University of Minnesota	21	17	81	3	0	0
University of Nevada	8	3	38	2	0	0
University of North Carolina	11	9	82	2	0	0
University of Notre Dame	15	13	87	5	2	40
University of Oregon	20	13	65	6	3	50
University of Pennsylvania	29	25	86	2	1	50

01/09/07

附錄一、2：2006年7月加州律師考試不同型態之法學院及格率統計表(7-7)

JULY 2006 CALIFORNIA BAR EXAMINATION
GENERAL BAR EXAMINATION STATISTICS
OUT-OF-STATE ABA SCHOOLS WITH 10 OR MORE TAKERS (Continued)

Law School	Took	Pass	%Pass	Took	Pass	%Pass
University of Texas	23	22	96	3	2	67
University of Utah	7	5	71	4	1	25
University of Virginia	31	27	87	3	1	33
University of Washington	16	12	75	1	0	0
University of Wisconsin	16	6	38	2	0	0
Vanderbilt University	12	9	75	1	0	0
Vermont Law School	7	1	14	9	3	33
Washington and Lee University	11	7	64	2	0	0
Washington University	9	7	78	6	2	33
Yale University	33	25	76	1	0	0
All Other Out-Of-State Schools	223	97	43	124	15	12
TOTAL	1447	989	68	404	70	17

附錄一、3：2007年2月加州律師考試結果統計表(3-1)

GENERAL STATISTICS REPORT
FEBRUARY 2007 CALIFORNIA BAR EXAMINATION¹
OVERALL STATISTICS

Applicant Group	First-Timers			Repeaters			All Takers		
	Took	Pass	%Pass	Took	Pass	%Pass	Took	Pass	%Pass
General Bar Examination	1560	829	53.1	3607	1071	29.7	5167	1900	36.8
Attorneys' Examination	237	131	55.3	143	50	35.0	380	181	47.6
Total	1797	960	53.4	3750	1121	29.9	5547	2081	37.5

GENERAL BAR EXAMINATION STATISTICS

Law School Type	First-Timers			Repeaters			All Takers		
	Took	Pass	%Pass	Took	Pass	%Pass	Took	Pass	%Pass
CA ABA Approved	600	365	60.8	1674	656	39.2	2274	1021	44.9
Out-of-State ABA	283	146	51.6	569	192	33.7	852	338	39.7
CA Accredited	120	37	30.8	622	73	11.7	742	110	14.8
CA Unaccredited	8	1	12.5	182	15	8.2	190	16	8.4
Correspondence	124	49	39.5	143	18	12.6	267	67	25.1
Law Office/Judges' Chambers	2	1	50.0	2	1	50.0	4	2	50.0
US Attorneys Taking the General Bar Exam ²	307	203	66.1	174	69	39.7	481	272	56.5
Foreign Attorneys Taking the General Bar Exam ³	103	27	26.2	218	44	20.2	321	71	22.1
4-Year Qualification ⁴	13	0	0.0	19	2	10.5	32	2	6.3
Others ⁵	0	0	0.0	4	1	25.0	4	1	25.0
Total	1560	829	53.1	3607	1071	29.7	5167	1900	36.8

¹ These statistics were compiled using data available as of the date results from the examination were released.

² Attorneys admitted in other jurisdictions less than four years must take and those admitted four or more years may elect to take the General Bar Examination.

³ Attorneys admitted in foreign jurisdictions must take the General Bar Examination.

⁴ Applicants may qualify to take the General Bar Examination through a combination of four years of law study without graduating from a law school.

⁵ Applicants in this category qualified to take the examination but do not meet the requirements for allocation to any of the other categories.

附錄一、3：2007年2月加州律師考試結果統計表(3-2)

FEBRUARY 2007 CALIFORNIA BAR EXAMINATION
 NUMBER OF TAKERS AND PERCENT PASSING BY RACIAL/ETHNIC GROUP
 GENERAL BAR EXAMINATION FIRST-TIME TAKERS ONLY*

School Type	White		Black		Hispanic		Asian		Other Minority	
	Took	% Pass	Took	% Pass	Took	% Pass	Took	% Pass	Took	% Pass
CA ABA Approved	373	68.6	30	36.7	46	50.0	72	48.6	37	40.5
Out-of-State ABA	149	53.7	23	34.8	20	60.0	36	47.2	19	47.4
CA Accredited	78	37.2	5	20.0	14	21.4	11	27.3	8	12.5
CA Unaccredited	2	0.0	0	0.0	4	0.0	1	0.0	1	100
Correspondence	91	47.3	10	10.0	4	0.0	9	22.2	9	22.2
Other	251	62.5	25	24.0	24	33.3	67	46.3	35	48.6
Total*	944	59.9	93	29.0	112	41.1	196	44.9	109	41.3

NUMBER OF TAKERS AND PERCENT PASSING BY RACIAL/ETHNIC GROUP: REPEATERS*

School Type	White		Black		Hispanic		Asian		Other Minority	
	Took	% Pass	Took	% Pass	Took	% Pass	Took	% Pass	Took	% Pass
CA ABA Approved	830	40.6	119	26.1	237	34.6	286	42.3	147	42.9
Out-of-State ABA	255	36.5	70	24.3	54	25.9	110	34.5	61	34.4
CA Accredited	343	13.7	72	2.8	80	7.5	52	19.2	60	11.7
CA Unaccredited	83	9.6	26	3.8	37	5.4	15	6.7	18	16.7
Correspondence	91	14.3	14	7.1	8	0.0	25	12.0	5	20.0
Other	178	34.3	43	27.9	49	20.4	73	19.2	65	21.5
Total*	1780	31.4	344	18.6	465	24.5	561	33.3	356	30.6

*Totals are for those reporting racial/ethnic group.

附錄一、3：2007年2月加州律師考試結果統計表(3-3)

FEBRUARY 2007 CALIFORNIA BAR EXAMINATION
NUMBER OF FIRST-TIMERS AND REPEATERS PASSING BY GENDER*

School Type	First-Timers				Repeaters			
	Males		Females		Males		Females	
	Took	% Pass	Took	% Pass	Took	% Pass	Took	% Pass
CA ABA Approved	303	62.4	297	59.3	816	39.1	858	39.3
Out-of-State ABA	150	48.7	133	54.9	320	33.1	249	34.5
CA Accredited	62	37.1	58	24.1	315	11.4	307	12.1
Unaccredited	7	0.0	1	100	107	11.2	75	4.0
Correspondence	86	38.4	38	42.1	106	11.3	37	16.2
Other	218	55.0	207	53.6	236	26.3	181	30.4
Total*	826	53.0	734	53.3	1900	28.8	1707	30.7

* Totals are for those reporting gender.

07/16/07

附錄二：2006年加州律師職業調查報告

**Final Report of Results
Member Services Survey
The State Bar of California - February 2006**

**Conducted by
Hertz Research
Petaluma, California**

Survey Background Facts
Member Services Survey
The State Bar of California ? February 2006

Our firm was retained by The State Bar of California in October 2005 to conduct a survey of its membership. The primary research goals were to determine the extent to which existing benefits and services were being utilized, find out what members thought about some new programs the bar was considering offering and to determine if there were other benefits or services the State Bar could offer that would be useful to members.

The survey questionnaire was designed in consultation with State Bar staff. Most of the interviews were conducted online and a small number were completed by members who requested a hardcopy version of the questionnaire.

Eligible survey respondents were randomly chosen to participate in the survey from a database of members. Survey invitations were sent by e-mail or US postal delivery. A separate pool of respondents came from a public version of the survey that was posted on the State Bar Web site. For identification purposes, each pool of respondents had a unique survey link and were stored in separate databases.

The tabulated data in this report contains only the responses of the randomly selected members who received e-mail or postal delivery invitations. Another database containing the verbatim responses to the survey open-ended questions of all survey respondents has also been created.

As of January 31, 2006, 1,771 surveys were completed. 1,134 of these came from the pool of randomly selected members. This report is based on 1,038 of those interviews. (The number of interviews completed by the processing cutoff date in mid-January)

Regardless of methodology, all polls are potentially affected by a number of factors that may influence their accuracy. A common source for survey inaccuracy is sampling error. The number of respondents largely determines sampling error. Statistical theory indicates that in the case of a poll with this sample size (1,038 Total Interviews), 95 percent of the time the results of a survey of this size would be the same as interviewing the entire membership of The State Bar of California, give or take approximately three percent.

The margin of sampling error for subgroups of respondents is higher than it is for the overall results. The use of decimal places in describing the number of members in certain groups such as, ethnic or racial minorities, is done solely for comparative purposes with previous surveys. While the survey results should be generally reflective of the demographic makeup of the State Bar membership, analysis of small subgroups should be viewed with that in mind.

Other sources of error can also impact the accuracy of poll results. These include but are not limited to the percentage of the population choosing to participate, the likelihood a possible respondent is available or connected to the Internet, the wording, and ordering of questions, and the techniques used to determine possible survey participants. The cumulative impact of all of these potential sources of error is impossible to assess precisely.

Major Conclusions and Marketing Considerations
Member Services Survey
The State Bar of California - February 2006

Major Conclusions

1. Most members don't use or have little knowledge about many of the State Bar-sponsored corporate discount programs and other benefits that are currently available to them. ? Page 6
2. A substantial number of members indicated they might be interested in using a wide range of these benefits once they became aware of their existence. A substantial number also said they would be interested in using many of the new discount and benefit programs the State Bar is considering offering in the future. ? Pages 7 - 9
3. At this time, most members either have no opinion about or do not perceive State Bar-sponsored corporate discount or insurance programs to be, either a better value, or of higher quality than programs they can obtain elsewhere. ? Page 9
4. State Bar members are a very wired population with nearly all having high speed Internet access. A majority of members indicated their preference for receiving information and communications from the State Bar through e-mail rather than U.S. mail. ? Page 11
5. As it did between 1991 and 2001, the percentage of attorneys over 54 years of age continued to rise significantly. ? Page 12
6. In general, the demographic makeup of the State Bar continues to diversify, though not uniformly across all lines. ? Page 12
7. There are now a greater percentage of female and LGBT (Lesbian, Gay, Bisexual, Transgender) members than there were five years ago. Females make up nearly half of the attorneys 35 and younger and have also made some gains in income and partnership. ? Page 12
8. The State Bar membership appears to be slightly less ethnically diverse than it was five years ago. ? Page 12
9. In recent years, there have been significant changes in employment patterns with more members working as solo practitioners and considerably fewer working more than 50 hours per week. ? Page 13
10. There are now more members at each end of the economic spectrum with increases in those making under \$50,000 and those making over \$300,000 from their law practice compared with five years ago. ? Page 14

Marketing Considerations

Overall, the survey results suggest that future marketing efforts need to address three primary issues:

- 1) Improve communication with members about what products are available
- 2) Broaden the array of products available
- 3) Increase the perceived value and quality of the products

The encouraging news is that once members become aware of what programs or services are available, a considerable number say they would be interested in using them. A significant number also said they would be interested in using many of the new benefits the State Bar is considering offering.

Both the changing demographics of the membership and the trend toward more solo practitioners suggest there are significant opportunities to market products tailored to meet the distinct needs of these and other groups.

The highly wired nature of the membership and their desire to receive communications from the bar via e-mail suggests that more marketing be done through that channel. Since nearly all members have high-speed Web access, online marketing efforts can utilize video and other asset rich content.

Since half of the members belong to a local bar association, there is probably a need to assess what products the State Bar wants to focus on and what others are better left to the local bars.

**Summary of Key Findings
Member Services Survey
The State Bar of California - February 2006**

Use and Potential Interest in Using Existing State Bar Member Services

- Members are considerably more likely to use State Bar services or programs directly related to their legal practice rather than the corporate discount programs available to them.

**Table A
Use of Existing Member Services and Discount Programs**

% Use

41% - Ethics Hotline

25% - Online State Bar Continuing Legal Education Courses

22% - Member Services Center (800 Phone Number)

4% - Discounts on credit cards, CDs and Lines of Credit with MBNA

3% - Discounts on computers and peripherals with Dell

3% - Discounts for legal research and publications through Thompson West

3% - Discounts on magazine subscriptions

1% - Discounts on banking services through AFC

1% - Discounts on overnight delivery with UPS

1% - Student loan consolidation through CFS/e-grad

1% - Membership in LA Financial Credit Union (Formerly Courts & Records)

----- - Discounts on teleconferencing services through Premiere Global Services

- Despite the current relatively low use of corporate discount programs, a significant number of members who don't currently use these programs indicated they might be interested in doing so in the future.

Table B
Potential Interest in Existing Member Services and Discount Programs

% Might Use

16% - Online State Bar Continuing Legal Education Courses

14% - Discounts on computers and peripherals with Dell

27% - Discounts on overnight delivery with UPS

26% - Ethics Hotline

24% - Discounts for legal research and publications through Thompson West

23% - Member Services Center (800 Phone Number)

19% - Discounts on credit cards, CDs and Lines of Credit with MBNA

17% - Discounts on magazine subscriptions

10% - Discounts on banking services through AFC

10% - Discounts on teleconferencing services through Premiere Global Services

9% - Membership in LA Financial Credit Union (Formerly Courts & Records)

8% - Student loan consolidation through CFS/e-grad

- 81% of those who have used a State Bar legal service or corporate discount program said they were either very satisfied (16%) or somewhat satisfied (35%) with that service or program. 17% said they were either somewhat (10%) or very dissatisfied (7%) and 32% said they were neither satisfied or dissatisfied with what they received.

Use and Potential Interest in Using State Bar-Sponsored Insurance Programs

- Life (15%) and professional liability (25%) are the types of insurance coverage that State Bar members are most likely to have.

Table C
Insurance Coverage Currently Have
(Purchased from Any Vendor)

35% - Life

25% - Professional Liability

18% - Individual Disability Income

16% - Accidental Death and Dismemberment

13% - Workers Compensation

12% - Business, Office Property and Liability

11% - Long-Term Care

3% - Business Overhead Expense

- Professional liability (25%) and long-term care (24%) are the types of coverage members indicated they would be most interested in purchasing from a state bar sponsored insurance provider.

Table D
Insurance Coverage Might Buy From State Bar Sponsored Provider

25% - Professional Liability

24% - Long-Term Care

19% - Individual Disability Income

17% - Life

11% - Accidental Death and Dismemberment

11% - Business, Office Property and Liability

9% - Workers Compensation

6% - Business Overhead Expense

- 58% had no opinion when asked about the quality of State Bar-sponsored corporate discount or insurance programs compared with those they could obtain elsewhere. 25% said they were no more confident in the quality of State Bar-sponsored programs while 17% said they felt more confident in the quality of bar-sponsored programs.
- More than seven out of ten respondents (72%) had no opinion when asked if State Bar-sponsored corporate discount or insurance programs were a better value than those they could obtain elsewhere. 8% said they were a better value, 4% said they offered less value and 16% felt they offered about the same value as other insurance programs.
- By a 59% to 30% margin, members said they were not aware that a portion of the revenue generated from discount or insurance programs provided by the Foundation of the State Bar went into funding charitable programs for legal purposes.
- 28% said the knowledge of how a portion of these revenues are used would make them more likely to purchase State Bar-sponsored programs. 7% said this would make them less likely to use such programs and 55% said it would not make much difference to them.

Member Interest in Potential New Benefits

- A significant number of members indicated they might be interested in a variety of new programs or services the State Bar is considering making available to members.
- 51% said they had either a great deal (14%), a good deal (15%) or some interest (22%) in setting up a Health Savings Account (HSA) in conjunction with a qualified high-deductible health plan. Many comments suggested there would be considerable interest in purchasing a traditional health care insurance plan, if one was made available to State Bar members.
- 46% indicated they would be interested in obtaining a State Bar-sponsored vision health plan while 39% said they would be interested in purchasing a vision health plan.
- A significant number of members indicated they would be interested in using a variety of new discount programs or services the State Bar is considering making available.

Table E
Interest in Using Potential New State Bar Discount Programs or Services

% Interested

- 49% - Travel discount program
- 44% - Car rental discount program
- 43% - Discounts for purchasing cell phones/PDA /Blackberries
- 34% - Discount program for office supplies/furniture
- 33% - Identity theft protection program
- 30% - Home loan discount program
- 27% - Professional financial planning assistance

- A considerable number of solo practitioners or attorneys working at smaller firms indicated they would be interested in using administrative, technical or marketing support services if they were offered at discounted rates to State Bar members.

Table F

Interest in Using Discounted Administrative/Technical/Marketing Services (Among solo practitioners and those working at smaller firms)

% Interested

28% - Internet, computer consulting and technical support

27% - Legal support services such as secretarial or paralegal assistance

23% - Marketing assistance for your legal practice

20% - Back office support for functions such as payroll and accounting

- There was also considerable interest in a variety of services geared toward younger or newer attorneys.

Table G

Interest in Using Services Designed For Younger or Newer Attorneys (Among attorneys up to 35 years of age and those who have practiced less than 10 years)

% Interested

50% - Online practice resources

41% - Electronic newsletter with practice tips and information

38% - Seminars on practice tips and skills

36% - Networking opportunities with other attorneys

34% - Training or mentoring in an area of law in return for pro bono work

28% - Seminars on legal career choices and professional development

27% - Publications on legal career choices and professional development

19% - MCLE programs at the State Bar annual meeting

Communicating with the State Bar

- Among those who sought assistance, 53% said it is usually easy to get information about the services and benefits the State Bar makes available to members. 41% said it is sometimes easy and sometimes difficult and 6% said it is usually difficult to find this information.
- A large majority of members (87%) said they usually go to the State Bar Web site when they want to find out about benefits or services compared with 7% who said they usually call the State Bar for this purpose.
- 75% said they prefer to receive information and communications from the State Bar via e-mail compared with 39% who said they prefer to receive it by U.S. mail and 16% who prefer to see postings on the State Bar Web site.
- An overwhelming majority of State Bar members (93%) access the Internet for their work on a high-speed connection.
- 33% said they visit the State Bar Web site once or twice a month, 15% once or twice a week and 2% everyday or almost everyday. 47% say they rarely visit the Web site and 3% indicated they have never done so.
- Among those who have visited the State Bar Web site, over three out of four rate it as either useful (63%) or very useful (14%). 8% say it is not very useful and 1%, not at all useful.

Table H
Most Useful Features of State Bar Web Site
(Adds up to more than 100% due to multiple responses)

% Mentioned

83% - Attorney search
48% - MCLE information
25% - Ethics/Rules of conduct
16% - Paying dues online
15% - Member Benefits/Products/Services
14% - Online CLE
12% - Bar examination results
12% - Legal news
10% - Sections
8% - Announcements/Events
8% - Attorney disciplinary summaries
7% - Articles
3% - Other

Demographics of the Survey Respondents

There appear to have been some significant demographic changes in the makeup of the State Bar and their working characteristics since the 2001 survey. The most notable differences include the continued aging of the membership, increases in some, but not all characteristics of diversification, a greater number working as solo practitioners and fewer members working more than 50 hours per week.

Table H
Demographic Makeup of California State Bar 1991 - 2006

<u>Age Group</u>	<u>1991</u>	<u>2001</u>	<u>2006</u>
Under 35 Years	24%	24%	15%
35 - 39 Years	20%	12%	10%
40 - 44 Years	21%	13%	11%
45 - 54 Years	21%	28%	29%
55 + Years	14%	24%	35%
<u>Gender</u>			
Male	74%	68%	66%
Female	26%	32%	34%
<u>Ethnic/Racial Background</u>			
White	91%	83%	84.4%
African-American	2%	2.4%	1.7%
Latino/Hispanic	3%	3.7%	3.8%
Asian/Pacific Islander	3%	6%	5.3%
Other/Mixed	1%	4.9%	4.8%
<u>Sexual Orientation/Gender Identity</u>			
Heterosexual	97%	97.6%	94.8%
LGBT	3%	2.4%	5.2%

- In general, the State Bar membership is continuing to become more demographically diverse. Since our 2001 survey, this trend has continued with respect to gender and sexual orientation or gender identity, but not along the lines of ethnicity or racial background.
- The percentage of members working as solo practitioners has increased since 2001 while the number working at firms or organizations with more than 75 attorneys has decreased.

Table I
Number of Attorneys Practicing in Firm/Organization 2001 ? 2006

	<u>2001</u>	<u>2006</u>
Solo	35%	40%
2 ? 5	18%	22%
6 ? 20	18%	16%
21 ? 75	11%	9%
Over 75	17%	13%

- The average number of hours worked per week has dropped considerably since the 2001 survey.

Table J
Average Weekly Number of Hours Worked in Law Practice 2001 ? 2006

	<u>2001</u>	<u>2006</u>
Less than 35 hours	12%	26%
35 ? 40 hours	18%	16%
41 ? 49 hours	12%	31%
50 ? 59 hours	36%	20%
60 or more hours	22%	7%

- Besides the State Bar, more than two out of three respondents said they belong to another bar association, with the highest percentage (49%), saying they belonged to a local bar.

- A smaller number said they work in private practice (65%) than in 2001 (77%). There have also been some changes in areas described by members as their primary field of practice.

Table K
Primary Area or Field of Practice 2001 ? 2006

<u>2001</u>	<u>2006</u>	
14%	14%	Business and Contracts
7%	3%	Insurance
6%	7%	Domestic/Family
5%	2%	Civil Rights/Discrimination
5%	6%	Real Estate
5%	6%	Criminal Defense
5%	6%	Labor and Employment
4%	6%	Intellectual Property/Copyright/Patent
4%	16%	Civil Litigation
4%	6%	Estate/Trust Planning
4%	4%	Personal Injury
37%	24%	Other

- There have been some changes at both ends of the economic spectrum in regard to the annual income members derive from their law practice.

Table L
Annual Income From Law Practice 2001 ? 2006

	<u>2001</u>	<u>2006</u>
Under \$50,000	16%	25%
\$50,000 - \$99,999	34%	24%
\$100,000 - \$149,999	27%	25%
\$150,000 - \$199,999	11%	11%
\$200,000 - \$300,000	8%	8%
Over \$300,000	4%	7%

Governance Questions

- 47% of the respondents said that inactive members should not be allowed to vote or run as candidates for the State Bar Board of Governors compared with 20% who felt that inactive members should have both of these privileges. 19% said inactive members should be able to vote, but not run as candidates, 1% said they should be able to run as candidates, but not vote and 13% were unsure or did not have an opinion about this.
- 39% said that members who reside outside of California should not be allowed to vote or run as candidates for the State Bar Board of Governors compared with 20% who said that out-of-state members should have both of these privileges. 30% said they should be able to vote, but not run as candidates, 1% said they should be able to run as candidates, but not vote and 11% were unsure or did not have an opinion about this.

Summary Results
Member Services Survey
The State Bar of California -- February, 2006

Law Practice Background Questions

1. Since you were admitted to The State Bar of California, how many years have you been practicing law?

4%	1. Less than 1 year	25%	4. 10 - 19 years
19%	2. 1 - 5 years	41%	5. 20 or more years
11%	3. 6 ? 9 years		

2. What kind of law practice do you have? [Check all that apply]

65%	1. Private practice	9%	5. Government Agency
10%	2. In-house counsel	2%	6. Mediator/Arbitrator
2%	3. Public defender	8%	7. Other
1%	4. District attorney	3%	8. Retired [Skip to next video intro]

3. Are you an associate, partner or sole practitioner? [Ask only of those in private practice]

23%	1. Associate	23%	2. Partner	54%	3. Solo proprietor
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4. Roughly, how many attorneys practice in your firm or organization?

40%	1. Solo	9%	4. 21 - 75
22%	2. 2 - 5	13%	5. Over 75
16%	3. 6 - 20		

[Ask solo practitioners only]

5. Do you do independent contract work for other attorneys?

32%	1. Yes	68%	2. No
-----	--------	-----	-------

6. On average, how many hours per week do you work in your law practice?

17%	1. Less than 25 hours	31%	4. 41 ? 49 hours
9%	2. 25 - 34 hours	20%	5. 50 ? 59 hours
16%	3. 35 ? 40 hours	7%	6. 60 or more hours

7. What is your primary area or field of legal practice? [Ask only those in private practice Q.7?]

- | | |
|-----------------------------------|--|
| 14% 1. Business/contracts | 6% 7. Labor and employment |
| 3% 2. Insurance | 6% 8. Intellectual property/Copyright/Patent |
| 7% 3. Domestic/Family | 16% 9. Civil litigation |
| 2% 4. Civil rights/Discrimination | 6% 10. Estate/Trust planning |
| 6% 5. Real Estate | 4% 11. Personal injury |
| 6% 6. Criminal defense | 24% 12. Other |

8. Do you have a secondary area or field of legal practice?

- 55% 1. Yes 45% 2. No [Skip to Q. 10]

9. What area or legal field is that?

- | | |
|-----------------------------------|--|
| 17% 1. Business/contracts | 6% 7. Labor and employment |
| 2% 2. Insurance | 5% 8. Intellectual property/Copyright/Patent |
| 3% 3. Domestic/Family | 14% 9. Civil litigation |
| 2% 4. Civil rights/Discrimination | 7% 10. Estate/Trust planning |
| 9% 5. Real Estate | 6% 11. Personal injury |
| 3% 6. Criminal defense | 26% 12. Other |

10. Are you certified as a specialist in any of these areas of the law?

- | | |
|------------------------------------|--|
| .5% 1. Appellate | .4% 5. Taxation |
| .8% 2. Criminal | .6% 6. Workers Compensation |
| 1.4% 3. Family | 1.5% 7. Estate Planning, Trust and Probate |
| .3% 4. Immigration and Nationality | .3% 8. Bankruptcy Law |
| | 94.2% 9. None |

11. Do you belong to a local or another type of bar association?

- | | |
|---------------------------------|--|
| 49% 1. Local Bar Association | 2% 4. Women Bar Association |
| 2% 2. Minority Bar Association | 10% 5. Other Bar Association |
| 6% 3. Specialty Bar Association | 32% 6. Not belong to other Bar Association |

12. Do you belong to any State Bar sections? [Check all you belong to]

- | | |
|--------------------------------------|--------------------------------------|
| 1% 1. Antitrust & Unfair Competition | 2% 9. Law Practice Manage/Technology |
| 8% 2. Business Law | 7% 10. Litigation |
| 2% 3. Criminal Law | 2% 11. Public Law |
| 3% 4. Environmental Law | 6% 12. Real Property Law |
| 5% 5. Family Law | 2% 13. Solo and Small Firm |
| 5% 6. Intellectual Property Law | 3% 14. Taxation |
| 1% 7. International Law | 6% 15. Trusts and Estates |
| 6% 8. Labor and Employment Law | 3% 16. Workers Compensation |

13. How easy or difficult is it for you to find out about the services and benefits the State Bar makes available? [Q. 13 & Q. 14 - Among those who tried to find information]

- 53% 1. Usually easy to find out
- 41% 2. Sometime easy to find out/Sometimes difficult
- 6% 3. Usually difficult to find out

14. When you want to find out about available member benefits or services, do you first usually visit the State Bar Web site or call the State Bar or do something else?

- 87% 1. Visit Web site
- 7% 2. Call State Bar
- 6% 3. Other

15. How often do you visit the State Bar Web site?

- 2% 1. Everyday/Almost every day
- 15% 2. Once a week or twice a week
- 33% 3. Once or twice a month
- 47% 4. Rarely
- 3% 5. Never visited [Skip to Q. 19]

16. Overall, how would you rate the usefulness of the State Bar Web site?

- 14% 1. Very useful
- 63% 2. Useful
- 8% 3. Not very useful
- 1% 4. Not at all useful
- 14% 5. Not sure

17. What features of the State Bar Web site do you find most useful? [Check all that apply]
[Adds up to more than 100% due to multiple responses]

- 83% 1. Attorney search
- 12% 2. Bar exam results
- 48% 3. MCLE information
- 8% 4. Attorney disciplinary summaries
- 12% 5. Legal news
- 15% 6. Member Benefits/Products/Services
- 10% 7. Sections
- 14% 8. Online CLE
- 25% 9. Ethics/Rules of conduct
- 8% 10. Announcements/Events
- 7% 11. Articles
- 16% 12. Paying dues online
- 3% 13. Other

18. What features of the website do you feel could be improved or you would like to see added in the future?

19. How would you prefer to receive information and communications from the State Bar?
[Check all that apply][Adds up to more than 100% due to multiple responses]

75% 1. Via e-mail 16% 2. Postings on the State Bar Web site 39% 3. US mail

20. How do you access the Internet at work?

93% 1. High-speed connection (T1, DSL, Cable Modem?)
4% 2. Dial-up connection
2% 3. Don't access Internet at work
1% 3. Not sure

21. Now we are going to ask you about some specific services and discount programs the State Bar makes available to members. Please check each of the following that you have used before, if any.

Used

41% Ethics Hotline
22% Member Services Center (MSC) 1-888-800-3400
25% Online State Bar Continuing Legal Education (CLE) courses
4% Discounts on credit cards, CDs and lines of credit with MBNA
1% Discounts on banking services through AFC
1% Discounts on overnight delivery with UPS
---- Discounts on teleconferencing through Premiere Global Services
3% Discounts on computers and peripherals with Dell
3% Discounts for legal research and publications through Thompson West
3% Discounts for magazine subscriptions
1% Student loan consolidation through CFS/e-grad
1% Membership in LA Financial Credit Union (formerly Court & Records)

22. Now aside from the programs, services or discount programs you already use, please check all of the following you might be interested in using in the future, if any.

Might Use

26% Ethics Hotline
23% Member Services Center (MSC) 1-888-800-3400
36% Online State Bar Continuing Legal Education (CLE) courses
19% Discounts on credit cards, CDs and lines of credit with MBNA
10% Discounts on banking services through AFC
27% Discounts on overnight delivery with UPS
10% Discounts on teleconferencing through Premiere Global Services
34% Discounts on computers and peripherals with Dell
24% Discounts for legal research and publications through Thompson West
17% Discounts for magazine subscriptions
5% Student loan consolidation through CFS/e-grad
9% Membership in LA Financial Credit Union (formerly Court & Records)

23. How satisfied are you with the services and corporate discount programs available to State Bar members that you have used? [Among those who have used services or programs]

16% 1. Very Satisfied	10% 4. Somewhat Dissatisfied
35% 2. Somewhat Satisfied	7% 5. Very Dissatisfied
32% 3. Neither Satisfied or Dissatisfied	

24. Here is a list of State Bar-sponsored insurance programs currently available to members. Please check if you currently have this type of insurance coverage from **any** insurance provider. [Check all that you have]

- 25% Professional Liability Insurance
- 18% Individual Disability Income Insurance
- 3% Business Overhead Expense Insurance
- 13% Workers? Compensation Insurance
- 12% Business Office Property and Liability Insurance
- 35% Life Insurance
- 16% Accidental Death and Dismemberment Insurance (AD & D)
- 11% Long Term Care Insurance

25. Now, please tell us if you might be interested in purchasing any of these types of coverage from a State Bar-sponsored insurance program available to members. [Check all you might be interested in buying]

- 25% Professional Liability Insurance
- 19% Individual Disability Income Insurance
- 6% Business Overhead Expense Insurance
- 9% Workers? Compensation Insurance
- 11% Business Office Property and Liability Insurance
- 17% Life Insurance
- 11% Accidental Death and Dismemberment Insurance (AD & D)
- 24% Long Term Care Insurance

26. Which of the following statements comes closest to describing your views about the quality of insurance programs the State Bar sponsors compared with the quality of insurance programs you can get elsewhere?

- 17% 1. I am more confident about the quality of insurance programs the State Bar sponsors because I am confident these programs have been thoroughly vetted.
- 25% 2. I am no more confident in the quality of insurance programs the State Bar sponsors than I am of programs I can get elsewhere
- 58% 3. Not sure/No opinion

27. In general, do you think the insurance programs the State Bar sponsors are a better value, of lesser value or about the same value as you can get elsewhere?

8% 1. Bar programs are a better value 16% 3. They are about the same value
4% 2. Bar programs are of lesser value 72% 4. Not sure/No opinion

28. Were you aware that a portion of the revenue, generated from member use of State Bar-sponsored insurance and corporate discount programs provided by the Foundation of the State Bar, goes into funding of charitable programs such as, providing scholarships to law students, grants to community groups and other law-related public education projects? [The Foundation of the State Bar is funded entirely through voluntary services and not member dues]

30% 1. Was Aware 59% 2. Was not aware 11% 3. Not sure

29. Does the knowledge of how these funds are used make you any more or less likely to use a State Bar-sponsored discount program or would this not make much difference to you?

25% 1. More likely to use
7% 2. Less likely to use
55% 3. Would not make much difference
13% 4. Not sure/No opinion

30. Do you have any comments you would like to add about any of the topics in this section of the survey? [For this question, we are primarily interested in your comments about programs and services the State Bar currently makes available? You do have a chance to share your thoughts on potential new benefits in the next part of the survey]

New Products Questions Video Intro

31. In past surveys, many members said they would be interested in purchasing some type of health care coverage through the State Bar. The most viable form of health care program the State Bar could sponsor is a program with Health Savings Accounts (HSAs) in conjunction with a qualified high deductible health plan.

HSAs allow individuals, employers or both to make federally tax-deductible contributions that go toward paying for health care costs or premiums for high-deductible plans. These contributions which earn tax-free interest are portable and may be rolled over for future years. If the State Bar were to offer this type of program, how much interest would you have in setting one up?

14% 1. Great deal of interest 40% 4. Little/No interest
15% 2. Good deal of interest 9% 5. Not sure/No opinion
22% 3. Some interest

32. Please tell us if you would be interested in purchasing each of the following types of insurance if they were available from a State Bar-sponsored insurance program.
[Check all that you would be interested in]

46% Dental plans
39% Vision plans

33. Would you be interested in using the following discount programs or services if they were available to State Bar members. [Check all that you would be interested in]

Interested

33% A program to protect against identity theft
34% A discount program for office supplies and furniture
43% A discount program for purchasing cell phones or PDAs such as Blackberries
44% A car rental discount program
49% A travel discount program
30% A home loan discount program
27% Professional financial planning assistance

[Asked only of solo practitioners or attorneys who work at smaller firms]

34. Please tell us if you would be interested in using these services if they were available at discounted rates to State Bar members who are solo practitioners or work at smaller firms.
[Check all that you would be interested in]

27% Legal support services such as secretarial or paralegal assistance
20% Back office support for functions such as payroll and accounting
28% Internet, computer consulting and technical support
23% Marketing assistance for your legal practice

35. Are there any other programs or services the State Bar could offer that would benefit you and your family or assist you in your legal practice?

36. On a different topic, only active members and those who reside and practice in California are currently permitted to vote or run as candidates for the State Bar Board of Governors. No state grants that privilege to its inactive members and most states do not grant these privileges to members who reside and practice out of state.

Supporters of changing the law argue that all State Bar members should be allowed to vote or run for the Board, whether they are active or inactive and regardless of where they live or practice, as a matter of fairness.

Opponents of allowing inactive members to vote or run for the board argue they no longer have a stake in governance and their interests differ from those of active members. Opponents of participation by out of state members argue such involvement is inappropriate because they do not live in any of the board districts.

Do you think inactive members should be allowed to vote or run as candidates in elections for the State Bar Board of Governors?

- 20% 1. Should be allowed to vote and run as candidates
- 19% 2. Should be allowed to vote but not run as candidates
- 1% 3. Should be allowed to run as candidates but not vote
- 47% 4. Should not be allowed to vote or run as candidates
- 13% 5. Not sure/No opinion

37. Do you think members who reside outside of California should be allowed to vote or run as candidates in elections for the State Bar Board of Governors?

- 20% 1. Should be allowed to vote and run as candidates
- 30% 2. Should be allowed to vote but not run as candidates
- 1% 3. Should be allowed to run as candidates but not vote
- 39% 4. Should not be allowed to vote or run as candidates
- 11% 5. Not sure/No opinion

38. Are you currently an active or inactive member of the bar?

- 86% 1. Active
- 14% 2. Inactive

39. Where is your office located?

- | | |
|--------------------------------|---|
| 22% 1. Los Angeles area | 3% 7. Other Northern California |
| 16% 2. Orange/San Diego | 5% 8. North Central Valley (Sacramento North) |
| 4% 3. Riverside/San Bernardino | 2% 9. South Central Valley |
| 3% 4. Ventura/Santa Barbara | 1% 10. Other California |
| 2% 5. Central Coast | 14% 11. Out of State |
| 20% 6. San Francisco Bay Area | 8% 12. Don't have office |

40. What age group are you in?

- | | |
|-------------------------|-------------------------|
| 15% 1. 35 years or less | 29% 4. 45 - 54 years |
| 10% 2. 36 - 39 years | 35% 5. 55 years or more |
| 11% 3. 40 - 44 years | |

[Questions 41 - 43 are asked only of attorneys who are less than 36 years old or who have practiced less than 10 years]

41. We have a few extra questions for younger attorneys or new admittees. First, please check the projects you would like the State Bar to focus on most. [Will add up to more than 100% due to multiple responses]

Interested

- 28% Seminars on legal career choices and professional development
- 34% Training/mentoring about an area of law in exchange for handling a pro bono case
- 41% Electronic newsletter with practice tips/information geared to younger attorneys
- 19% MCLE programs at the State Bar Annual Meeting
- 27% Publications on legal career choices and professional development
- 38% Seminars on practice tips and skills
- 36% Networking opportunities with other attorneys
- 50% Online practice resources

42. What one single service, product or opportunity that the State Bar could provide would be most useful to you?

43. How do you typically learn about upcoming events of professional interest to you?
[Check all that apply][Will add up to more than 100% due to multiple responses]

- 55% E-mail from the event sponsor
- 21% Electronic Newsletters or listservs
- 50% Mailed brochures or invitations
- 31% The California Bar Journal
- 18% The State Bar Web site
- 20% Local Bar Newsletter or Magazine
- 31% From a colleague
- 34% Other _____ [Specify]

44. What is your gender

- 66% 1. Male
- 34% 2. Female

45. What is your ethnic or racial background?

- 84.4% 1. White
- 1.7% 2. African-American
- 3.8% 3. Latino/Hispanic
- 5.3% 4. Asian/Pacific Islander
- .4% 5. Native American
- 2.6% 6. Other
- 1.8% 7. Mixed Race/Ethnicity

46. What is your domestic status?

16% 1. Single	67% 3. Married
10% 2. Separated/Divorced	7% 4. Living with Someone/Domestic partners

47. What is your sexual orientation or gender identity? [Check all that apply]

94.8% 1. Heterosexual	.6% 4. Bisexual
2.6% 2. Gay	.2% 5. Transgender
1.8% 3. Lesbian	

48. What is the approximate annual income you receive from your legal practice?

25% 1. Under \$50,000	11% 4. \$150,000 - \$199,999
24% 2. \$50,000 - \$99,999	8% 5. \$200,000 - \$300,000
25% 3. \$100,000 - \$149,999	7% 6. Over \$300,000

49. How were you contacted about this survey?

21% 1. Received a letter, or phone call from the State Bar
77% 2. Received an e-mail from the State Bar
2% 3. Other

50. Are there any comments you would like to add about any of the topics we discussed in this survey?

51. To stay in touch with the needs of our members, the State Bar plans on conducting more surveys like this in the future. Would you be interested in participating in future research studies?

63% 1. Yes - Would like to participate
37% 2. No - Would not like to participate [Skip to end of survey]

附錄三：日本新司法考試評分與成績評鑑實施方法

平成 17 年(2005) 11 月 16 日新司法考試考察委員會議協議事項

新司法考試評分與成績評鑑等之實施方法、基準，如以下所述。不過，該實施方法、基準，係依據新司法考試正式考試的實施結果，進行適當的調整。

一、利用選擇題考試實施一次評鑑

(一) 選擇題考試及格必要成績之判定方法

根據選擇題考試各科目之合計總分，進行選擇題考試及格必要成績的判定。但是，選擇題考試科目中若有任何一個科目未達最低標準，則視為不及格。

(二) 選擇題考試之最低標準

最低標準，為各科目滿分的 40%。

二、申論題考試的評分

(一) 評分方針

1、繳交白卷者，以零分計算。

2、各答案之評分，依各題目的配分計算，並依以下方針進行評分。

選擇科目中採取階梯式配分時，則依其配分。

(1) 認定為優秀之答案時，依其內容於下表優秀欄之範圍內進行評分。但是，如果是卓越出眾的答案，其評分為下表優秀欄（）之分數以上。

(2) 認定為達到良好水準的答案時，依其內容於下表良好欄之範圍內進行評分。

(3) 未達到良好水準但認定為已達到一般水準之答案時，依其內容於下表一般水準欄之範圍內進行評分。

(4) 上述以外之答案，依其內容於下表不佳欄之範圍內評分。但是，如果認定為特別差的答案，其評

分為下表不佳欄[]之分數以下。

配 分	優 秀	良 好	一般水準	不 佳
200分	200分～ 150分 (190分)	149分～ 116分	115分～ 84分	83分～0分 [10分]
100分	100分～ 75分 (95分)	74分～ 58分	57分～ 42分	41分～0分 [5分]
50分	50分～ 38分 (48分)	37分～ 29分	28分～ 21分	20分～0分 [3分]

3、評分時大概的分布標準，依各問題的配分，如以下所述。但是，此為一般的標準，而不是在於限制評分。選擇科目中採取階梯式配分時，則依其配分。

比例 配分	5%左右	25%左右	40%左右	30%左右
200分	200分～ 150分	149分～ 116分	115分～ 84分	83分～ 0分
100分	100分～ 75分	74分～ 58分	57分～ 42分	41分～ 0分
50分	50分～ 38分	37分～ 29分	28分～ 21分	20分～ 0分

4、評分時，基本上應充分觀察應考人的案例解析能力、邏輯思考能力、法條解釋與適用能力等，綜合評鑑整體的邏輯建構力、文字表現力等，用心地判斷應考人的邏輯能力以及實踐能力。

(二) 評分差異的調整方法

申論題考試中：

1、由於應考人為數眾多，即使是同一問題的答案，僅由

一位閱卷委員批改所有應考人的答案實有難度，故由多位閱卷委員共同分擔。

2、由於題目難易程度等不同，其平均分數與評分的差異程度也就不同，所以，可能發生評分上的差異（依閱卷委員、問題的不同，評分結果可能整體偏高或偏低；或者，評鑑的幅度過寬、或太過狹隘等），此時可依以下方法調整評分差異。

- (1) 申論題考試的評分差異調整，首先，要計算出各閱卷委員評分的標準偏差。
- (2) 關於各應考人的分數（原始分數），則要計算出代表該原始分數在該閱卷委員評分之平均分數中所在位置的數值（偏差值），此即為該應考人的得分。
- (3) 依以下公式計算之。

例：A 委員評分之甲考生得分的調整方法

$$\text{公式} = \frac{A_o - A_a}{A_s} \times A_j + T_a$$

A_o = 委員評分之甲考生得分（原始分數）

A_a = 委員評分之答案全體的平均分數

A_j = 配分率（依據配分之一定比例）

T_a = 全部科目的平均分數

A_s = A 委員評分之答案全體的標準偏差

$$\text{公式} = \frac{\sqrt{(\text{個人的得分} - A \text{ 委員評分之答案全體的平均分數})^2 \text{ 之總和}}}{A \text{ 委員評分之應考人人數} - 1}$$

由於 A 委員係為部分應考人進行評分，故在統計學上的處理，以評分之應考人人數減 1，計算出標準偏差。

(三) 申論題考試的得分

1、1 科的得分，為第一題得分與第二題得分的合計分數。

2、第一題得分與第二題得分，為數位閱卷委員批改各題目後所得分數之平均分數。

另外，此之所謂數位閱卷委員批改後之得分，係指閱卷委員評分之原始分數依上述「(二) 評分差異的調整方法」而經調整後之得分。

三、選擇題考試與申論題考試之綜合評鑑

(一) 綜合評鑑的方法

1、綜合評鑑，係依選擇題考試得分與申論題考試得分合計之綜合分數行之。

不過，申論題考試中若有任何一個科目未達最低標準者，則視為不及格。

2、合計時之配分，係設定選擇題考試與申論題考試之比重為 1：4，並依以下公式計算出綜合分數。

$$\text{公式} = \text{選擇題考試得分} + \left(\text{申論題考試得分} \times \frac{1400}{800} \right)$$

(二) 申論題考試的最低標準

最低標準，為各科目滿分的 25%。

另外，判定是否達到最低標準時，先依以下公式將批改各題目之閱卷委員評分的原始分數，換算出 1 科的分數。

$$\text{公式} = (\text{批閱第 1 題之閱卷委員的原始分數平均分數}) + (\text{批閱第 2 題之閱卷委員的原始分數平均分數})$$

科 目	滿 分	25%之分數
民事類科目	300 分	75 分
公法類科目 刑事類科目	200 分	50 分
選 擇 科 目	100 分	25 分