UC Hastings dean apologizes for school's low bar passage rate

By Lyle Moran

The acting dean of UC Hastings College of the Law issued an apology Monday after only 51 percent of the school's graduates who took the California bar exam for the first time in July passed, a result he called "horrific."

The school's first-time passage rate on the most recent exam was 11 percent below the July 2016 average first-time success rate for graduates of fellow American Bar Association-accredited schools in the state.

"I am personally and professionally embarrassed by our bar performance," Acting Chancellor and Dean David L. Faigman wrote in an email to the law school's community. "Indeed, I apologize to our graduates on behalf of myself and the institution."

Faigman, who took up his current role at the start of 2016, wrote in his first message to the law school community after his appointment that his top priority would be bar passage for graduates.

He wrote Monday that last year the San Francisco-based school was only a half a percentage point below the average first-time passage rate for graduates of ABA schools in the state, though it was the first time in school history that was the case.

The passage rate for first-time takers from California ABA schools was 68 percent a year ago before dropping to 62 percent this year.

"The California Bar is effectively saying that 38 [percent] of graduates from ABA-accredited law schools are not qualified to practice law," Faigman wrote. "This is outrageous and constitutes unconscionable conduct on the part of a trade association that masquerades as a state agency."

Stephen C. Ferruolo, dean of ABA-accredited University of San Diego School of Law, recently called the first-time passage rate for schools like his "appalling" and said it left deans in a state of shock.

The overall 43 percent passage rate was the lowest for a summer or fall California exam in 32 years.
The declining pass rates come as the ABA is moving ahead with a revised accreditation standard that would require 75 percent of a law school’s bar exam takers to pass within two years of graduation.

Bar President James Fox did not respond to a request for comment.

Gayle Murphy, the bar’s senior director of admissions, previously said that "the pass rates fluctuate with every administration of the exam."

Consumer advocates, such as Kyle McEntee of the group Law School Transparency, have highlighted that the declining scores on the California exam have come as schools have accepted less-qualified students.

One school that bested the statewide average for ABA schools on the July exam was UC Irvine School of Law, which had a first-time passage rate of 81 percent, according to Dean Erwin Chemerinsky.

Even though his school exceeded the state average by a large margin, Chemerinsky said the State Bar needs to help law schools understand why the average first-time passage rate for ABA schools in California declined.

"Is it the State Bar imposing tougher standards, is it the idiosyncrasies of one test or is it a reflection of a change in law school admissions?" Chemerinsky asked. "We need answers from the State Bar about that."

As for Fagman at UC Hastings, he is pledging to do all that he and the school can to support graduates in the class of 2016 who failed and must retake the bar.

"We will offer both tangible financial support and study group and faculty mentor support," Fagman wrote in his email.

lyle_moran@dailyjournal.com