

“You Want the Small Envelope” Bar Examination Primer for WCL Students

You have heard about the bar exam, you have done a little bit of research, but you have generally avoided the topic beyond knowing that you will have to take and pass a bar exam to practice law. After all, if you’re going to spend more than \$2,000 on one or more bar preparation courses after you graduate, why start stressing now?

In fact you should be putting in place some plans that will ease the burden as you eventually ramp up for the bar. If you take a few minutes now to read this pamphlet, we guarantee that you will know something more than before you started reading.

The time that you spend preparing for the bar exam will be among the most “memorable” periods of your life; you will never forget it, and you will tell anyone willing to listen how hard you worked. It is your trial-by-fire initiation into the legal profession. In all fairness, it should be hard: When you graduate from law school you will represent 3% of the U.S. population that has earned a professional degree.

Get used to hearing the following: The bar exam is a marathon. You have to train every day and build up to it. Your goal is to prepare to the point that, when you crack the book on exam day you will realize that it is just like another day of practice.

Passing the bar as much as anything is about mastering the materials and learning the particular skills that respond to the questions posed. The axiom that law school “doesn’t prepare you for the bar; it prepares you for the practice of law” is to a large degree correct. The bar is not asking you to assess and argue how you would use the law to address a particular action or wrongdoing; it is asking you to apply the black-letter law to show that you have learned it. To be successful, you must:

-Master the Material: You must memorize the definitions and use the “buzzwords” in your answers. Examiners grade hundreds of essays and do not necessarily read an answer for completeness. Try the following: Place yourself in the mind-set of an attorney who is being paid to grade an essay and is in a taxi traveling between meetings. The attorney will likely have a list, written or mental, of the issue(s) and then the buzzwords that are critical in responding to a particular essay. Use the buzzword, get a point. If the buzzwords are not there, the attorney figures the issue has not been spotted. No points. Unlike law school, the grader is not looking for your creative opinion; rather, the grader wants to know if you know the elements (for example, of negligence: Can you recite them verbatim per the language of their jurisdiction and then apply them to the facts at hand?). To do so you have to memorize the elements and be able to write them down, and quickly.

-Learn the Skills: You are being tested using different formats. You must learn and master those formats. The only way to do that is through practice. At first you will make a number of mistakes. For the multiple choice portion, once you take a practice test, read all the right and the incorrect answers; you will learn from your mistakes and gradually improve. For most of the MBE (Multistate Bar Exam, or multiple-choice) questions, the correct answer is 100% correct,

but the next-best answer is arguably 90-95% correct. This is what makes it difficult; repetition is what makes it easier. You must start practicing multiple choice as early as possible in your study. This is like no multiple choice exam you have ever seen! You also must start writing essays, especially if you are taking the MD bar, where the essay counts twice as much as the MBE. When you actually write the essays under timed conditions you see if you have really memorized the material and are able to regurgitate it word for word.

UNDERSTANDING THE BAR EXAM

Although the bar exam will differ from state to state, a general understanding will make you more comfortable with the task ahead.

The bar exam is administered twice per year, during the final week of February and July. Unless you sit for the Louisiana or Washington bar, the Wednesday of the exam will be devoted to the MBE (Multistate Bar Exam), a standardized, six-hour (3 hours in the morning, 3 hours in the afternoon) multiple choice exam consisting of two hundred questions on six subjects.¹ The day(s) before or after the MBE will be devoted to the particular state's testing of your knowledge; all jurisdictions will test you in an essay format, some using state-derived essays, and others using the MEE (Multistate Essay Exam) which focuses on twelve substantive areas of law.² Also, an increasing number of jurisdictions employ the MPT (Multistate Performance Test) or a version of it, which asks you to simulate a workplace environment by completing a written assignment from a closed set of materials.

Finally, separate from the bar exam itself is the Multistate Professional Responsibility Exam (MPRE), a 60 question, 2 hour and 5 minute multiple-choice exam testing your knowledge of the ethical standards of the legal profession. The exam is administered three times per year (March, August, and November); most states permit you to take it prior to graduation. If you can take it sooner, do so, and try to time it to follow the WCL Legal Ethics course, as you will gain some knowledge for the exam. (NOTE: The MPRE is not required in Maryland.)

FIRST THINGS FIRST: GET THE “SMALL STUFF” OUT OF THE WAY

If you plan to address the administrative details (bar application and registration) during your third (or fourth) year: NOTE! You may cost yourself some money and create added stress by shortening the time you have to collect a dizzying array of information.

Some bar jurisdictions suggest applying as early as your first year and set a sliding scale for

1 Five of the subjects (Contracts/Sales, Constitutional Law, Criminal Law/Procedure, Real Property, and Torts) are required WCL courses. The sixth course, Evidence, is taken by most students.

2 Business Associations (Agency & Partnership, and Corporations & LLCs), Conflict of Laws, Constitutional Law, Contracts, Criminal Law and Procedure, Evidence, Family Law, Federal Civil Procedure, Real Property, Torts, Trusts and Estates (Decedents' Estates and Trusts & Future Interests), and Uniform Commercial Code (Negotiable Instruments-Art. 3, and Secured Transactions-Art. 9).

registration as an incentive.³ Other jurisdictions do not require filing registration until the year in which you take the bar, but do impose fairly significant late fees. Specific information on registration (as well as all aspects of the bar exam) for a given jurisdiction may be found at www.ncbex.org (the National Conference of Bar Examiners, the organization responsible for providing standardized exams for bar admission).

With respect to completing the bar application, take to heart the comment by a recent WCL alumnus, "I keep my application in a safe place; it required so much background information on my life that it has become a permanent personal reference." Applications may require information you have long since forgotten (i.e., residence addresses for the last ten years, employers for the past five years including supervisor contact, all creditors, motor vehicle records, fingerprint records, etc., etc.). Furthermore, if you have a history of financial or legal issues, you may need to document chapter and verse. This is not a weekend task! Compiling, completing and submitting this information will remove yet another hurdle as you near the exam.

Students with a disability who received accommodations in law school should review their jurisdiction's website for accommodation documentation, as each has a different process. If you are asked to call the bar for more information, do so. Make sure your supporting documentation is up-to-date (check with the Office of Student Affairs). Complete the application early so that if the bar requests additional information or deny an accommodation, you have time to supplement or to appeal.

ENOUGH OF THE ADMINISTRATIVE STUFF

So, is all the hype and ramp up to the bar necessary? Is it as tough as they say?

The bar exam is tough for those who do not pass it the first time. So who passes and who doesn't? The person who is likely to pass the bar exam on the first try has:

-maintained the study habits and time management that served him well in his first year of law school, or has figured out a way to address those habits if they did not serve him well;

-cleared the calendar of any and all distractions during the period between graduation and the bar;

-found a way not to work during the bar exam period, or to reduce it to the bare minimum for the first month and then plan on taking the second month off, by saving money during an earlier period and/or taking out a bar loan;

-re-discovered what a timed exam, taken by hand,⁴ feels like in terms of pressure (mental) and strain (physical);

³ The Florida Bar, for example, increases its application fee after 180 days from the start of law school; Alabama has a similar structure.

⁴ An increasing number of jurisdictions are allow laptops with Examssoft software.

-psyched herself up to believe there is no reason she cannot pass the exam, and;

-has not allowed a (good or bad) GPA to mean anything other than what it stands for: an average of grades received **while in law school**.

This last nugget is as important as any for the graduate preparing to take the bar: While there is some predictor between a law school cumulative grade point average and the exam outcome for first-time takers, we know that graduates with high GPAs fail, and those with low GPAs pass. Thus, passing the exam must relate to something beyond the numbers. Is it anxiety, a lack of preparation, working long hours instead of studying, a lack of focus on subjects being tested, failing to master IRAC, or failing to take the process seriously enough?

For any given bar exam taker, it may be any of these issues, or a combination of them. Past takers have admitted while they were preparing for the bar exam the first time to developing a “soft landings”, or a rationale not to pass, which develops ahead of time to ease the anguish should the exam taker not pass. Consider the following soft landings:

Law school has taught me everything I need; why pay attention during a bar preparation course?

Law school has taught me nothing; it will be their fault.

I haven't done that well academically, so I kind of expect to fail.

Standardized exams are already skewed against me.

I don't do well on timed exams.

I'm getting married/My sister/brother is getting married; there's a lot to do.

I have to take an extended vacation after such a long final year.

If I start studying by July 5th I should be fine.

I hear there are like a thousand people in the test room; that will freak me out!

I figure I can always pass the second time.

I have to work to pay for the cost of the bar exam, so I won't get to study much.

I'm committing most of my summer to finding a job.

Creating an expectation/rationale for failure is the easy part. Working around this expectation to getting what you want and what you need is the challenge.

OKAY, OKAY: WHAT DO YOU WANT ME TO KNOW?

If we had the magic pill that would allow everyone to pass, we'd be wealthy and probably in another business! What we do have are suggestions that have made a difference to prior bar exam takers.

SELECTING A JURISDICTION

Make it a Business Decision: Picking a jurisdiction to take the bar is your first major decision as a professional going into business. The questions you have to ask yourself include “where do I need to get licensed in order to represent clients and/or to make a living? If you already have a job that specifies the jurisdiction, then this decision is made for you. Otherwise, research in depth the jurisdiction bar examination and what it means to you.

- What type of law do I want to practice?
- Do I want to work in a local firm or federal government?
- What should I do if I don't have a job by the time I have to make a decision about the bar?
- What does "getting two for one" really mean to me?
- Is there such a thing as a "prestigious" bar?
- Do I really have to take a particular jurisdiction if I want to live and work abroad?
 - is the NY bar "the best" if I want to practice international law?

Again, all of these things have different outcomes depending on the answers. There are many strategies with regard to the bar and the decisions are different for each individual depending on the goals and the circumstances. Following what your friends are doing may be the wrong decision for you.

Suggestion: Consider your bar licensing within the context of a five-year business plan. This plan will allow you to factor in reciprocity rules for a number of jurisdictions. Five years from now may seem like a long time, but it goes by quickly. Reciprocity/Admission on Motion can also become important if you need to move for a spouse/significant other.

If you are planning to be in the D.C metro area and are worried about appearing in a Maryland or Virginia court from time to time, you can appear *pro hac vice* (meaning, on a case-by-case basis through special motion). Also, as a new attorney, unless you are in a more unique situation that requires immediate court appearances as a junior attorney (i.e, Legal Aid, JAG, a small, trusting firm), you will likely not represent clients in court on your own.

COURSE SELECTION FOR FINAL SEMESTER/YEAR

We discussed in first-year academic advising the fact that the education is yours, you paid the tuition, and you should take what interests and motivates you. Without deviating from that, as you approach your final year, we suggest you give at least some consideration to taking courses for which subjects may or are likely to appear on the bar.

Recognize that you have just the eight weeks (the exam preparation period) to review and memorize all the classes you took during three or four years, in addition to learning perhaps five new topics per jurisdiction. Can you do this? Some people can but it is not pleasant. Some exposure to a fair number of the topics should help and reduce your anxiety level. At least you know something about the subject. This approach is perhaps even more critical in jurisdictions like VA and NY where there are many state-specific subjects. You will have plenty of new material to learn in a preparation course if the subject was not taught at WCL. So:

- Graduating Students: If you have one year or less remaining, review the subjects tested in each jurisdiction⁵ and determine how many of them they have taken. If you have not taken a UCC class (Sales and Secured Transactions or Negotiable Instruments) to date, consider taking at least one; this subject matter area includes vocabulary that is not intuitive or familiar to most students.

If you have not taken Evidence, take it. You know for sure you will be tested on it (except for LA and WA), as it appears on the MBE.

⁵ Bearing in mind that essay subjects listed for any given jurisdiction are the subjects on which they can and may test you; they likely will not test on all, but they will not tell you which!

-2Ls or Evening 3Ls: Continue taking a balance of bar classes and other electives. UCC classes, Family Law, Evidence are all good for MD, NY and VA. Additionally for NY, Conflicts of Law and Remedies are both good options. For VA, Wills has been mentioned by former students as being useful.

STUDY HABITS

Clearly this is the most difficult aspect of bar preparation to “lecture” about, as what works for your classmate may not for you. **BEST RULE OF THUMB:** Consider how hard you worked your first semester. All the eggs were in one proverbial basket, meaning you had never taken a law school exam, didn’t know what to expect, and knew that everything was riding on the one exam. If what you did worked for you in the first year, it’s time to haul out that strategy again. If the time management, studying, exercise routine and other components did not work, then consider what you have done to address and improve those aspects since then. If you have done nothing to address them, well, we need to talk. **REMEMBER,** remember, remember that everyone learns differently.

When actually studying, try not to get caught up in the “process” of studying or meeting every aspect of the schedule, on the dot. Make sure you learn (i.e., memorize) the material even if you get behind in the schedule. The test is whether you know Torts or Evidence cold, not whether you got through the Torts outline. There is no point to the latter if you can’t recall and recite the definitions.

Have you cleared your June and July calendar of everything but study? The exam is obviously critically important and should not be a secondary thought to graduation or job search. Also, if this is not by now obvious: **NO EXTENDED VACATIONS! NO MARRIAGE PLANS!!** This may sound horrible, but you need to go at it more than it being a job, when failing the exam may mean not having that job. While academics and developing your employment possibilities are your first priority in law school, the time comes at graduation when -if you are not employed- you need to put the search on the shelf and focus exclusively on passing the bar.

Another helpful tip: For a good number of bar exams you still will be handwriting your exam. Remember that? Something you may have last done in high school? If you are not used to handwriting start taking notes by hand in one class or write in a journal every day. You may not believe the degree to which these muscles have deteriorated, and you don’t want to find out come test day; if your exam is illegible, no one is going to take the time to figure out what you wrote.

FINANCES

While as an institution we seek to avoid or limit students requesting loans whenever they can do without, this is not that time! Accessing financial support during the exam preparation period, if it is the difference between working or not, between having day care or not, is critical. Bar loans are available through the Office of Financial Aid. Expenses to consider:

- Comprehensive bar preparation course (\$2,600 approx.)
- Time off from work (two months preferable or at least the month before the exam)

- Application fee (avg. \$250)
- Supplemental course (\$650-\$950)
- Transportation to and from course and parking
- Transportation to exam (airfare, car)
- Hotel during exam (\$150 -\$175)
- Food during exam

A FEW WORDS ABOUT YOUR PERSONAL LIFE

It is your life, and we don't want to get in the way. However, past experience teaches us the following:

-You will do anything to avoid studying! This includes everything that would be avoided under normal circumstances (paying bills, cleaning, family reunions, etc.). Do not succumb to the distractions.

-Family Obligations: Sometimes your family thinks that graduating from law school finally means you have time to spend with them. As such, it may be demoralizing that you need to spend even more time preparing for another exam. Explain to your family that you are going to be unavailable and inaccessible for much of this time. If you have kids, find structured child care and dedicate set amounts of time to spend with them. In the month before the exam expect that you will not see loved ones very much and you will not be much fun to be around. Someone may need to take on the cooking, cleaning and errands. Remember and remind others that this is for a finite time and that your family will be better off when you pass and do not have to re-take the exam. Plan a trip or something fun immediately following the exam, making this a goal and a reward for you and yours.

-Life Balance: Notwithstanding the above, you also have to stay fresh, alert, and sharp. Develop a weekly routine. Treat the days as workdays, planning what you are going to accomplish each day; anxiety only builds, so structure should give you comfort. Balance the day with work, breaks, and -what most people find very useful- some exercise. You need to be physically and mentally at your best.

-Nutrition: Eat right and eat on a schedule. The poor habits you learned in law school ("this cookie will get me through the day!") are not for now. Hunger equals Inability to Concentrate; Lethargy equals Inability to Think Quickly. Eat well now, diet later.

-Sleep and rest: Get sleep! Get sleep on a regular schedule so you are fresh to tackle the day. A regular routine will help. Set aside a day or days when you finish earlier than normal and do something relaxing and mindless like watch a movie. Your brain needs down time to relax.

-Companionship: Get together with friends who are also taking the exam. Sometimes you can feel alone when studying. Even your family, though supportive, does not always fully understand what you are going through. Sometimes a coffee with someone else taking the bar can be relaxing. A barbecue with friends and significant others can help your loved ones also, as they can talk and laugh with other bar widows/widowers.

READYING YOURSELF FOR THE BIG DAYS

Preparation continues to be critical as you approach the multi-day exam. As soon as you know the city where you are taking the exam, make a nearby (ideally, within walking distance) hotel reservation, as those in proximity to the exam sell out quickly. Arriving a day in advance may allow you to identify food locales, etc. Even if you live or will be within driving distance to the exam, resist the temptation to commute; book a room. Traffic is too unpredictable and is the last thing you should be worrying about.

If you can, try to sneak a peak inside the convention center, arena, hotel, wherever you will actually sit for the exam. Even with all the preparation and strategies addressed and accounted for, some exam takers get intimidated and tripped up by the sheer size of the locale and the number of other exam takers. The exam sites are tremendous; depending on the location, you will sit at one of hundreds of big round tables with one other person seated opposite. NOTE: You are virtually guaranteed to have the person at your table who: taps a pencil, snaps gum, sneezes, coughs, smells, etc., or be seated near the front where the proctors don't seem to care that their talking is distracting you, or be in a site that was most recently housing equestrians and didn't quite chase all the birds out (true story!), etc. It is more than tongue-in-cheek advice to bring with you two sets of soft plugs - one for the ears, one for the nose; this is only funny until you realize how thrown you may be by the distraction. SECOND NOTE: Odds are it will be a lot colder in the testing site than you anticipate; be prepared clothing-wise!

Also, almost without exception there are one or more persons outside the exam during the lunch break or after the first day who are crying hysterically. Not to be callous here, but unless it's a very good friend, this is the time to have your blinders on and do what you have to do for you.

FINALLY

And we really mean finally. If you have given it your best (or even less than that), but are not successful the first time around, take heart and some solace in knowing that 94 percent of WCL graduates who persist pass the bar exam by the third attempt. While we do not want you to have to wait (and work) that long, it is important to know that you can do it if you want to.

If you do not pass the exam, then contact us at WCL Student Affairs. We may have some insight and strategies that you have not considered, and we may have advice about other individuals to speak with. Just because you graduated does not mean we are not still here to support you.