

## Bar Exam Information (Not Just for 3Ls!)

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### I. Introduction

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 are going to spend a few thousand dollars on one or more bar preparation courses, travel, and accommodations for a bar exam after you graduate, why not push off the thoughts for a while?

In fact, you can put in place some plans that will ease the burden as you eventually ramp up for the bar. This pamphlet provides an overview of bar exam considerations. Any further questions or concerns you have can be addressed by Student Affairs at any point during or even after your time at WCL.

The time that you spend preparing for the bar exam will be among the most “memorable” periods of your life, a 10-week plus marathon of study and practice to take a two or three day exam. 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 subjects and learning the particular format and vernacular to respond to the questions posed. To a large extent, law school is NOT preparing you for a bar exam, but for the practice of law. A bar exam 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 the information in a particular way for the purpose of taking the exam itself. A bar exam is the lengthiest standardized test many of you will ever take. To be successful, you must:

**Master the Subjects:** You must learn and organize the material in the manner most efficient for taking the bar exam. Graders who review hundreds of essays are not reading your answers for legal brilliance or even 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 buzzwords, get points. 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 (e.g., the elements of negligence: Can you recite them verbatim per the language of the 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 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 and learning from your mistakes.

**MBE or the Multiple Choice Section of the Exam:** For the multiple choice portion, once you take a practice test, read all the credited (i.e. “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 *nearly* correct. This is what makes it difficult; repetition is what makes it easier. Don’t argue with the questions and answers! Save argument for a future courtroom. Your job is to understand *why* a particular answer is the credited response. You will be asked to and should start your practice on multiple choice questions very early in your bar exam preparation.

**State Specific Essay Questions:** You also must start writing essays, especially if you are taking the MD bar, where the essay portion counts for twice as much as the MBE. Practicing essays under timed conditions allow you to see if you are able to provide the desired elements in the desired format to answer an essay question for a particular state.

## II. Understanding the Bar Exam

Although bar exams 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 weeks of each February and July. Unless you sit for the Louisiana 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.<sup>1</sup> 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.<sup>2</sup> 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.

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1 Five of the subjects (Contracts/Sales, Constitutional Law, Criminal Law/Procedure, Real Property, and Torts) are required WCL courses, with Civil Procedure being added in 2015. 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).

Certain jurisdictions have switched to the Uniform Bar Examination format or UBE. The UBE is prepared by the NCBE and consists solely of the MEE, MPT, and MBE. Currently, fourteen states have adopted administration of the UBE in place of their own bar examinations: Alabama, Alaska, Arizona, Colorado, Idaho, Minnesota, Missouri, Montana, Nebraska, New Hampshire, North Dakota, Utah, Washington, and Wyoming. Bar examinees who are interested in taking the UBE in for a given jurisdiction with an eye toward using a passing score for admission to another UBE jurisdiction should check each jurisdiction requirements and rules for such admission. The UBE is a fairly new form of bar examination and one for which the rules are evolving in different states.

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/April, 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. (NB!: The MPRE is not required for the Maryland or Wisconsin bars.)

### **III. Administrative Details, aka The Paper Chase**

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, certified 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 can take a fair amount of time and is NOT something that can be done the weekend before a deadline.

Some bar jurisdictions suggest applying as early as your first year and set a sliding scale for registration as an incentive.<sup>3</sup> Other jurisdictions do not require filing registration until the year in which you take the bar, though some 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](http://www.ncbex.org) (the National Conference of Bar Examiners, the organization responsible for providing standardized exams for bar admission).

Students with a disability who received accommodations in law school should review state bar examiners’ websites 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 within the definition given by a particular jurisdiction. Complete the application early so that if the bar requests additional information or denies an accommodation,

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

you have time to supplement or to appeal.

#### IV. Why Doesn't Everyone Pass?

So, is all the hype and ramp up to the bar necessary? Is it as tough as they say? Who passes and who doesn't?

The person who is likely to **PASS** the bar exam on the first try has:

- **Maintained study habits and time management skills** that served well during law school, or has figured out a way to address those habits that were problematic.
- **Cleared the calendar** of any and all distractions during the period between graduation and the bar. This includes finding a way to not work for a portion or all of the bar exam study period.
- **Prepared for the physical and mental endurance** needed to take what is likely the longest standardized test an examinee will take.
- **Understands that bar exam success depends upon your preparation for THAT particular exam.** The examinee has not been lulled into thinking that (good or bad) GPA means 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 the format in which the state examiners prefer to see answers, 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 who have not passed an examination on their first try have admitted a series of reasons and sometimes self-fulfilling prophecies as to why they didn't pass a bar exam on their first tries. 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.

Consider the following reasons why some **FAIL** a bar exam on their first try:

- **Not paying attention to classes or materials in a bar review course.** The thinking is "Law school has taught me everything I need; why pay attention during a bar preparation course?"
- **Thinking that GPA correlates to bar exam passage.** Those who haven't done as well as they had hoped in law school set themselves up mentally to fail because they think that the bar exam is just a continuation of law school exams.
- **Fear of standardized tests.** The vast majority of us have not been able to dodge standardized testing of one form or another (SAT, ACT, LSAT, MPRE, etc.) Yes, standardized tests can be daunting, but there is no reason that, with proper preparation, you can't succeed.

• **NOT clearing the calendar.** Your wedding, your sibling's or best friend's wedding, extended vacations, and the like can all wait. Granted, any of those events would be more fun than studying, but any of those events are also a good way to chip away at important study time and subsequently fail a bar exam. To the extent that you can also not work during the bar preparation period of 10 plus weeks, it is wise to do so. At least aim to take the month of July off from a job to prepare for an exam. Employers should understand that preparing for a bar exam can't be done in a few days' time.

## **V. Enough Already! What Do I Need to Know?**

If we had the magic pill that would allow everyone to pass, we'd be wealthy and probably in another business (but of course the magic pill would be given to WCL graduates for free!) What we do have are suggestions that have made a difference to prior bar exam takers:

### **Selecting a Jurisdiction**

If you already have a job that specifies a jurisdiction, then this decision is made for you. Otherwise, the questions you have to ask yourself include the following:

- What type of law do I want to practice?
- Do I want to work in a local firm or the 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?
- If I end up practicing locally, is there a jurisdiction(s) in which I can imagine living and practicing over a number of years?
- 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.

### **Five Year Plan and Pro Hac Vice**

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.

Additionally, 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). This provision is also available in other jurisdictions. Also, as a new attorney, unless you are in a situation that requires immediate court appearances as a junior attorney (e.g., Legal Aid, JAG, a small firm), you will likely not represent clients in court on your own.

## **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** (\$3,000 approx.)
- **Time off from work** (two months preferable or at least the month before the exam)
- **Living expenses** during bar exam preparation (rent, child care, utilities, groceries, etc.)
- **Bar exam application fee** (at least \$240)
- **Transportation** to and from course and parking
- **Transportation** to exam (airfare, car, train, etc.)
- **Hotel** during exam (\$150 - \$500; once you choose a jurisdiction, we urge you to reserve a hotel if necessary as early as possible. You would be amazed how quickly accommodations can fill up.)

## **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. Now is the time to find your voice to explain to family and friends that your time before the bar exam will be limited and that you will all 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 and low blood sugar do not lend to concentration, focus, and an ability to retain information. Now is not the time for fad diets! Fuel your body properly.

- **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, may not always fully understand what you are going through. Sometimes a coffee break with someone else studying for 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 relatives of wound up bar examinees.

### **Readying Yourself for the Big Days**

As soon as you know the location of your bar exam, make a nearby (ideally, within walking distance) hotel reservation, as those in proximity to the exam sell out quickly. Arrive a day in advance to allow you to identify food locales, the bar examination site, 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 peek inside the convention center, arena, hotel, or whatever site 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 tables usually with one other person seated opposite. NB! People can become infinitely more annoying to you during exam situations. It is a near certainty that a person nearby will tap a pencil, snap gum, sneeze, or cough. Or you might 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 most recently housed horses and the bar examiners didn't quite chase all the birds out (true story!). It is more than tongue-in-cheek advice to encourage you to bring two sets of soft plugs. Also, odds are it will be a lot colder in the testing site than you anticipate; be prepared clothing-wise and dress in layers.

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

## **VI. Conclusion**

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, you will likely pass on your second attempt. While we do not want you to have to wait (and work) that long, it is important to know that you can try again and pass if you want to.

If you do not pass the exam, please feel free to 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 with whom you can speak. Just because you graduated does not mean we are not still here to support you.