Passing the Bar: A Quick Reference Guide For Today’s Law Student
Allie Robbins

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Multistate Bar Exam (MBE)

According to the National Conference of Bar Examiners (NCBE), the purpose of the Multistate Bar Exam (MBE) is “to assess the extent to which an examinee can apply fundamental legal principles and legal reasoning to analyze given fact patterns.”

The MBE consists of 200 multiple choice questions and tests Civil Procedure, Constitutional Law, Contracts and Sales, Criminal Law and Procedure, Evidence, Real Property, and Torts. You have likely seen most of the testable doctrine during your time in law school.

You will be given 100 questions in the morning testing period and 100 questions in the afternoon. Each testing period is three hours, so you need to work through each question in an average of one minute and forty-eight seconds in order to finish. (Note that there are several different exam booklets, so your seatmates will be answering questions in a different order than you will. This is done to prevent cheating. But it also means there is no need to worry if they are flipping through the question booklet more quickly or more slowly than you are.)

The goal does not necessarily need to be to finish, however. If you are struggling with time, you may find that you actually do better going a bit more slowly through the questions and just bubbling in an answer for the last five to ten questions. Or, you may decide to skip very long questions, or questions on a doctrine that you struggled with the most (such as future interests or the rule against perpetuities). If you can narrow an answer choice down to two choices, you have a 50% chance of getting it right. If you can’t, pick a letter that you will always choose (like B), to increase your probability of answering correctly, even when you are just guessing. You will have enough information to develop this type of strategy in the two weeks before the bar exam. Don’t start abandoning doctrines completely before then.

You need to have an exam day plan for tackling the MBEs. On average, you should complete 25 questions each 45 minutes, and 33 questions each hour. Know before you enter the exam what your time markers are. For example, if your exam starts at 9:30am, you should be at question 25 at 10:15am. Make sure you regularly check the time so you can keep track of where you are, and where you should be.

The MBE questions are not designed to trick you, but they are designed to test nuances of the law, which requires you to know the law very precisely. Some excellent CALI lessons on answering multiple choice questions are Multiple-Choice Questions: Wrong Answer Pathology, at <https://www.cali.org/lesson/18024>, and A Methodical Approach to Improve Multiple Choice Performance, at <https://www.cali.org/lesson/18100>. The bar examiners are looking for the best answer among the choices, not necessarily the best answer in the world. In order to successfully find the correct answer, you need to read every answer choice, and eliminate incorrect answers. There will be four answer choices for every question. One will be correct and three will be distractors. Do not pick A or B without reading C and D. Using the process of elimination is critical to success on the MBE. It is simply not true that for most questions you will be able to think of the answer in your head and find it among the answer choices. Instead, you need to think through why each answer choice is correct or incorrect. (The *Strategies and Tactics for the MBE* book series by Steven L. Emmanuel is an excellent resource for tips on navigating MBE questions. For example, as part of the process of elimination, you will learn to make sure that an answer choice is first, correct on the law, second, correct on the facts, and third, responsive to the question asked.)

One of the components of the MBE that makes students anxious is having to switch between doctrines every 1.8 minutes. This is certainly something that takes practice. One method to assist with this constant shift is to read the call of the question before you read the fact pattern. Sometimes the call of the question can give you a sense of the doctrine that is being tested, narrowing the issue, and allowing you to have a more focused approach when reading the facts.

As you practice the MBE and review your work, make sure that you not only read every answer choice, but you also read every answer explanation – even the incorrect ones. Use the MBE practice to learn how the bar examiners test doctrine on the MBE. You want to review every explanation so that you know why the right answer choice is correct, and why the three distractors are incorrect. You are also going to learn new rules through this form of MBE practice. This is part of the design of bar prep, it is not an accident. Add the new rules you learn to your memorization materials. Additionally, keep a list or journal of MBE test-taking tips so that you can continuously remind yourself of those tips. Learn as much as you can from each question about how in the future you can correctly answer a similar question.

Bar applicants often second guess themselves on MBE questions, and choose the wrong answer over the right answer they picked originally. If this is something you do, it is important to recognize this pattern and interrupt it. Make note of how often you pick the right answer and then second-guess yourself and choose the wrong answer, and figure out whether this is a big problem for you. If it is, make a pact with yourself that you will only change an answer if you can articulate a reason (in IRAC format) why you are changing it. This means that you can't change an answer just because you think another answer choice looks prettier, the question must not be as simple as it seems, or you haven’t heard of a rule so it must be correct. Those are all common ways the bar examiners try to distract you. You should only change an answer if you missed something – or forgot something – the first time.

Sometimes people will change their answers because they think they have too many of one answer choice in a row. The bar examiners aren't thinking about whether there are three “Bs” in a row, or whether there are patterns created by the answer choices. There are actually multiple MBE booklets with the questions in different orders to prevent cheating. So, there are bound to be some weird patterns. Pick the best answer that answers the precise question asked, and trust yourself.

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