

**ST. MARY'S UNIVERSITY SCHOOL OF LAW  
OFFICE OF ACADEMIC EXCELLENCE**

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**STRAIGHT TALK ABOUT THE BAR EXAM<sup>1</sup>**

**Practical advice especially for third year students**

**by Jon Strauss**

The bar examination is the single most important examination in a law student's career. Passage of the bar exam of the state in which the student wishes to practice is the final hurdle that grants entrance to the legal profession. Failure of the exam means the frustrating delay of one's career. The exam is a difficult one, and many students endure weeks of anxiety in preparing for it. What is worse, many students do not pass the examination on their first try, including students who have performed well in law school.

After making the huge investment to complete a law school education, a student's failure of the bar exam is a sad, demoralizing event. But it can be prevented, with early preparation. This article includes some practical recommendations for maximizing your chances of passing the bar exam after graduation.

During the past thirteen years, I have worked to prepare thousands of law students throughout the United States for the bar exam. I have learned what works in preparing for the exam, and what does not work. Although the bar exam will always require thorough preparation, it is possible to do this preparation without anxiety. Properly done, preparation for the bar exam can be an enjoyable experience that produces a successful outcome. My purpose in this article is to help you achieve this result. My belief is that any student who has demonstrated the ability to graduate from law school also has the ability to pass the bar exam following graduation – with the right preparation.

Successful bar exam preparation is based upon the understanding of a few basic principles about the bar exam. These basic principles may initially seem somewhat harsh. As a law student, it is important that you understand them. You ignore these principles at your peril. The good news is that once you understand and accept these principles, you are on your way to making your bar exam preparation not only successful, but also enjoyable.

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<sup>1</sup> 2003 LSAC Regional Academic Assistance Workshop: Bar Prep Programs. Material provided by Professor Jon Strauss.

This article outlines seven basic principles about bar exam preparation, with practical recommendations based upon those principles.

### **1. Law school education does not adequately prepare students for the bar exam.**

This is because the nature of law school and law school examinations is different from the bar exam. In each law school course, the professor teaches students what he or she believes are the most important things the student needs to know about the course's subject area. At the end of the course, there is an examination (or, in some courses, a required paper) that tests students on the skills and knowledge the professor believes that students need to demonstrate. In law school courses, students earn grades based upon the extent to which they satisfy the professors' criteria for successful performance on the final exam or paper.

The bar examination in each state is written by the state board of bar examiners, a committee of lawyers who have their own ideas as to the skills and knowledge that a students must demonstrate in order to pass. The bar exam of all states contains a set of essays written by the state board of bar examiners. The bar exam of almost all states also includes a nation-wide multiple-choice test (known as the Multistate Bar Examination), which is written by a national committee, the National Conference of Bar Examiners. Passage of the bar examination depends upon meeting the criteria determined by the state and national bar examiners. Because these criteria are different from those of law school professors, successful performance on the bar examination is not fully correlated with success in law school.

There are some similarities between law school examinations and the bar examination. For example, the spotting of legal issues is important for both. There are also some important differences. The bar exam essay questions generally require a more "bottom line" approach than the essay questions of law school exams. A student's ability to assess the outcome of a legal dispute, as opposed to merely spot the issues involved is far more important on the bar examination. The bar exam tests on concepts and issues which are generally never covered in law school courses. In addition, the Multistate exam poses tricks and traps that are difficult for even the best students to handle. (The Multistate exam is discussed in greater detail later in this article.)

The people who determine the criteria for success on the bar examination are different from those who determine the criteria for success in law school. The criteria for bar exam success are thus different from the criteria for law school success. As a result, law school does not fully prepare students for the bar examination.

To gain the necessary preparation for the bar exam, law school graduates need to take one or more courses to prepare for the bar examination. These courses, known as "bar review courses," are taught by lawyers (such as myself) who are familiar with the bar exam. They are generally given during the two-month period between the final exams of a law student's last semester (December or May) and the bar exam (February or July). It is nearly impossible to pass the bar exam without taking one or more review courses.

**2. Bar review courses are necessary for passing the bar exam, but the term “bar review” is a misnomer.**

Although bar review courses are useful and necessary for passing the bar exam, the term “bar review course” is misleading. That name implies a course that reviews material which students have previously learned. Because law school does not adequately prepare students for the bar examination, bar review courses are largely teaching students new material. Bar review courses should more accurately be called “bar exam preparation courses” or “bar exam training courses.”

**3. Preparing for the bar examination is similar to learning any others skill. The more you practice, the more proficient you will be.**

Learning how to successfully take the bar exam is like learning any skill, such as learning to drive a car, learning to play a sport, or learning to play a musical instrument. It takes time, patience, and lots of practice. The old adage, “practice makes perfect” applies. Herein lies the key not only to passing the bar exam, but also to avoiding much of the anxiety that students experience about the exam.

Consider the analogy of playing a musical instrument: Suppose that your career depended upon your successfully giving a public piano recital in two months, and you had never given a piano recital before. What would you do? If this piano recital were sufficiently important to you, you would spend a lot of time practicing playing the piano – perhaps as much as twelve hours a day. It would be grueling work. Even if you generally enjoyed playing the piano, you would probably hate putting in the twelve hours a day. You would endure much irritation and frustration along the way, with both physical and mental exhaustion. Your fingers would ache – and so would your head. As the daily hours of practice wear on, you would become increasingly tired, and obtain decreasing value from each additional hour. You would also suffer from much anxiety as to whether or not you would successfully perform your recital.

Suppose, instead, that you have a full year in which to prepare for the piano recital. Although the piano recital remains equally important to your career, this is a much better situation. First, the fact that you have a year in which to prepare means that your anxiety level is much less than when you have only two months to prepare. Second, you now have the option of practicing for two hours a day for twelve months instead of twelve hours a day for two months. Two hours a day of practice is a lot less irritating than twelve hours a day: you might actually enjoy those two hours of practice. You have more time for rest and recreation, more time to spend with your friends and family, and more time to do other things you want to do. By spending only two hours per day at the piano, and then going off to do other things, you would return to the piano each day feeling more refreshed and cheerful. You would get more value out of the time you put in, and you would feel better about your piano practice. You would still have some anxiety about how well you will perform at the piano recital, but your anxiety would be minimal. You have plenty of time in which to make mistakes and learn from them. And ultimately, you would give a much better piano recital after twelve months of practicing two hours per day than you would have given had you forced yourself to practice twelve hours a day for two months.

The analogy to the bar examination is obvious. If you begin preparing for the bar examination early in your final year of law school, about a year before you are to take the exam, you will endure much less frustration and anxiety, and ultimately perform better on the exam, than if you wait until the bar review course which you take during the two months after your last semester's final exams. Effective bar exam preparation is a gradual development of skills, not a cram. With only two months to prepare for the bar exam, it is not surprising that many students fail, and that many students pass only after "going through hell." With nearly a year in which to prepare, the bar exam can be mastered successfully and without great anxiety.

As the piano analogy indicates, it is better to spend twelve months practicing two hours a day than to spend two months practicing twelve hours a day. It is important to realize that these numbers are somewhat oversimplified. I am not advising that you spend two hours every day during your final year of law school preparing for the bar exam. You have other things to do, and two hours a day of the bar exam preparation at this point is a bit excessive. Moreover, at the end of your final exams of your final semester of law school, two hours a day of preparing for the bar examination is insufficient; you will want to spend more time preparing for the exam as the exam approaches. The piano recital analogy should not be taken literally; it is merely a starting point for a practical approach towards optimal bar exam preparation.

**Recommendation:** During your last year of law school, spend four to eight hours per week preparing for the bar examination.

Four to eight hours per week during your last year of law school is a relatively small commitment in view of the disadvantages of not passing your bar examination after graduation.

A few law schools give courses designed to helping students do this work. If your law school gives such a course, this is the ideal situation. If your law school does not give such a course, you need to do this work on your own. You can obtain the necessary bar examination preparation books from one of the bar review courses by putting down a small deposit on the course tuition.

It is not necessary for you to do this work every single day. Nor is it necessary that you become very skillful during this period. What is important is that you put in at least four hours a week on a consistent basis, week in and week out. You want to lay a foundation of practice that will accumulate in your becoming proficient. As with learning to play the piano, weeks of practice eventually accumulate into proficiency. So do this work diligently. Treat this year-long bar exam preparation as if it were a regular law school course in which you wanted to do well. Keep reminding yourself that, although you will not receive a course grade in law school for doing this work, this work is vitally important for your bar exam success and hence your career success.

If you keep this up, this preparation work, through the end of your final semester in law school, you will have a considerable head start by the time you begin your bar review course after the end of your final exams. The bar review course will then provide you with the necessary review of what you have prepared during the school year. Thus, the term "bar review" will become truly appropriate, and no longer a misnomer. Your bar review course will be an actual review of material you have already studied.

Under this plan, your bar exam preparation consists of two stages:

- (1) Your last year of law school, during which you prepare for the bar exam for four to eight hours per week.
- (2) The regular bar review period, during which you spend about forty hours per week (including time spent in bar review class) preparing for the exam.

During this regular bar review period, you review the material previously learned, and obtain more practice to further enhance your skills. With this two-stage approach, your chances of passing the bar exam are greatly increased. You also build greater confidence and suffer from less anxiety.

#### **4. Effective bar exam preparation requires the practice of essential skills, not the absorption of information. Practice involves making lots of mistakes and learning from them.**

A primary mistake that many students make in preparing for the bar exam is spending the vast majority of their time learning and memorizing rules of law, instead of practicing the thinking and organizational skills which the bar exam requires. Think again about the piano analogy: In order to develop your piano playing skills, you need to practice playing the piano as much as you possibly can. Although it is somewhat helpful for you to read books about piano playing and to listen to lectures about piano playing, you will need to spend the majority of your time actually playing the piano. This requires a willingness to initially play the piano poorly, and to gradually learn from one's mistakes.

Once again, remember the old adage: Practice makes perfect. In preparing for the bar exam, as in preparing for a piano recital, there is no substitute for practice. There is no substitute for making mistakes and learning from them.

**Recommendation:** To effectively prepare for the bar exam, you need to spend the majority of your preparation time practicing questions from the past bar exams and questions similar to those given on past bar exams. During this practice, do the work necessary to come up with your own answers. Then compare your answers with the correct given answers, and learn from your mistakes. Do this in your bar exam preparation both during your final year of law school and afterwards, during the bar review period.

#### **5. Good coaching is essential.**

This is another way in which preparing for the bar examination is similar to learning any skill. You will learn more effectively under the guidance of a coach who can keep you on-track and help you avoid major mistakes. A good coach will also help keep you motivated, so that you do not become discouraged during difficult times. A good coach will provide you with the encouragement that will help you to consistently maintain your four to eight hours per week of bar exam preparation.

**Recommendation:** Obtain an experienced bar exam coach, and consult with him or her on a regular basis. Again, the ideal situation would involve a bar examination preparation course given by your law school. The teacher of that course is then your coach. If your school does not give such a course, you should find someone who is experienced with the bar examination who is willing to act as your coach. During your last year of law school, as well as during your bar review period after law school, check in with your coach as least every two to three weeks. Telephone and e-mail both work nicely for this purpose; you do not need to speak with your coach in person. Tell your coach what you are doing to prepare and how your preparation is going. Ask for feedback as to whether your preparation is on target. Ask questions if you are confused on particular points.

If your bar exam preparation during your last year of law school is going well, then brief conversations or e-mails are sufficient; if you are confused on major issues, then your coach may need to spend more time with you. In any case, you will be much better off by consulting with a coach on a regular basis than by trying to do everything on your own.

In selecting your coach, find someone who is able to keep in touch with you even after your graduation, during the regular bar review period. Your coach should be there to help you stay on track during the critical two months prior to the exam.

## **6. It is essential to develop and practice legal writing skills.**

Although there are differences between essays on law school final exams and essays on the bar exam, legal writing skills will definitely help you on the bar exam. The graders of the bar exam essays are more interested in your organization and clarity than they are in your knowledge of the law. The bar exam graders are aware that the bar exam is a closed-book exam, and will forgive you for your mistakes in your knowledge of the law, provided your essays convince them that you have the skills necessary for researching the law and properly applying it in law practice. The exam graders are less forgiving of poor organization and poor writing style.

Legal writing skills are especially important if you are taking the bar exam in California or one of the other states which has a performance test on its bar examination. The performance test is a pure test of legal writing: all the necessary legal knowledge is given to the student in the form of a miniature library. Your ability to organize, apply, and clearly express that knowledge is what is being tested.

**Recommendation:** Take as many courses as you possibly can which will give you writing practice. Put as much work into those courses as you possibly can. No matter how good your writing skills are, you can always benefit by further improvement. This will help you not only on the bar exam, but in your career as well.

## **7. It is essential to develop Multistate Bar Examination skills.**

All but two states (Louisiana and Washington State) use the Multistate Bar Examination (MBE) as part of their state bar examination. The MBE is a 200-question multiple-choice test on six subject areas: torts, contracts, property, criminal law and procedure, constitutional law, and

evidence. Performing well on the MBE is essential to passing the bar examination for the states which use the MBE.

Conventional wisdom suggests that a multiple-choice test is easier to handle than an essay test, on the theory that it is easier to pick out the correct answer from a set of choices than to come up with the correct answer on one's own. This conventional wisdom is wrong as applied to the bar exam. The incorrect answer choices on the Multistate Bar Exam are written in a way that makes them very attractive even to the best students. It takes quite a bit of skill to learn how to distinguish the correct answer choices from the incorrect choices. A number of questions on the MBE contain two or more answers choices which could be considered adequate responses, but only one choice receives credit. Thus, distinguishing between the best answer and a second-best answer can be a challenging task. The Multistate Bar Exam is therefore more difficult to handle than bar exam essay questions.

On the other hand, the MBE offers an advantage in terms of facilitating early preparation. The questions on the MBE are generally shorter and involve fewer issues than those of the bar exam essays. In the early stages of bar exam preparation, it is easier to focus on the Multistate questions than on the bar exam essays.

**Recommendation:** Unless you are planning to take the bar exam in one of the two states which does not use the MBE, spend a significant amount of your bar exam preparation time during your last year of law school preparing for the MBE. Your coach can guide you as to how much time to spend preparing specifically for the MBE as opposed to the rest of the bar exam. In general, you cannot go wrong if, during your final year of law school, you spend between half and two-thirds of your bar exam preparation time preparing specifically for the MBE, with the remainder of the time reserved for the rest of the bar exam.

In preparing for the MBE, as well as in preparing for the bar exam essays, remember that it is not enough to understand the rules of law; you need to work practice questions, make mistakes, and learn from them. Keep reminding yourself that improvement comes from practice.

If you follow these recommendations beginning early in your final year of law school, you can prepare for the bar exam with minimal anxiety, and with an ultimately successful outcome.

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