

# ST. MARY'S UNIVERSITY SCHOOL OF LAW

## OFFICE OF ACADEMIC SUPPORT

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### The Texas Bar Examination<sup>1</sup>

#### A. Structure and Grading of the Examinations

1. **Multistate Performance Test:** The Texas bar examination takes place over two and one-half days, and is given twice every year, in late February and late July. On the morning of the first day of the examination, examinees take the Multistate Performance Test (MPT). The MPT is designed to test an applicant's ability to use fundamental lawyering skills in a realistic situation by completing a task which a beginning lawyer should be able to accomplish. This task may be to write a memorandum of law or a letter to a client. The test is 90 minutes in length, and the examinee is furnished with a file of source documents and a library of research materials to be used in accomplishing the designated task. No outside materials or sources are used to complete the task required of the MPT. The MPT requires examinees to (1) sort detailed factual materials and separate relevant facts from irrelevant facts; (2) analyze statutory, case, and administrative materials from principles of law; (3) apply the law to the relevant facts in a manner likely to resolve a client's problem; (4) identify and resolve ethical dilemmas, when present; (5) communicate effectively in writing; and (6) complete a lawyering task within time restraints. The MPT constitutes 10% of the examinee's score, and the maximum raw score on the MPT is 100 points. The examinee's raw score is scaled to the Multistate Bar Examination's (MBE) 200-point scale by use of a statistical process called the equipercentile method, which is explained in detail below.

2. **Procedure and Evidence:** After completing the 90 minute MPT, examinees then take a 90 minute short answer test on Procedure and Evidence (Texas Civil and Criminal Procedure, Texas Evidence, and Federal Civil Procedure and Evidence). The Procedure and Evidence test is equally divided between a) Civil Procedure and Evidence and b) Criminal Procedure and Evidence. This test includes 20 questions on each of these two parts. Past Procedure and Evidence tests are found at <http://www.ble.state.tx.us/ExamQues/past.htm>. There are 100 possible raw points on the Procedure and Evidence examination. Like the MPT, the examinee's raw score on this portion of the exam is scaled to the MBE 200-point scale by use of the equipercentile method.

3. **Multistate Bar Examination:** On the second day of the bar examination, students take the Multistate Bar Examination (MBE). The MBE was introduced by the National Conference of Bar Examiners (NCBE) in 1972. It was adopted by Texas in 1974. The MBE tests six subjects, Contracts, Constitutional Law, Criminal Law, Evidence, Property and Torts,

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<sup>1</sup> St. Mary's University School of Law Bar Passage Study Committee, Final Report, August 2000.

and consists of 200 multiple choice questions. Half of the questions are asked during a morning session and half during an afternoon session, each of which lasts three hours. Students are asked 34 questions each in Torts and Contracts, and 33 questions in each of the other four subjects. The MBE accounts for 40% of the examinee's final score, and the maximum scaled score on the MBE is 200. The NCBE has recently released 100 past test questions. These questions are available for purchase at a nominal fee. The questions can be found at <http://www.ncbex.org>. Go to the NCBE Online Store link. Click on the MBE Annotated Preview 2006.

4. **Texas Essay:** The final day of the Texas bar examination is the Texas essay examination. Like the MBE, the Texas essay is divided into a three hour morning session, and a three hour afternoon session. During each three hour session, the examinee must answer six (6) essay questions. The subjects tested on the Texas essay examination include Wills and Estate Administration (2 questions), the Uniform Commercial Code (2 questions), Business Associations (2 questions), Family Law (2 questions), Texas Property Law, including Community Property and Oil and Gas (2 questions), Consumer Rights (1 question), and Trusts and Guardianship (1 question). Within those subject-based questions noted above, issues of tax, water, insurance and bankruptcy law may also be tested. Each essay question is worth 25 raw points, making the total raw points available for this part of the examination 300 points. The Texas essay is worth 40% of the examinee's score. Prior Texas essay questions are available at <http://www.ble.state.us/ExamQues/past.htm>.

5. **Scoring:** The raw scores are "scaled," or adjusted, to account for possible exam-to-exam fluctuations in the level of difficulty. This adjustment is the result of a process called equating. To scale the examinee's raw MBE score, the answers given by the applicants taking a particular bar examination are compared with responses to about sixty questions which have appeared on prior MBE examinations given by prior bar applicants. The responses of the current test-takers to these common questions are then statistically compared with the performance of examinees to prior examinee pools, which reveals the relative level of knowledge of current pools of examinees and determines how many points should be added to or subtracted from the raw score to reach a scaled score. A scaled score is this standardized score which has been adjusted to account for the differences in difficulty of the questions appearing in different administrations the examination. Therefore, a particular scaled MBE score on the current exam is indicative of approximately the same level of proficiency as the identical scaled score on any MBE administered before or after this examination.

A perfect scaled score on the Texas bar examination is 1000 points. A passing score is 675 points. Each of the four parts of the bar examination is scaled, and the formula for grading is: Scaled MPT divide by two plus Scaled Procedure and Evidence score divided by two plus Scaled MBE score times two plus Scaled Texas essay score times two. (For example,  $138/2 + 136/2 + 134(2) + 136(2) = 69 + 68 + 268 + 272 = 677$ .)

## **B. Multistate Professional Responsibility Examination**

Even if an examinee receives a passing score on the February or July bar examination, an examinee cannot be licensed as a lawyer in Texas without passing one more standardized test. In 1981, the Texas Board of Law Examiners required each Texas bar applicant to pass the Multistate Professional Responsibility Examination (MPRE) in order to become licensed to

practice law in Texas. The MPRE consists of fifty multiple-choice questions based on the Model Rules of Professional Conduct, and must be completed within two hours. The MPRE was developed by the NCBE in 1980, and at least forty jurisdictions require applicants to the bar to pass the MPRE in order to gain admission. An applicant to the bar is permitted to take the MPRE before graduating from law school, and the MPRE is offered three times a year, in March, August and November. There is no data indicating that any applicant who has passed the Texas bar examination has been unable to obtain a license to practice law in Texas as a result of an inability to pass the MPRE.