

# Coursebook

Quimbee<sup>®</sup> MBE Review



# MBE Coursebook

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# MBE Strategy Guide

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## Introduction

This guide will furnish knowledge, insights, and strategies to help you earn your best score on the Multistate Bar Examination (MBE). The MBE is administered in each jurisdiction in the United States except Puerto Rico and Louisiana.<sup>1</sup> The MBE is one of three components of the Uniform Bar Examination (UBE). The other two are:

- the Multistate Essay Examination (MEE), an issue-spotter exam requiring you to apply real-world legal principles to hypothetical fact patterns in answering a series of essay questions, and
- the Multistate Performance Test (MPT), a closed-universe exam testing your ability to analyze facts and law and complete a professional legal work product.

The MBE presents 200 multiple-choice questions, which you'll have six hours to complete in two three-hour sessions of 100 questions apiece. On each, your task will be to apply general legal principles to a hypothetical fact pattern to select the best answer option among four alternatives. In jurisdictions that administer the UBE, the MBE accounts for **50 percent** of an examinee's score on the bar exam. In jurisdictions that administer the MBE but not the UBE, the MBE is generally the most heavily weighted portion of the exam by a significant margin.<sup>2</sup> Indeed, in three jurisdictions (as of this writing), if an examinee's MBE score crosses a certain threshold, she passes the bar exam automatically, without reference to the other components.<sup>3</sup>

The upshot: the MBE is the most important component of the bar exam. In many ways, it's also the most difficult. Thus, if you're taking the bar in any MBE jurisdiction, this guide will help you maximize your score on the MBE and, by extension, the bar exam. So, let's get started.

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<sup>1</sup> National Conference of Bar Examiners, *Multistate Bar Examination*, available at <http://www.ncbex.org/exams/mbe/>.

<sup>2</sup> National Conference of Bar Examiners, *Preparing for the MBE*, available at <http://www.ncbex.org/exams/mbe/preparing/>. By contrast, in Pennsylvania (which administers the MBE but not the MEE or MPT), the MBE counts for 45 percent of an examinee's total bar-exam score, the essays are worth 44 percent, and the performance test is worth 11 percent. See Pennsylvania Board of Bar Examiners, *Bar Exam Passing Standards*, available at [http://www.pabarexam.org/bar\\_exam\\_information/passing.htm](http://www.pabarexam.org/bar_exam_information/passing.htm).

<sup>3</sup> Those jurisdictions are the District of Columbia, Minnesota, and North Dakota. See National Conference of Bar Examiners, *MBE Score Services*, available at <http://www.ncbex.org/ncbe-exam-score-services/mbe-score-services/>.

## What Is the MBE?

According to the National Conference of Bar Examiners (NCBE), which promulgates the MBE, the MBE is designed to:

assess the extent to which an examinee can apply fundamental legal principles and legal reasoning to analyze given fact patterns . . . . Each of the [200 multiple-choice] questions on the MBE is followed by four possible answers. Examinees should choose the best answer from the four stated alternatives. Each question on the MBE is designed to be answered according to generally accepted fundamental legal principles [*i.e.*, majority rules], unless noted otherwise in the question.

Put more simply, the MBE tests whether you can:

- read each component of each question closely;
- remember the governing legal principles, usually (but not always) majority rules;
- apply those legal principles to a hypothetical fact pattern;
- evaluate the relative merit of the available answer options; and
- select the best answer.

### The MBE as an Objective Test

For purposes of education and professional licensure, there are two main types of tests: subjective and objective. In general, a subjective test calls upon examinees to state conclusions and articulate supporting rationales. This invites some degree of evaluation and independent judgment by both the examinee and the grader. The examinee articulates and supports a reasoned opinion, and the grader evaluates that work using a set of uniform criteria. Indeed, a hallmark of subjective tests is that there may or may not be one **right** answer; often, the strength of the reasoning supporting an examinee's conclusions counts for much more than the conclusions themselves.

On a subjective test, each problem is worth a maximum number of points. An examinee could score anywhere between zero points and the maximum, depending on the degree to which the examinee demonstrates mastery of the material and effective written communication. This means that even partial mastery is worth something.

The MPT and MEE are classic subjective tests; they generally ask you to state legal conclusions and articulate rationales to support those conclusions by applying law to facts. The more correctly and completely you identify and address the relevant legal issues, the more points you'll earn. You may reach a different conclusion from what the bar examiners have identified as the correct one.

Even then, you can earn close to the maximum points for the issue if you back up your conclusion with a tight and well-reasoned analysis.

The MBE is different; it's an objective test. On an objective test, there is one—and only one—correct answer to each question. An examinee who indicates the correct answer gets all available points for the problem. An examinee who indicates an incorrect answer gets no points for the problem. This is true regardless of how well-reasoned the examinee's analysis of the question is.

Multiple-choice exams like the MBE are archetypal objective tests. Each MBE problem presents a legal question with exactly four answer options, exactly one of which is correct. If you select the correct answer option, you'll earn all available points. If you select one of the incorrect answer options, you'll earn no points. (Fortunately, the bar examiners don't subtract points for wrong answers on the MBE.)

This is the biggest difference between the MBE and the other components of the bar exam. On the MBE, close doesn't count. You'll get no points for selecting an incorrect answer, even one reflecting partial mastery of the material. The MBE, like most objective tests, is all or nothing.

### Indicating Answer Options on the MBE

On the MBE, you'll be provided a pencil, a scannable answer sheet, and an exam booklet setting forth general instructions and containing the problems you'll be working for that exam session. The answer sheet will consist largely of columns with rows. Each row is numbered; corresponds to the exam problem of the same number; and is accompanied by four circles, each labeled A, B, C, or D to represent an answer option to the problem.

You'll indicate the answer option you believe is correct by filling in the corresponding circle on the answer sheet with your pencil. After the exam ends, your answer sheet will be run through a grading machine that will scan your sheet and calculate your score.

For each problem, you must fill in one and **only** one circle. If you fill in two or more circles for a problem, the grading machine will mark the problem wrong, even if one of the answers you select is correct. In that vein, if you want to change an answer, be sure to erase the old answer selection **completely** (along with any stray marks on the answer sheet) before you fill in another circle for the question. If you don't erase completely, the grading machine may score the question as though you indicated two answer options.

You must also be sure to fill in the circle **completely**. Otherwise, the grading machine may be unable to read your response and, thus, score the problem as if you did not indicate an answer.

Of course, to select an answer, you must fill in the circles on the answer sheet. Indicating answers by any other method, such as marking answers in your exam booklet, will net you no points. The scannable answer sheet is graded, not your exam booklet; exam booklets are generally disposed of shortly after an MBE administration.

Though indicating your answers in your exam booklet will net you no points, marking your answers in your exam booklet as you go is worthwhile. In the MBE's highly pressurized environment, it's easier than you might think to fill in a circle for, say, question 49 when you meant to fill in a circle for question 48. If at any point you think you might have made this mistake, having marked your answers in your booklet will give you a quick and easy reference point to go back and make sure that you've filled in the intended circle on each question.

## The MBE's Comprehensive Coverage

Because the MBE is an objective test, it allows for more comprehensive subject-matter coverage than a subjective test. An objective question invites a single input, not exhaustive exposition, meaning it can be completed more quickly than a subjective question covering the same material. That allows for more questions and, thus, broader—and deeper—coverage.

To illustrate, the MEE will present six essay problems, which you'll be hard-pressed to answer thoroughly within the allotted time. Those six problems, taken together, will cover only a fraction of the topics listed on the [MEE Subject Matter Outline](#). Of the 12 subjects listed on the MEE outline, typically no more than nine will make an appearance on a given administration.

The MBE, by contrast, presents 200 multiple-choice questions. Most topics on the [MBE Subject Matter Outline](#) will make a showing somewhere on your MBE administration.

- **Pro tip:** Each MBE subject is also a candidate for the MEE, making the MBE subjects especially important for the bar exam.

For the MBE, it's not enough to master the general rules. The multiple-choice format lends itself to testing the law's deep subtleties. Thus, to rock the MBE, you'll need to learn the general rules, the exceptions to the rules, the exceptions to the exceptions, and the odd doctrines that impact other doctrines in discrete situations. What's more, the NCBE question drafters make a point of including incorrect answers that would seem correct to someone with knowledge gaps and misconceptions about the governing law. Without the needed level of mastery, you'll be prone to pick one of those incorrect answers.

## Scoring the MBE

Of the MBE's 200 problems, only 175 are graded. The remaining 25 are pretest problems. These are problems the NCBE is considering including as graded problems in future MBE administrations, depending on their effectiveness on the current administration. Pretest problems will not count toward your score.<sup>4</sup>

Keep in mind, though, that you'll have no way to distinguish between pretest problems and graded problems. If there were a way to distinguish, examinees would likely skip the pretest problems or attempt them only halfheartedly. This means you'll need to do your best to answer each problem correctly.

Your final score on the MBE is the result of a two-step process. The graders will first:

1. determine your raw score on the graded problems and
2. adjust your raw score to arrive at your final or **scaled score**.

Your scaled MBE score will then be added to your scores on other components of the bar exam to determine your overall score. The overall score needed to pass varies by jurisdiction. A good rule of thumb, though, is that you'll need to answer about two-thirds of the graded MBE problems correctly to pass the bar exam, assuming you perform reasonably well on the other components.

Bear in mind: though each MBE problem counts for the same number of points, the problems are not all equally difficult. MBE problems generally range in difficulty from relatively easy<sup>5</sup> to especially hard. About 20 percent of the problems tend to be relatively easy—generally answerable for those who remember what they studied in law school. Roughly 20 percent tend to be especially hard—so hard that most examinees will likely answer them incorrectly. The remaining 60 percent or so tend to be of medium difficulty—tough but mostly answerable for those who studied diligently in the weeks leading up to the bar exam. The key to passing lies in correctly answering the vast majority of the relatively easy problems, most of the medium-difficulty problems, and (ideally) some of the especially hard ones.<sup>6</sup>

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<sup>4</sup> National Conference of Bar Examiners, *Preparing for the MBE*, available at <http://www.ncbex.org/exams/mbe/preparing/>.

<sup>5</sup> This guide uses the term “relatively easy” because no MBE problems are ever truly easy, though some are less difficult than others.

<sup>6</sup> See John Talamo, *Mastering the Multistate Bar Exam* (2d ed. 2007).

## Raw Score

On the MBE, your raw score will start at zero and increase by a set amount for each graded problem you answer correctly. You will receive no credit for wrong answers or unattempted problems, but no points will be deducted for these. Thus, for example, if you answer 100 graded problems correctly, and each graded problem is worth one point, you'll earn a raw score of 100 points. The higher your raw score is, the higher your final or scaled score will be and, hence, the more likely you'll conquer the bar exam.

## Scaled Score

Remember, though, that your raw MBE score will not be your final score. Once the bar examiners determine your raw score, they will adjust it (likely upward) using a statistical process called *equating*.<sup>7</sup>

Here's the rationale for equating, in a nutshell: some MBE questions are more difficult than others. It's impossible to assure that the average question difficulty on a given MBE administration is precisely equal to that on every other MBE administration. Thus, all other things equal, if an examinee takes an MBE administration of higher average question difficulty, she is less likely to earn a passing score than one who takes an administration of lesser average question difficulty.

Clearly, that's unfair. To account for this, the bar examiners compare the average question difficulty of the current administration to that of prior administrations. Then, the bar examiners apply a percentage upward adjustment to the examinees' raw scores. If the average question difficulty on the current administration is notably higher than prior ones, then the upward adjustment will be higher, and vice versa. This process assures that an examinee's chances of earning a passing score don't depend on a particular MBE administration's average question difficulty.

## Subjects Tested on the MBE

As of this writing, the MBE features exactly 25 graded problems in each of the following seven subjects:

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<sup>7</sup> National Conference of Bar Examiners, *MBE Scores*, available at <http://www.ncbex.org/exams/mbe/scores/>.