

Improving Your Odds To Pass The Bar Exam By Paul Pfau

Over the last nearly 23 years, I have had the opportunity to specialize in working with both repeat and first-time examinees dedicated to passing the bar on their next attempt.

This has not only afforded me the clear vantage point to identify the difficulties encountered during bar preparation and performance, but also to address the development of those specific test-taking techniques that can successfully raise a candidate's test-taking standards for each of the three sections of the exam. With sagging bar passage rates in California,

I have summarized them for you here, as well as noting some additional factors that will lead you to success. I hope you will find them useful.

I. LAW SCHOOL EXAM PREPARATION

PROBLEM: Many of the test-taking skills that are brought to the bar review process are inherited from law school and even earlier educative experiences. In general, the typical law school "cramming" experience before semester, quarterly, or final exams - failing to incorporate sufficient problem-solving practice of essay or multiple-choice questions - is inadequate as an exclusive foundational cornerstone for effective bar preparation which will lead to successful results.

SOLUTION: Beyond substantive review, three other components central to a well-balanced approach for your bar review - discussed in more detail later - should also be emphasized.

(1) The identification of test-taking techniques suited to improving your test-taking skills and standards.

(2) The application of them through increased practice of essay, PT, and MBE problem-solving.

(3) What I term "qualitative review" of your problem-solving practice. Without this focus, it is not at all uncommon for first-time and even repeat candidates to return to their law school study "comfort zones" and spend upwards of 80% of their available study time dedicated to the substantive review of the 14 bar subjects. The key is to begin to learn in law school how to better balance the use of your exam preparation time. Design a study strategy that incrementally builds your substantive knowledge and which practically develops your utilization of it through problem-solving exercises employing your test taking and qualitative review techniques.

II. IDENTIFY YOUR TEST-TAKING STRENGTHS AND WEAKNESSES

PROBLEM: Regardless of your law school performance, every candidate preparing for the bar will have some degree of both test taking preparation and performance strengths and weaknesses. These may include a wide range of difficulties - from disciplined time-management study habits,

memory retention, poor issue-recognition capability or writing style, inadequate MBE standards to name a few.

SOLUTION: Before you choose the bar review program that you entrust to lead you to success, spend some quality time to address these two concerns: First, do the best job you can to identify your own test-taking strengths and weaknesses. In making this assessment, you must also understand the nature of the three exams that make up the General Bar Exam as "problem-solving speed tests" (an artful term in educational testing) and whether your current testing skills are sufficient to deal with them. Here, it may also be helpful to enlist the aid of some professional expertise. Second, choose your bar review very carefully. Assure yourself that it will teach you the specific techniques that will address your test-taking needs. Not every test-taker's needs are the same, which is why a generic, "one-size-fits-all" type of course may be inadequate for some candidates. I have usually discovered that the thorough identification of a candidate's testing needs is a continuous process requiring constant monitoring in order to be uniquely responsive.

III. INVESTIGATE THE BAR REVIEW PROGRAM YOU ENTRUST WITH YOUR SUCCESS

PROBLEM: In keeping with the last observation, it is my experience that many first-time and repeat candidates are not as thorough as they need to be in choosing the bar review program that they will entrust their success. While it may not have quite the importance of choosing a spouse (there are those who would differ), it should come close, and the "fit" should be a good one as you prepare in a fairly limited amount of time to upgrade your test-taking skills to make them compatible with the bar's exacting standards.

SOLUTION: Begin the investigative process early and learn to ask the kinds of questions that will impact how effectively you study on a day-to-day basis. For example: On an hour-to-hour basis, how will I manage my limited time and build the kind of necessary balance into my program to learn the law and practically prepare for each of the three sections of the bar, how do I memorize the law at the standard needed for the essay and MBE without spending all of my time doing it, how do I know my graded written work is accurately reflective of the bar grader's standards, while the commentary on my graded practice work may be descriptive of some writing difficulty, how will I know how to cure it and who will give me the personal attention I may need, do I need a "personal trainer" to teach me the bar's test-taking standards or is a more generic program sufficient, etc.? Be sure to speak with references from the bar review program you are interested in as well as the specific person you will turn to "when the going gets rough." Repeat examinees are an especially good source because many have experienced more than one review program and thus may provide some comparative insight.

IV. GIVE YOURSELF ENOUGH TIME TO PREPARE FOR THE BAR

PROBLEM: Remember that you have developed your writing and objective test-taking capabilities over your entire educative lifetime. When you invite a bar review program to assist with your preparation, be sure to give it (and you!) enough time to impact your standards so that you can make them compatible with the bar's. Many first-time candidates, in particular, make the

mistake of waiting until the bar review course begins before formally commencing their own preparation. This cedes an enormous advantage to the candidate who begins earlier, in effect allowing the bar review course to dictate to the candidate who begins his review later the all-important time control factor that may be uniquely necessary to assure success. In other words, each of us is fundamentally different when it comes to learning, so that the typical bar preparation period may be wholly insufficient to adequately prepare for this very demanding problem-solving speed examination.

SOLUTION: To build a balanced bar review strategy that will efficiently and effectively manage the use of your time, first determine how much of it you really have. In this regard, assess what I describe as your "available net study time." First, be sure to precisely determine how many "available net study hours" you have for every week of your bar preparation. This means that you evaluate a typical day's amount of time and factor out all of the elements that detract from your ability to devote "100% of concentration time" to your study. For example, be sure to subtract all of the "necessaries" of any 24 hour period - such as eating, sleeping, and working time - in addition to the time you spend with your formal bar review program (including your transportation to and from class). Also, be certain to discount whatever time remains for study if you have habits that take away from your concentration. If you do this, you will have a more precise understanding and appreciation of the "Real Time" that you will be devoting to your bar review aside from the time you dedicate to class. This is crucial in understanding how many essays or PT's or MBE's you actually have time to do, how much time to devote to substantive review, and so on. Most importantly, it will help to accomplish two other things:

- (1) Reduce the anxiety that inevitably comes when you do not complete your unrealistic goals.
- (2) Give you a fundamental appreciation for the use of your time as you perform on the exam.

The evaluation of your "available net study time" should be revisited every day; in other words, stay on top of effectively managing it!

V. BRING A POSITIVE ATTITUDE TO YOUR BAR PREPARATION

PROBLEM: The halfhearted hope to pass the bar rarely leads to the day-to-day energy necessary to positively build confidence and success.

SOLUTION: In all the years of my experience, there is no more important attitude factor that will lead to passing results than:

- (1) Entering your bar preparation process with the commitment to pass on your next attempt.
- (2) the commitment to the bar review process that you choose to lead you to success.

This is something that you can begin to develop with a thorough investigation of "what it takes" to prepare for and pass each of the three sections of the bar and to find the course that is right for you. Then, be sure to bring you personal accountability to bear in following through with the day-to-day work that over time will reinforce consistently high testing standards.

VI. COMMIT TO A BALANCED STRATEGY INVOLVING ALL THREE SECTIONS OF THE BAR

PROBLEM: It is all too common for many bar applicants to spend too much time with substantive review and not enough with its application in practice to ensure the balance necessary to improve the test-taking skills necessary for each of the three sections of the bar.

SOLUTION. Develop a strategy for bar preparation reflective of your "available net study time" and that works to apportion the total time that you spend with each of the three sections of the exam in a balanced way. Remember that each section is worth a different point total or percentage toward your ultimate goal of passing the bar. In other words, the essay represents about 40%, the MBE about 34%, and the PT about 26%. It is roughly appropriate, therefore, to dedicate similar amounts of time to the development of your examsmanship skills for each of these different sections of the bar. There is always some variation in emphasis, of course, dependent upon the specific strengths and weaknesses that you may have in certain subject areas. Generally, however, try to ensure against a strategy that is more "free-for-all" than balanced. Give thought to the amount of time you actually have and use it constructively in designing an overall strategy for all three sections of the exam. Avoid the typical pitfall of spending an inordinate amount of time in substantive review or with some other perceived weakness. Remember that your goal is to achieve at least a total of 1,440 points and that this can be optimally accomplished by doing well on all three sections of the bar. In contrast, "maxing out" on any one area will unlikely make up for a poor showing in another.

VII. THE FOUR KEY ELEMENTS FOR EFFECTIVE BAR PREPARATION

PROBLEM: Regardless of which section of the bar you feel you must most work to improve - essay, PT, MBE - it is key that you do not merely rely on substantive review as the element to lead you to success. While it is certainly one of the fundamental cornerstones for success, remember that the bar is essentially a problem-solving speed examination requiring comprehensive analysis - not just the regurgitation of information - in the context of limited time periods. In effect, the bar is really six 3-hour examinations, a uniquely exhausting process over a 72-hour period never even closely approximated in a law school context. It is therefore equally important to develop through your preparation both the mental and physical stamina necessary for an examination requiring this degree of endurance. Simply put, improving your test-taking focus is at the heart of passing this exam. You do not want to get to the bar with the law carefully memorized but without the necessary techniques or backlog of practical experience that will lead to consistently high standards. Common test-taking pitfalls such as running out of time, conclusory analysis, the failure to identify subtle levels of issues - are all symptomatic of the failure to integrate other ingredients rather than just substantive review into the study mix.

SOLUTION. Comprehensively add these elements to your bar review:

(1) Substantive Review - "informational programming" - as noted above, is central to bar preparation, but learn to understand its role in effectively developing your ability as a problem-

solver on each of the three sections of the exam. This will assist in building your perspective of the extent to which you should ultimately learn it.

(2) Technique - Here, choose a bar review program whose techniques to prepare you for each of the three sections of the bar will precisely challenge the test-taking skills you presently may have with those necessary to meet the bar's standards.

(3) The Application of Technique to Practice - Apply the techniques that you learn through increased practice to upgrade your test-taking skills and to make them consistent regardless of the subject matter being tested. And also to increase your test-taking stamina and focus.

(4) Qualitative Review - This means that you learn from the review of your practice work applying the standards of the bar grader. Do not merely consign your work to a grader whose standards may or may not conform to the bar's. Learn to use the essay, PT, or MBE model answers to develop your issue awareness and writing standards. I have found that while many causes contribute to lack of success on the bar, the failure to emphasize each of these elements in balance is more than often at the root of an examinee's difficulties.

In short, many unsuccessful candidates spend far too much time with substantive review, scant attention to technique, do not have a disciplined practice schedule which emphasizes both the application of technique and stamina and focus building to raise standards, and inconsistently do not put enough "sweat equity" into the process of qualitative review to sufficiently benefit from it.

VIII. A DISCIPLINED & PACED BAR PREPARATION APPROACH

PROBLEM: There is no question that bar review can be an exhausting process, often tediously so, and a significant challenge is to avoid the kind of "burn out" that can lead to exhaustion and resulting poor bar performance. Despite a disciplined work ethic, it is also important to pace your preparation to peak for the three days of the bar itself; not too much before and certainly not after.

SOLUTION: As noted above, design a time-management system that incorporates enough "R&R" to keep you fresh throughout and that works to wind down your intense study time so that you are ultimately able to perform at your best. Remember. All the preparation in the world will count for little if you are too tired to optimally benefit from it.

IX. A HEALTHY PERSPECTIVE

PROBLEM: There are a myriad of factors that will insidiously work to undermine the positive effects of a disciplined and confident study program: fatigue, the failure to consistently practice, insufficient feedback, the failure to progressively improve your test-taking standards, etc.

SOLUTION: Everyone, to some extent, will have a "bad day" but the important lesson is to learn to adapt to your difficulties, fine-tune your program, and do the little things each day that over time will yield positive results. Remember that the bar is a test of competence, not perfection, so learn the objectively defined test-taking standards that will lead you to success and avoid the

excesses that will take you from it. In doing so, consult with others "who have been there before you" and who can critically add to your perspective about "what it takes" to put the bar behind you.

X. HONOR THE PROCESS

PROBLEM: Beyond the issue of how much time you have to prepare for the bar, as well as your strategic use of it, most importantly consider what you do with your time in preparing to pass the bar on your next attempt. I call this "process" and it should be the central cornerstone that anchors your bar review. In essence, "process" leads to the development of precisely honed test taking skills for each of the three sections of the exam and prepares you to utilize them both consistently and successfully. In determining what "process" you will use, be sure to first understand the nature of the three tests that comprise the bar. Noted previously, they are all "problem-solving speed exams," where the goals through focused reading comprehension are to efficiently identify basic legal issues in a limited time period and then resolve them by consistently selecting the "best answer" for the MBE or in "lawyer-like" discussion for the essay and PT. Your goal, and the "process" you therefore choose to achieve it, should be to precisely improve your speed exam test-taking skills.

SOLUTION: If you elect to take a bar review course as a part of your "process," investigate how and what it will specifically teach you to improve all of these skills, including substantive review and exam technique. Are there, for example, specific methodologies that you will be taught to progressively lead to your development as a more effective issue-spotter and writing stylist or MBE taker? Generic answers to this and similar questions should not be good enough as you evaluate the various bar review programs that will potentially fill this vital "process" element of your bar preparation. There are fine courses out there, but preliminarily request to see the course materials and discuss with the writing or MBE instructor that you will work with how your test-taking skills will be concretely identified and successfully developed.

In another part of my life, I have led four American expeditions to Mt. Everest. Like the bar, successfully climbing to the summit of the world requires knowing the mountain at all of its levels and then identifying and perfecting all of the skills necessary to get the job done.

In this context, I hope that your consideration of these ten factors adds to your informed perspective of what it takes to put the bar behind you. Remember that others have gone before you - so learn from their respective successes and mistakes - and embrace a healthy respect for the process of your preparation. Engage in an intelligent and disciplined approach to bar review that will meet your specific test-taking needs and challenge your standards.

You can do it!

All success,

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