

Passing The Essay Exam
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Achieving passing scores on each of the essay questions of the bar exam may seem for many candidates to be one of life's great adventures.

Although not nearly as interesting as the search for the Holy Grail, the goal of successful essay writing can be a difficult quest at best, with passing bar results hanging in the balance.

Having tutored both repeat and first-time bar examinees over the past 23 years, there are a number of fundamental considerations that I strongly advise in preparing for the essay section of the bar. I integrate all of these factors into the tutorial programs I design for the applicants I work with at Cal Bar Tutorial Review and recommend that you use them as well regardless of the program that you choose to work with. They will assist in eliminating many of the typical pitfalls that lead to inconsistent essay results in both bar preparation and performance and hopefully maximize your point potential on this section of the bar. If you are currently in law school, work to reinforce good writing preparation and performance habits before you graduate. The skills that you develop in anticipation of the bar will lead to an invaluable savings in both your financial and emotional resources.

Although the subject of how to pass an essay is virtually inexhaustible, with a multitude of factors governing more effective issue-recognition and writing style, here are some core suggestions for you to consider.

I. THE NATURE OF THE ESSAY EXAM

At its heart, the essay is a speed examination. In contrast, it is not a power exam (such as a college take-home test or research paper) where completion time is essentially unlimited. Nor is it a memory exam, another term in educational testing to describe the kind of test where definitions are merely supplied for given terms. This is an initial important consideration, because the process for preparing for the essay should ultimately focus upon the nature of the exam itself, particularly given the crucial need to finish your exam on time.

As such, the goals for passing an essay are twofold: first, to identify the key issues of each questions and to analyze them in a so-called "lawyer-like" writing style. Second, to accomplish both of these objectives in a limited time period and to do so at a standard high enough to achieve a passing score. Because each of the current six essays contributes almost 7% of the points you need to pass the bar, it is to your advantage to learn how to prepare for and pass the essay in order to maximize the 40% point potential - 800 out of a total 2,000 available - that this section of the bar now represents.

II. THE ESSAY PREPARATION PROCESS

As noted above, the nature of the essay as a speed examination should definitively impact how you prepare to achieve a passing score on each of the questions that comprise this section of the bar. In determining what bar preparation process is appropriate for you to accomplish this, consider these factors:

A. Basic Time Management

Effective essay writing begins before you sit down to practice a single exam. Fundamentally, consider designing a bar strategy that apportions about 40% of your total "net available study time" to essay preparation. Although this figure may be modified given your respective strengths and weaknesses with each of the various subject areas, remember that fundamentally the essay section comprises 40% of your total bar point potential. Therefore, be sure to dedicate a proportionate amount of your study time to the perfection of your essay writing skills.

B. The Role of Substantive Review

The role of substantive review as a part of your total bar preparation process is an important one. Ultimately, it should lead to the precise memorization of the legal rules in each of the bar subjects. The key, however, is that this function does not overwhelm the bar preparation process, where an inordinate amount of your time is spent here and not enough with the other methodologies that will more specifically serve the goals of the essay: issue-recognition and the development of a "lawyer-like" writing style. This problem is often endemic to bar failure for both first-time and repeat examinees, where the "comfort zone" of constantly working to substantively program yourself seems the logical starting point on the road to passing the bar. For too many, it is also an ending point, where without careful planning for an overall essay strategy between 50 - 80% of available study time can easily be dissipated. Learn how to progressively review each of the bar's subjects - leading to memorization by the time you take the bar - and which consequently relegates substantive review as a part of the total bar process to its appropriate role. While it is a necessary foundational cornerstone for effective essay writing, it is only one of the building blocks. Practice counts, too.

C. Be Goal-Oriented With Each Practice Essay

Every time you practice an essay question, you should work to concretely improve some element of your writing needs. This means that you both identify problem areas impacting your writing capability and understand how to cure them as well. It is through the consistent reinforcement of effective writing skills - including issue- recognition and elements of style - which leads to steady progress and improvement. In choosing a bar preparation process - usually a bar review program - be sure to understand that while generic, "red-pencilled" comments as a source of feedback on your practice exams may be useful, they are only descriptive at best. To cure some element of your writing needs, you must have a concrete image in mind of what it is and how to overcome it. Otherwise, the tendency to repeat ineffective writing patterns may often predominate, serving to negatively reinforce lesser standards. For example, while the comment "Too Conclusory" may describe a particular reader's impression of your analytical ability, it does not inform you how to cure the difficulty. It is far better to understand a formula for the

avoidance of this problem before you practice so that you can steadily work to improve throughout the duration of your bar review. While "IRAC" seems logical enough, it really does not inform you how to achieve balance in analyzing the facts and the law, merely that analysis is a necessary ingredient. The point: ensure that your bar process both describes and instructs you how to write an essay. Then, work to concretely improve each practice exam in consistently developing higher standards.

D. An Issue-Recognition System

Because the essay is a speed exam, it is fundamental to the primary goal of essay writing to be able to pervasively and precisely recognize the various levels of issues as efficiently as possible. This typically computes to the initial 15 minutes - the "figuring-out" stage - when most essays are won or lost. To avoid the typical "brainstorming" or "shotgun" issue-recognition approach that yields only a common threshold of issues, utilize an issue-recognition system that will work to methodically survey the question. At Cal Bar Tutorial Review, I have developed a four-level system - Issue-Clustering Outlines - that essentially organize the issues in each of the subjects as they have a historical tendency to be tested on the essay section of the bar. In other words, whenever an issue is tested, there is a tendency rooted in the history of the essay section for other issues to be tested in combination (i.e., issue-clusters) with it, from crossovers to jurisdictional splits. This "ICO" system is applied in the initial minutes of the question to both find and organize the issues. Whether you utilize this or another system, be sure to understand that challenging your issue-recognition standards is a key in outperforming your competition on this historically important section of the bar, independently worth more to your total scaled score than either the MBE or performance test.

E. The Elements of A "Lawyer-Like" Writing Style

As noted above, be sure to concretely work to improve each of the component elements of style that contributes to the impression with your bar reader that you are "lawyer-like", the criterion articulated by the bar as the standard governing the analysis of your answer. From my perspective, there are at least ten individual elements of style, the effective combination of which contributes to the overall perception of the "lawyer-like" standard. The mastery of each should be one of your goals in preparing through practice to write consistently passing scores. Take pride in perfecting the fine art of essay writing through a process that will work to achieve the high standards required by the bar examiners.

F. The Role of Practice and Review

As noted above, mere substantive review is typically insufficient to adequately prepare for the essay section of the bar. While it will undoubtedly prepare you to identify a common threshold of easily recognizable issues, it will unlikely cause you to recognize the more subtle issues that arise in a multitude of factual contexts. It is therefore crucial to bar preparation that you both practice hypothetical essay questions and then spend quality time reviewing the model answers to enhance your ability to find issues and to develop your judgment in prioritizing your analysis of them. As a speed exam, it is essential to measure your time in analyzing both major and minor issues, in addition to avoiding non-issues. Finally, practice and review also serves the key goal of

consistently reinforcing the process by which you identify issues and then write about them. In other words, through practice you reinforce the use of your issue-recognition system as well as the elements of effective writing style. Put another way, it is not just the sheer quantity of practice questions that brings improvement, but also the quality of your work with them that will lead to consistently passing scores.

III. SUMMARY

In perspective, remember that you come to your bar preparation process with whatever strengths and weaknesses you have developed elsewhere. In choosing an appropriate process - bar review program - be sure to investigate and identify how the process will progressively improve your essay writing skills given the nature of the essay as a speed examination. To positively impact the development of your style, understand the nature of your adversary as an exam limited in time, where perfection is measured by your ability to cover the 60 minute distance consistently well no matter the facts, no matter the subject. To develop this strength, adopt a balanced approach in working diligently with substantive review, practice of issue-recognition and writing style exercises, and quality review.

Commit to a bar preparation process that serves these goals and that instructs you how to achieve them. You can do it, and all the best on your next exam!

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