

Texas Wesleyan University School of Law
Academic Support



First-Year Program
Orientation to the Texas Bar Exam

INTRODUCTION

This document will give you a basic orientation to the Texas Bar Exam by discussing what is tested on each of the three days of the exam. Its primary goals are to help you, the first-year student, identify the relationship between your law school classes and the bar exam so that you can strategically plan for the bar exam while still in your first year of law school. Specifically, this document will provide suggestions regarding your course selections so that you select courses in such a way as to maximize your chances of passing the bar on your very first attempt!

These suggestions will be categorized as follows:

- **Core Bar Courses:** Refers to high priority bar-tested classes that, even though not necessarily **required** to graduate, the law school highly recommends you take to maximize your chance of passing the bar exam. Because students who are in the 4th quartile of their class are most at-risk to fail the bar exam, we recommend that you take all of these classes to minimize your risk.
- **Supplemental Bar Courses:** Refers to bar-tested classes that are not required but that you should take to fill in gaps in your knowledge to enable you to write a better bar exam answer.

You can also use the “Planning Your Course of Study” booklet provided by the law school to get additional input regarding the relationship between law school classes and the bar exam.

WHO SAYS YOU CAN'T HAVE IT ALL? CHOOSING CLASSES FOR BAR EXAM SUCCESS

Our research has demonstrated that the Texas Wesleyan graduates who are most at risk of not passing the bar on the first attempt are those students who graduate with a law school grade point average of 2.7 or below. Within this higher risk group, one of the most significant differences between those who passed the bar on their first attempt and those who did not is the number of upper-class bar tested courses the student took during law school.

Due to the correlation between GPA, the # of core bar tested courses a student takes during law school, and bar exam success, we recommend that at-risk students (with a grade point average of 2.7 or below) minimize their risk by **select classes that will prepare them to pass the bar exam**. Specifically, take an absolute minimum of 8 upper-class core bar courses: Family Law, Secured Transactions, Payment Systems, Oil & Gas, Texas Pre-Trial Procedure, Consumer Law, Trusts, & Guardianship.

In all likelihood, you will not be able to take every class that is tested on the bar exam, but you should take as many bar-tested classes as you possibly can. In selecting your courses, your area of interest in the law can be your second priority. Receiving a well-rounded legal education can be your third priority. In any event, a student who pays attention to the list of core bar tested and supplemental classes will receive a well-rounded legal education. Remember that if you don't pass the bar, you can't practice law. If you can't practice law, your area of interest in the law and a well-rounded legal are not that important, unless you intend to take a non-law job.

But there is a way that you can have it all, almost. Instead of waiting to select your classes on a semester-by-semester basis, **map out your entire course of study during the spring semester of your first year**. While you will have to make adjustments to your course selections each semester, you will be merely adjusting your carefully crafted plan and not just picking courses willy-nilly. Laying out your law school classes during the second semester of your first year will ensure that, a few months out from the bar exam, you will not be filled with regrets that you did take several vital bar-tested classes. Strategic planning will also enable you to pursue your specific area of interest. You may wish to take your planning a step further by creating several options/tracks for each semester. You can use past fall and spring semester class schedules to find out the classes that are usually offered each semester.

Quite likely if you wait, and only think about the classes you will enroll in just before or during the registration period of each semester, as luck will have it, you will need several classes that aren't offered when you want them or you simply won't be able to get into certain classes because they are full. (Students closer to graduation always have registration priority.) Because most classes have a cap on how many students can enroll, you could be "shut out" of an important class during your final semester of law school. Obviously, being unable to take bar-tested classes, or cramming too many bar-tested classes into your last semester will create more stress for you.

No matter how carefully you plan, in the ten to eight weeks leading up to the bar exam, there are several new and very important legal concepts/doctrines that you will have to learn in order to pass the bar exam. Some of this unfamiliar law comes even from classes that you took while in law school. This is because law school professors simply cannot cover everything that's bar tested in their classes. Consider also that you might need to remediate in classes in which you underperformed and that law professors necessarily have other goals besides preparing you for the bar exam. The result is that you simply will not cover everything that's tested on the bar exam. There will also be some subjects that are tested on the bar exam that you did not take

while in law school, for example, Bankruptcy and Federal Income Tax. Nevertheless, careful planning will limit the amount of new material you encounter during your bar exam studies.

In a word, careful planning will keep you from having to learn too many new areas of law. Of course, even worse than the unnecessary stress and trauma of having to dig yourself out of a self-created hole is the fact that you might fail the bar because you just didn't have time to learn enough law. The truth is that some people fail the bar exam because they simply had too much new material to learn during their bar studies, a self-created problem that was born when they failed to plan their law school career. Surely you don't want to diminish your chance of passing the bar exam by failing to plan!

Now that the law school permits students to take what are considered some of the more "difficult" courses (UCC, Oil & Gas, etc.) on a pass/fail basis, you have every incentive to select these courses when you plan your course of study and to take some of them early. Careful planning means that you won't have to foolishly cramp too many of these difficult courses into too few, or heaven forbids, your final semester.

It is very difficult to successfully grasp, apply, and memorize the law from each of these courses during your eight-week bar preparation period. Give yourself a head start by spreading these courses throughout your second and third years. One last thing: Don't get lazy and careless and select classes that give you a "nice" schedule. Students who pay more attention to having a nice comfortable schedule instead of selecting the right courses end up failing the bar exam. Enough said!

FRONT-LOADING YOUR CLASSES SO YOU CAN "CRUISE" IN YOUR FINAL SEMESTER

It is also recommended that in planning your course of study, you should front-load your classes. To front-load means that you take more hours at the front end of your law school career such that your "lightest" semester will be your last semester. To most ordinary mortals, the bar exam preparation period is akin to a very challenging marathon. The best description of the bar exam I've heard is that it is a beat-down. Half-way through your bar studies you will tend to feel like you are trying to scale an un-scalable mountain.

To lessen the impact of the stress, if at all possible, you should enter your bar preparation period (when you attend the commercial bar prep courses: BARBRI, MICROMASH; PMBR, etc) having just concluded a relatively light semester. A lighter semester just before you enter this intense period of preparation will go a long way towards helping you cope with the inevitable difficulties and intense stress of the preparation period (long seemingly incessant hours, new materials, etc.).

The main point is that you can prepare for the bar exam, pursue your special interest classes, and get a well-rounded law school education if you plan strategically and carefully. Planning enhances your bar exam success significantly. Planning reduces your stress; and it gives you a

strong base of knowledge that you will need to pass the exam. You can't afford to take an *ad hoc* approach to selecting your classes, neither should you fly blindly towards your target, passing the bar exam. In view of the tremendous benefits of a carefully thought out plan, we urge you to use the information below to help you to map out your law school career for bar exam success.

INTRODUCTION TO THE TEXAS BAR EXAM

The Texas Bar Exam lasts three days. Of the states that require a bar exam, Texas has one of the longest and reputedly more difficult exams. The Board of Law Examiners (BLE) prepares and supervises the grading of the Texas Bar Examination. The BLE is an agency of the Supreme Court of Texas and has nine members who are appointed biennially by the Supreme Court. Each member must be an attorney of at least 35 years of age, with a minimum of ten years of experience in the practice of law. The Board's rules are adopted and promulgated by the Supreme Court of Texas. The bar exam is administered twice a year during the last Tuesday to Thursday of the months of February and July.

To pass the bar exam, a candidate must score 675/1000 points. Texas averages scores from each section of the bar exam. Raw scores are scaled to the MBE 200-point scale by use of a statistical process called the equi-percentile method (you can learn more about this from the bar examiners website).

OVERVIEW OF THE TEXAS BAR EXAM

Day One Tuesday 20% (200 points) P&E and MPT (two sections)

- Procedure & Evidence Exam (P&E 10%)
- Multi-state Performance Test (MPT 10 %)
- 3 hours total (90 min. each)

Day Two Wednesday 40% (400 points): The Multi-state Bar Exam (MBE)

- 200 multiple-choice questions
- 100 a.m., 100 p.m. – 6 hours (3hours each)

Day Three Thursday 40% (400 hundred points): 12 Texas Essays

- 6 essay a.m., 6 essays p.m.
- 6 hours total (30 minutes per essay)

DAY ONE 20%: PROCEDURE & EVIDENCE (P&E) and MULTI-STATE PERFORMANCE TEST (MPT)

Day one is on a Tuesday and consists of two very different tests and lasts half a day – about 4 hours, including time for proctor instructions and collection of exams. Note that the exam begins at 8:00 a.m.

- **PROCEDURE AND EVIDENCE: 10% - 100 points (90 minutes)**
 - **Texas and Federal Criminal Procedure and Evidence:** 20 questions 45 minutes (2.25 minutes per question, 50 total points, 2.5 points per question)
 - **CORE BAR COURSES:** *Your Federal and Criminal Procedure and Evidence along with Texas Criminal Procedure classes are the backbone of this exam.*
 - **Texas and Federal Civil Procedure and Evidence:** 20 questions 45 minutes (2.25 minutes per question, 50 total points, 2.5 points per question)
 - **CORE BAR COURSES:** *Obviously, your Civil Procedure, Evidence, and Texas Pre-Trial Procedure classes are foundation of this exam.*
 - **SUPPLEMENTAL BAR COURSES :** *Texas Trials and Appeals, Trial Advocacy, Mock Trial*

The Multi-state Performance Test (MPT): 10% - 100 points (90 minutes)

- This is a closed-book exam that requires you to perform a lawyerlike task.
- Suggested use of time:
 - 45 minutes to read, research and organize a response
 - 45 minutes to write a response
- Special handouts are available and several practice exams are administered in the third year Bar Prep Class.
- **CORE BAR COURSES:** Your writing class will have given you some preparation you to write this exam.
 - Experience performing legal analysis in a work place setting will also be of some benefit.
- The key to success on this section of the exam is to do several practice exams under timed conditions until you are able to devise a strategy with which you are comfortable. After you perfect your strategy you should answer several practice questions using your strategy. Your strategy will help you to perform the required task in the allotted time (90 minutes) and to make an excellent score.

BARBRI and other commercial courses offer preparation classes for the Procedure and Evidence exam, including an additional/optional two-day review, offered about ten days before the bar exam. Your commercial bar course will also offer a special lecture on strategy for both Days One and Three of the exam.

DAY TWO 40%: MULTI-STATE BAR EXAMINATION (MBE)

Introduction

Day two is on a Wednesday and lasts all day – about 8-9 hours, including time for proctor instructions and collection of exams. The exam begins at 8:00 a.m.

- The MBE is a standardized **200 multiple-choice-question exam**, administered nationally.
 - 100 Questions in the Morning
 - 100 Questions in the Afternoon
 - 3 Hours for each session (morning and afternoon)
 - 1.8 minutes per question (one minute and forty-eight seconds)

- **Subjects Tested**
 - Torts – 34 questions
 - Criminal Law - 17 **and**
 - Criminal Procedure – 16 questions
 - Property – 33 questions
 - Evidence – 33 questions
 - Constitutional Law – 33 questions
 - Contracts – 34 questions
 - **CORE BAR COURSES:** Your first and upper-level year classes bearing the same names
 - **SUPPLEMENTAL BAR COURSES:** Advanced Torts, First Amendment, Fourteenth Amendment Seminar, and Water Rights.

COMMERCIAL BAR PREP COURSES

Both **BARBRI** and **PMBR** as well as other commercial bar courses offer comprehensive preparation classes as follows:

- **BARBRI**
 - An early preparation/remediation course.
 - Provides a comprehensive lecture lasting at least 6½ hours for each of the six subjects (some subjects requires as much as 9.5 hours), as a part of its' six-week bar preparation course/class/school.
 - Also conducts a simulated MBE (you'll answer two hundred multiple-choice questions under timed-conditions) about four weeks after the review classes have begun
 - BARBRI will also include a detailed two-day review of each question asked in the exam. You are given specific guidance on how to answer different types of questions. They might even throw in a list of "always wrong answers", etc.
 - You will receive a written individualized diagnostic detailing the strengths and weaknesses of your performance on this exam. You will also be told how you rank nationally among those who took the simulated exam.

- With respect to the essays, BARBRI will also permit you to submit an essay- writing sample to which you will receive a critique. Be sure to take them up on this opportunity.
- **PMBR**
 - Offers a **full-service bar review, including a six-day foundation MBE review course.**
 - This course is offered **immediately after your graduation.**
 - You will complete 50 questions before each session.
 - A thorough review of these 50 questions will form the basis of each day's lecture
 - This is a thorough review of most of the main areas that are tested on the bar exam.
 - You will walk away realizing how much you have to relearn and learn for the first time in each of the six MBE tested subjects.
 - Also offers a **three-day review** course, about 10-14 days before the bar exam.
 - Day one is a simulated MBE
 - Days two and three provide a detailed review of the exam with a discussion of strategies similar to BARBRI.
- There are other commercial bar prep courses such as MICROMASH.

DAY THREE 40%: TEXAS ESSAYS

Introduction

Day three, the essay portion of the Texas bar exam is on a Thursday and lasts all day— about 9 hours, including time for proctor instructions and collection of exams. The exam begins at 8:00 a.m. This is a challenging day, because, by now, your stamina is beginning to wane. But it is also a better day than Day 2 for most candidates because they are more comfortable with essay exams. Also, the simplicity of writing bar exam essay answers, once you've mastered the law and technique, naturally builds confidence.

SUMMARY of SUBJECTS TESTED PRECEDED by NUMBER of ESSAYS

12 Essay Questions:

(2) Texas Real Property

- Oil and Gas

(2) Business Associations

(2) UCC

- 2 & 2A
- 3 & 4
- 9

(2) Family Law

- Marital Property

(2) Wills & Estates

(1) Trusts **or** Guardianship

(1) Consumer Law

Crossover Topics (more later)

- Bankruptcy
Federal Income Tax

YOU ARE REQUIRED TO ANSWER 12 QUESTIONS:

- 6 questions in the morning
- 6 questions in the afternoon
- The 12 essays come from 16 possible subject areas, two of which are crossover subjects (Bankruptcy and Federal Income and Gift Tax). These “cross-over” subjects could be tested as a sub-topic in several of 12 tested subjects.
 - 3 hours each session (morning and afternoon)
 - 30 minutes per essay (but each essay consists of at least 2 to 3 specific questions, so you really have 24-36 short-answer questions)
 - Overall for each essay you have 5-10 minutes to:
 - Read the question
 - Think about the issues that are being tested
 - Organize a succinct lawyer-like response to your assignment.
 - 20-25 minutes to write your 2 to 3 responses.
 - You are required to write each essay in a different color book.
 - You are told the specific color of the book in which to write each essay.
 - The order in which you answer the questions is irrelevant.
 - You must simply ensure that you write your answer in the correct color book. (For those who are color blind, the color of the book will be written on the book.)

HOW YOUR LAW SCHOOL CLASSES RELATE TO THE TEXAS BAR EXAM ESSAYS

(Similar for most jurisdictions, but do some online research if you are taking another state’s bar exam)

TEXAS REAL PROPERTY – 2 questions

- May be 2 straight “traditional” property topics (not likely) or
- 1 “traditional” Property, 1 Oil and Gas or
- 2 Property mixed with Oil and Gas and/or Bankruptcy/ Foreclosure or any conceivable combination (see below)
- **CORE BAR COURSES:** Oil & Gas and Texas Real Property
 - It should be fairly obvious that you must take Oil and Gas. Most students find this subject too difficult to learn in BAR/BRI, PMBR or other commercial bar course.
- **SUPPLEMENTAL BAR COURSES:** Texas Real Property Real Estate Transactions, Water Law, Real Estate Practicum, Land Use, Real Estate Financing

TESTABLE AREAS OF REAL PROPERTY (excerpted from the Board of Law Examiners website)

Each of the following component parts (1-9) can be tested individually or in combination. At a minimum, students must be prepared to write a full essay question on each of these topics. Note well: The 2 property essays could simply test you over Homesteads and Liens or Oil and Gas and Types of Estates. Clearly, Real Property is one of the most challenging essay subjects tested in the bar exam. The components are:

1. Homesteads
2. Conveyances
3. Types of estates
4. Statute of Frauds
5. Limitations and adverse possession
6. Essential terms
7. Liens, including:
 - a. Mechanics' liens
 - b. Deeds of trust and vendors' liens
 - c. Foreclosure
8. Landlord and tenant
9. Oil and gas

To do well you must understand the law you learned in your first-year common law and statutory property law class and you must cull the Texas distinctions from your commercial bar outline in order to create a document from which you can study for the Texas Property essays. Another key will be to answer as many past Property exam bar questions as you possibly can.

BUSINESS ASSOCIATIONS – 2 questions

- **CORE BAR COURSES:** Business Associations, which includes agency, corporations, partnerships, limited liability companies and professional associations.
- The essays may include a question with a Federal Income Tax component
- **SUPPLEMENTAL BAR COURSES:** Agency and Partnership, Taxation of Business Entities

UNIFORM COMMERCIAL CODE (UCC) – 2 questions

- The essays could be from UCC 2&2A, 3&4, and 9.
 - **CORE BAR COURSES:** UCC 2 & 2A (Contracts), 3&4 (Payment Systems), UCC 9 (Secured Transactions)
 - 3&4 and 9 are the more heavily tested areas

FAMILY LAW – 2 questions

- **CORE BAR COURSE:** Family Law
- **SUPPLEMENTAL BAR COURSES:** Marital Property, Children and the Law, Family Law Practicum

WILLS & ESTATE ADMINISTRATION – 2 questions

- **CORE BAR COURSES:** Wills & Estates
- **SUPPLEMENTAL BAR COURSES:** *Probate Administration*

TRUSTS OR GUARDIANSHIP – 1 question

- **CORE BAR COURSES:** Trusts and Guardianship
- **SUPPLEMENTAL BAR COURSES:** *Elder Law*

A Word About GUARDIANSHIP: Guardianship is a relatively new component of the bar exam. The testable areas are:

1. Jurisdiction and venue
2. Appointment and qualification of guardian
3. Administration of guardianship
4. Compensation
5. Role of attorney ad litem

CONSUMER LAW – 1 question

- **CORE BAR COURSES:** Consumer Law
- **SUPPLEMENTAL BAR COURSES:** Debtor Creditor Rights, Insurance Law
- Regrettably many students overlook Consumer Law, but **there is always one essay question on the exam.**

TESTABLE AREAS IN CONSUMER LAW (per the Board of Law Examiners website)

1. Texas and federal debt collection acts: Federal Fair Debt Collection Practices Act and Texas Debt Collection Practices Act
2. Texas Deceptive Trade Practices - Consumer Protection Act (DTPA)
3. Other Texas statutes specifically providing that a violation of the statute is likewise a violation of the DTPA, including:
 - a. Home Solicitation Transactions *see* Texas Business & Commerce Code, Chapter 39, Cancellation of Certain Consumer Transactions
 - b. Business Opportunity Act *see* Texas Business & Commerce Code, Chapter 41
 - c. Telephone Solicitation *see* Texas Business & Commerce Code, Chapters 37 & 38, Regulation of Telephone Solicitation
4. Insurance law issues, including:
 - a. Texas Insurance Code, Articles 21.21 and 21.55, and the insurer's common law duty of good faith and fair dealing
 - b. Basic rights and obligations as between insurer and insured arising from standard policies as well as statutory and common law

CROSS OVER TOPICS

Excerpted from the Texas Board of Law Examiners Website:

FEDERAL INCOME TAXATION, as a crossover topic, to be included where appropriate, as an element of questions in other subjects, such as family law, oil and gas, trusts, wills and estates, etc.

BANKRUPTCY, as a crossover topic, to be included where appropriate as an element of questions in other subjects, such as family law, wills and estates, real property, etc.

Obviously, crossover topics are very important. However, they are not tested by themselves (they are tested only as a part of the 12 tested subjects such as Property and Family Law) and should not be given priority over subjects that are tested in their own right. This means that you shouldn't really choose Bankruptcy over, a class such as Consumer Law or one of the UCC subjects, especially Payment Systems and Secured Transactions. Note that **Oil and Gas is not a crossover subject; it is a fully testable area of Property**, and sometimes comprises both Property essay questions.

Many students end up having to learn too many bar-tested subjects during the eight-week bar preparation period simply because they failed to plan ahead. While learning one or two subjects might be necessary, you certainly don't want to have to learn three or more subjects during the already stressful eight-week preparation period. Inevitably, many areas of the law on which you are certain to be tested are new to you. For example, there are many important topics on which you will be tested in each of the six MBE subjects that were and could not have been covered in your first and second-year classes. Obviously, effective planning is the key to eliminating this unnecessary source of stress. You should also seek additional advice from faculty, staff, recent bar-takers, or upper classmen as you plan your course of study.

SUMMARY

In sum, there are 8 CORE BAR COURSES you should take with the highest priority:

Family Law, Secured Transactions, Payment Systems, Oil & Gas, Texas Pre-Trial Procedure, Consumer Law, Trusts, & Guardianship. There are several supplemental bar courses that you should consider taking, especially if your GPA is 2.7 or below.

BAR PREPARATION COURSES

BAR/BRI and **KAPLAN PMBR** as well as other private entities offer comprehensive classes covering all the essay-tested topics. The lecturers are extremely competent and will adequately prepare you for the exam. The classes run for about six weeks and lasts about 3½ hours each day. Attending the lectures will be a critical part of your daily routine as you prepare for the bar exam. If you haven't taken a subject that's bar-tested, be sure to thoroughly review the

material before you attend the lecture as this will give you a solid foundation to quickly master this unfamiliar area of law.

There are, of course, other commercial bar preparation providers apart from BAR/BRI and PMBR such as MICROMASH, a self-study bar prep course. Texas Wesleyan University School of Law does not endorse any of these courses above the others. We do strongly suggest that you educate yourself as to what these courses offer before making your choice(s) of which course(s) to purchase, considering such things as price and your learning style. We do expect and strongly recommend that purchase at least one of these courses.

The law school offers a three hour for credit bar prep class. It is only open to upper-level students who are in their final semester. It is a P/F class so you need to plan carefully so you have enough credit left to take this class. The class is offered during both the fall and spring semesters and is taught in at least two sections so both day and evening students can attend. This course usually includes three Saturday classes in addition to its weekday meeting time. Again, you should make sure that you reserve the time/space in your course schedule to take this class during your final semester. Plan your law school schedule (professional and personal) so you can take this class. Below is a brief description of the course:

Course Description – Preparing for the Bar Exam:

This is a three-credit hour pass/fail class. The class will familiarize you with the contents of the Texas Bar Exam. It will teach exam preparation strategies and test-taking and essay-writing skills that are vital for success on each day of the exam. We will examine selected material that is tested in each section of the bar exam. You will also complete several writing assignments and diagnostic tests, some of which will simulate portions of the bar exam, and you will receive feedback on your performance. We will also undertake a substantive review of carefully selected legal doctrines that are bar-tested.

Although the major focus of this class is material that is specific to the Texas Bar Exam, the class will also spend significant time addressing general bar exam test-taking strategies as well as the MBE and MPT portions of the exam, which are non-state specific and common to almost all bar exams across the country. As a result, although this course is geared for students planning to take the Texas Bar Exam, students that will sit for bar exams in other states will benefit from the class. Evaluation: This is a pass/fail class. Passing this class will be based on satisfactory completion of in-class and homework assignments. A short exam is also administered at the end of the course. If you cannot attend a class in which an assignment is given or one is due, you are still expected to meet the time requirements for that assignment. Each student is expected to monitor the syllabus to know when assignments are given and when they are due. All assignments must be submitted in a timely manner.