

Assessment of Critical Thinking and Problem Solving on the Multistate Bar Exam

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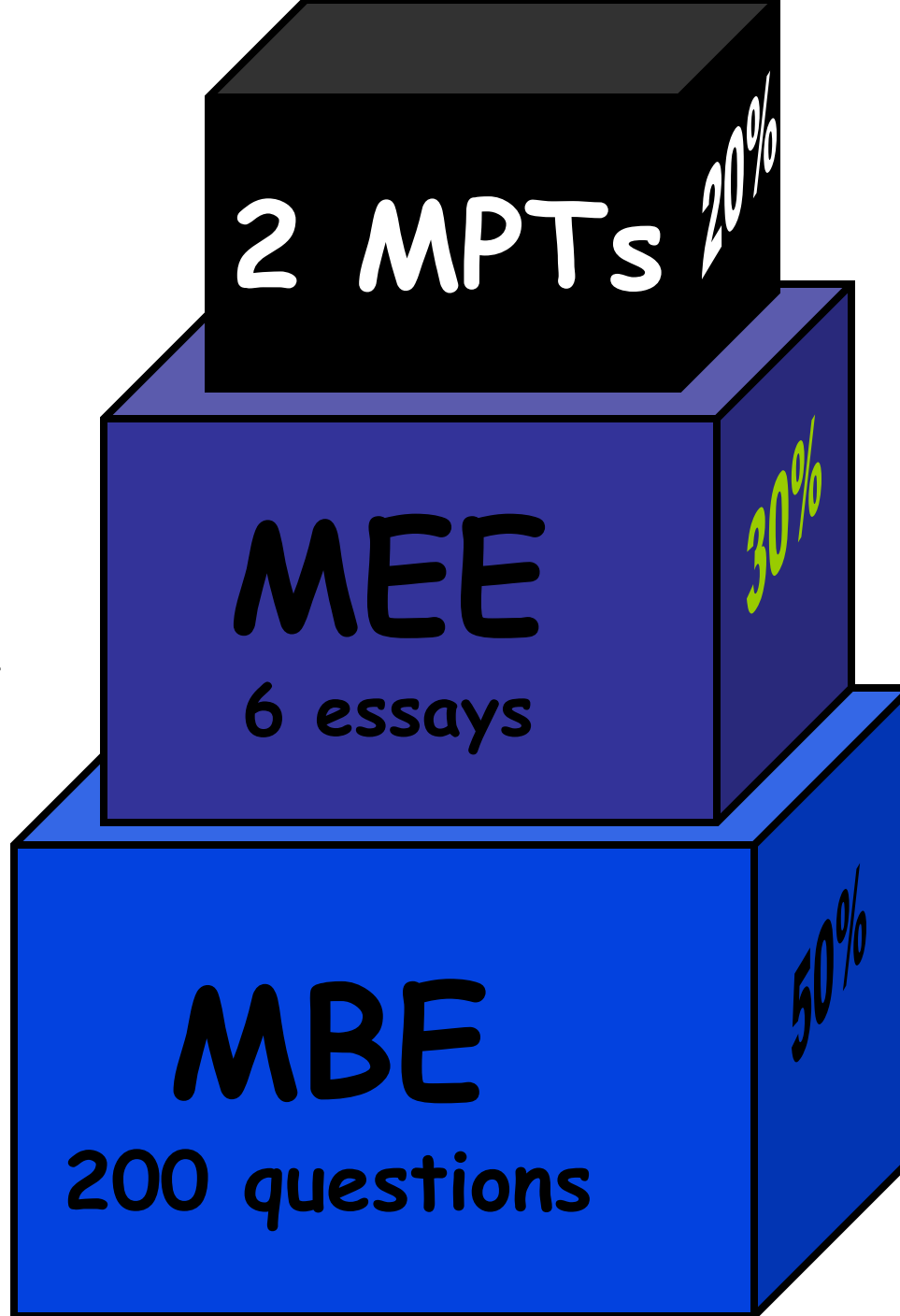
National Conference of Bar Examiners

www.ncbex.org

What is the Bar Exam – an Overview

- The bar examination is administered by each jurisdiction as one step in the process to license lawyers.
- A series of three exams are developed by the National Conference of Bar Examiners (NCBE) for use by the jurisdictions. Jurisdictions may use any or all of these three exams or may administer locally developed exam components if they wish.
- The three major components developed by the NCBE include the MBE, MEE, and MPT.

The
UBE
in its
Most
Basic
Form



Used by
34 jurisdictions

Used by
27 jurisdictions

Used by all
except
LA, WA, and PR

THE MBE

MULTISTATE BAR EXAMINATION

The Multistate Bar Exam (MBE)

- The purpose of the MBE is to assess the extent to which an examinee can apply fundamental legal principles and legal reasoning to analyze a given fact pattern.
- The questions focus on the understanding of legal principles rather than memorization of local case or statutory law.



What's On the MBE?

The 6-hour MBE includes 200 multiple-choice questions in the following six areas:

Con Law

Evidence

Contracts

Real Property

Crim Law

Torts

Sample MBE Question



- A woman was told by her neighbor that he planned to build a new fence on his land near the property line between their properties. She said that, although she had little money, she would contribute something toward the cost.
- The neighbor spent \$2,000 in materials and a day of his time to construct the fence. The neighbor now wants her to pay half the cost of the materials.
- Is she liable for this amount?

THE

MEE

MULTISTATE ESSAY EXAMINATION

The Multistate Essay Exam (MEE)

- The purpose of the MEE is to assess examinee ability to (1) identify legal issues raised by a hypothetical factual situation; (2) separate material which is relevant from that which is not; (3) present a reasoned analysis of the relevant issues in a clear, concise, and well organized composition; and (4) demonstrate an understanding of the fundamental legal principles relevant to the probable resolution of the issues raised by the factual situation.

The Multistate Essay Exam (MEE)

The MEE consists of nine 30-minute questions selected from one or more of the following areas:

Business Associations

Constitutional Law

Crim Law & Procedure

Family Law

Real Property

Trusts and Estates

Conflict of Laws

Contracts

Evidence

Federal Civil Procedure

Torts

UCC

Sample MEE Corporations Question

- The CEO/chairman of the 12-member board of directors (the Board) of a company plus three other members of the Board are senior officers of the company. The remaining eight members of the Board are wholly independent directors.
- Recently, the Board decided to hire a consulting firm to market a new product...
- The CEO disclosed to the Board that he had a 25% partnership interest in the consulting firm. The CEO stated that he would not be involved in any work to be performed by the consulting firm. He knew but did not disclose to the Board that the consulting firm's proposed fee for this consulting assignment was substantially higher than it normally charged for comparable work...
- ...The Board discussed the relative merits of the two proposals for 10 minutes. The Board then voted unanimously (CEO abstaining) to hire the consulting firm....
- 1. Did the CEO violate his duty of loyalty to his company? Explain.
- 2. Assuming the CEO breached his duty of loyalty to his company, does he have any defense to liability? Explain.
- 3. Did the other directors violate their duty of care? Explain

Grading the MEE

- Jurisdictions are responsible for grading the MEE. NCBE produces recommended practices for calibrating graders*, and conducts a grading workshop following each test administration. NCBE produces grading materials specific to each question.
- Jurisdictions are urged to scale the essay grades to the MBE** and to combine the scores to produce a single total score on which pass/fail decisions are made.

• *http://www.ncbex.org/uploads/user_docrepos/790410_TestingColumn.pdf

• **http://www.ncbex.org/uploads/user_docrepos/750406_Testing.pdf

THE

MPT

MULTISTATE PERFORMANCE TEST

The Multistate Performance Test (MPT)

- The purpose of the MPT is to assess fundamental lawyering skills in realistic situations by asking the candidate to complete a task that a beginning lawyer should be able to accomplish.
- The MPT requires applicants to sort detailed factual materials, separate relevant from irrelevant facts, analyze statutory, case, and administrative materials for relevant principles of law, apply relevant law to the facts in a manner likely to resolve a client's problem, identify and resolve ethical dilemmas, communicate effectively in writing, and complete a lawyering task within time constraints.



The Multistate Performance Test (MPT)

- Each 90-minute MPT is a self-contained case, including a File, a Library, and a task to be completed.
- For example, in a case involving a slip and fall in a store, the task might be to prepare an initial draft of an early dispute resolution for a judge. The draft should candidly discuss the strengths and weaknesses of their client's case. The File contains the instructional memo from the supervising attorney, the local rule, the complaint, an investigator's report, and excerpts of the depositions of the plaintiff and a store employee. The Library includes a Jury Instruction concerning the premises liability with commentary on contributory negligence.



Grading the MPT

- Jurisdictions are responsible for grading the MPT. NCBE produces recommended practices for calibrating graders, and conducts a grading workshop following each test administration. NCBE produces grading guidelines specific to each question.
- Jurisdictions are urged to scale the essay grades to the MBE and to combine the scores to produce a single total score on which pass/fail decisions should be made. (see section on MEE.)

Skills Assessed By Each Format

MBE	Breadth of knowledge Ability to synthesize information and apply knowledge in 200 fact scenarios
MEE	Depth of knowledge Ability to synthesize information and organize and communicate thoughts on a few topics
MPT	Ability to demonstrate practical skills in one or two areas given standardized materials

NCBE 2011 Charges for the Exams

- MBE: \$54 per examinee tested
- MEE: \$20 per examinee tested
- MPT: \$20 per examinee tested

Technical Standards

- Test questions for each of our exams are developed using best practices for test development in high-stakes situations, including review by content experts, review by external reviewers, pretesting, professional editing and professional proofreading. MBE scores are equated. The reliability of the scores meets the standards of the testing industry.
- Jurisdictions are urged to scale the MEE and MPT scores to the MBE and create a single total score with the MBE weighted 50%. This ensures high decision consistency and comparability of pass/fail decisions across administrations.
- An on-going series of analyses is conducted re the validity and reliability of scores.

