

The Best Way to Study for the CBX - Tips for Success, Extra Points and More

Dear NWCU Student/Graduate,

I am sending you this message to provide you with questions that were asked of me about the California Bar Examination (CBX) and my answers to them. Hopefully you will find my answers useful in your preparation for the CBX. This message is being sent to you along with a series of other messages about the CBX.

The tips in this message, especially the ones involving the extent to which you must be diligently involved in very intensive study to pass the CBX, are critical ones for the accomplishment of that goal. I state that because this message is about studying wisely and persistently. The reality is that those who study that way hour after hour and day after day for many weeks before the CBX have a great chance of passing it. Those who do not study that way and instead try to essentially 'wing' the exam without focused, diligent and very intensive study truly have little, if any, chance of passing it.

With that in mind, I urge you to now read the below questions and answers:

1. **Question:** Why is the California Bar Examination comprised of the MBE (Multi-State Bar Examination) part, the Essay part and the Performance part?

Answer: The California Bar Examination is, by design, very comprehensive. Each of the three parts of the California Bar Examination is focused on proficiency that is distinctively different than the proficiency focused on in each of the other parts.

Knowing the distinctive focus of each part can help you pass it.

The MBE Part: This is the multiple-choice question part of the examination. It tests solely your knowledge of law.

Your knowledge of the law is the only focus of the MBE part of the CBX. The key to success on this part of the examination is learning important nuances in the law of the subjects tested.

For this part of the examination, it is absolutely necessary that you diligently, continuously and systematically study without interruption or distraction for long periods of time each day to review subtle nuances in the law of the subjects tested. Reading hundreds and hundreds of sample MBE-type multiple-choice questions and suggested answers is the absolute best way to review for this part of the CBX. This should be done daily for many weeks before the CBX. There is simply no shortcut to following a vigorous plan of focused study to prepare you for this part of the examination.

Extensive review and practice with MBE-type multiple-choice questions and suggested answers is absolutely essential. You will find that studying that way for this part of the examination will give you indispensable knowledge that you need for doing well on it, as well as skill for recognizing important nuances in law on the essay and performance parts of the CBX.

For MBE (MULTIPLE CHOICE) techniques and practice, the best thing available in my opinion is the AdaptiBar exam simulator. You can sign on for the use of it for \$395 at the following URL: <http://www.adaptibar.com>

The Essay Part: This part of the examination tests your *issue recognition* ability and your ability to *analyze/argue*.

Your ability to do two things is the main focus of the essay part of the CBX. Those two things are your ability to:

Identify issues and sub-issues that you recognize in the fact patterns of the questions;

Analyze and argue using (not just repeating) the facts provided in the questions.

The key to success on the essay part of the examination involves going absolutely ALL-OUT in an effort to dig out each and every issue and sub-issue in provided fact patterns, and then going absolutely ALL-OUT to analyze and argue at length the issues and sub-issues that you have identified while adeptly using, not simply repeating, the facts provided.

Knowing the law and various nuances in law is necessary for purposes of being able to recognize the issues and sub-issues in the fact patterns. Those recognized must be identified in your answers.

Issue identification is absolutely critical in the overall challenge. Eloquent writing is not enough. Presenting the grader of your answer with a mini-treatise on law in an encyclopedic way IS NOT part of the overall challenge on this part of the bar examination. You must resist the temptation to provide purely encyclopedic law while sacrificing time that should be spent for issue identification, analysis and argument that must be skillfully done by you while adeptly using, not just simply repeating/regurgitating, provided facts.

You should spend 15 to 20 minutes constructing an outline for each answer. It can be done in the exam software and then gradually transformed such that 100 percent of your outline, in a skillfully expanded way, becomes part of your properly formatted narrative essay answer. Making your outline that way, instead of on scratch paper, may save you time to use for drafting your answer and can make it such that you are less likely to forget covering in your answer an issue or sub-issue recognized by you and listed in your outline.

The reality is that your ultimate score on this part of the examination is very significantly focused on the final number of issues and sub-issues identified by you in each answer.

Equally important is the extent to which you actively analyze and argue with the facts in your discussion of each issue and sub-issue, instead of simply regurgitating given facts. Use the facts and explain their unique significance. The more you explain the significance of individual facts the higher your scores will be on your answers.

The graders have a checklist of the issues and sub-issues AND they are counting exactly how many were recognized in each answer. They are also reading to verify that you have analyzed and argued in a very lawyerlike way.

Providing necessary analysis and argument involves much more than a superficial application of definitions and rule statements to the facts of each question. You must actively analyze and argue the case that is the subject of each question.

For this part of the examination, it would be EXTREMELY WISE for you to include in your daily study the reading of A VERY LARGE NUMBER (if not all) of the available past CBX essay questions and selected passing answers. Links to such questions and answers are on the Web site of the State Bar of California, and on the NWCUC Exam Preparation Jump Page.

The form desired and celebrated by the graders of the CBX on the essay part of the examination is the one that will be revealed to you by the reading of a large number of past CBX 'Essay Questions and Selected Answers.' I am sure that you have been told during your life that you should not imitate the work of others and that you should continually develop and use your own individual and unique style. That instruction, however, is simply not true when it comes to writing essay answers for the CBX. Beyond doubt, imitating the form and style of those who have been successful on the essay part of the CBX is the key to passing it. Certainly, you must know the law, but without proper form and style you will not be fated for success.

Some students preparing for the CBX actually sit and re-write absolutely verbatim, precisely word for word, using the same format and style, numerous exemplars of essay answers to get their brains programmed to write and type in a successful way for the examination. After doing that a number of times, they then read but not write numerous other essay questions and selected answers, hour after hour and day after day.

I strongly suggest that you spend a lot of time in your preparation for the examination forcing yourself to make your essays LOOK like the example passing answers in design, layout, and format, including a conclusion statement for each and every issue, while following the IRAC method, or a good variation of the IRAC method, and providing robust analysis for each identified issue and sub-issue.

Your goal on the essay part of the examination should be to make your answers LOOK in every possible way like the passing essay answers that are available now for you to read and scrutinize. If your essay answers hit the right issues and sub-issues, and have a well-written LOOK, they are more likely get scores significantly higher than the scores that would be assigned without that LOOK. So, as part of your preparation for the essay part of the CBX, strive to get your answers to be not only substantive but to also LOOK like passing answers.

Great substance and great form is always a winning combination.

The Performance Part: This part of the examination tests your application of *fundamental lawyering skills* in a realistic situation.

Your skill at performing tasks that lawyers typically perform is the focus of this part of the examination. The key to success on this part of the examination involves concentrating on the nature of it. Therefore, looking at selected answers to past performance test questions is absolutely critical.

As to this part of the examination, it would be EXTREMELY WISE for you to include in your daily study the reading of NUMEROUS past CBX performance questions and selected passing answers. Links to such questions and answers are available on the Web site of the State Bar of California. Those links and others will also be provided to you in certain messages that you will soon receive from me.

2. **Question:** Can certain formatting of essay answers on the CBX result in extra points?

Answer: Some bar exam experts say that you can get an extra 5 to 15 points on an answer by simply making it easier to read. I agree with them 100 percent and can't overstate the importance of following their advice.

They Say You Can Get Extra Points This Way --- Use white space, headers and underlining.

THE EXPERTS SAY THAT IT REALLY WORKS to get extra points because answers written with white space, headers and underlining are likely to create a generous attitude in the grader because the answers are easy to read.

- By using White Space (i.e. by paragraphing frequently and using blank lines between your paragraphs) you make your answer easy to read.
- By using HEADERS you provide the equivalent of road signs for the grader who is travelling at a fast speed through your answer. The road signs make the answer easy to read and the grader is less likely to miss issues that you cover. Write the headers (road signs) to set up each new issue and to draw attention to every significant topic in your analysis as you move forward. (One Example: "WAS THERE AN ASSAULT?" or simply write the word "ASSAULT" on one line as a header--- Another example: "DOES THE DOCTRINE OF PROMISSORY ESTOPPEL APPLY?" or simply write the words "PROMISSORY ESTOPPEL" on one line as a header).

It is important to note here that headings such as “Issue”, “Rule”, “Application and “Conclusion” should not be used in your essay answers. Openly and blatantly exposing a formulaic method to the grader is not good. Instead, use your method of writing in a non-obvious way. Your answers should read like regular, well-written narrative essays, without an extreme mechanical overlay. Accordingly, your headings should be one or few word statements to pose issues, or key law terms, doctrines or concepts that you have identified as being important for coverage in your answer.

- By underlining and/or capitalizing key words and PHRASES throughout your answer, you again make the answer easy to read and the grader is less likely to miss important nuances in the LAW and the FACTS that you have covered.
3. **Question:** Is it okay to use abbreviations when answering essay questions on the CBX?

Answer: On various Internet chat boards I found comments from law students, law school graduates and law school professors about whether or not to abbreviate in answers to law school and bar examination essay and performance type questions. While some said they heard it is okay, many others have been taught that it is better not to do it. I agree with those who advise not to do it.

Below are a number of the postings that I found. They are by and large against abbreviating in any answer to a law school or bar examination question:

“I guess you can use P or D, instead of Plaintiff and Defendant. [But] It is not usually a good practice, so I have heard.”

“Barbri [a bar review course] says not to abbreviate”

“Write it out.”

“Abbreviations are foolish. As a previous poster stated, BarBri recommends against it. I think as [Professor] Rich Freer put it, how much longer do you think it will really take to write the word out, and then at least u don’t have to wonder later if u failed because of it.”

“Do it sparingly. Use common sense.

“Write it out in the first instance on each page ... and follow it with the abbreviation in parens. For example: The Commonwealth of Garboldeegook (State) can charge Dandilion (D) for Vermiculite’s (V) murder under State’s felony murder law. But if the fact pattern asks whether State can charge Dan with Vern’s murder, don’t abbreviate.

“I think the poster that said you could do it for the Statute of Frauds (SOF) is correct,

terms like that are ridiculous to write out. Add to that things like the Rule Against Perpetuities (RAP) and Joint Tenants with Right of Survivorship (JTWROS).

"However, do not use it for single word terms -- write out "defendant" instead of using a character like the delta triangle and don't use "b/c" for the word "because" or "K" for contract. If it is a contracts question, you want that word to leap out at the grader every time you use it."

"... acronyms and other abbreviations can cause confusion, ruin the flow of an essay, and cause the reader frustration. ...

"... bar exam essays should not read like a text message.

"In an acronym, twitter/text, abbreviation heavy culture, this is a good reminder."

Comment from a Professor at Chicago-Kent School of Law regarding his observations when grading exam answers for his class:

"I said 'don't abbreviate, other than for P and D'. But there were all kinds of strange abbreviations used, which I had to try to figure out, and which you risked my misunderstanding. I said not to use slogans, but to explain or define your terms ... many simply talked of the "foreseeable plaintiff test" or said something was "negligence per se" but did not explain what those terms meant."

Incidentally, here is another comment from that professor to his students on a different but important topic about essay exam writing success:

"I strongly urged you to write a detailed outline of each answer, rather than spending time writing and thinking about what you were going to write at the same time; I looked at the scratch books pretty carefully. Only a very small handful of students wrote anything [other than] scribbles. I suggested that you allocate your time wisely, but to my shock, probably ten students ran out of time and didn't finish the last [question]."

4. **Question:** Is it good to use CIRAC instead of IRAC when writing answers to essay questions on the CBX?

Answer: I recommend the use of the IRAC (Issue, Rule, Application, Conclusion) method and not the CIRAC (Conclusion, Issue, Rule, Application, Conclusion) method. However, I am not strongly against the use of the CIRAC method.

My opinion is simply that CIRAC may give some graders the impression that you are being too "conclusionary" even though you may be providing the same amount of analysis as you would had you written in the IRAC style.

On the Internet, I found the following posting from a law professor who was responding to a question about which of the two styles is better. Here is the quote:

“The greatest danger of CIRAC is that you run the risk of stating the incorrect conclusion early on and then having the graders judge the rest of your analysis based upon the fact that they know you’ve drawn the wrong conclusion. With IRAC, they won’t read that conclusion till the end, so that if your analysis is good, you may earn many points by the time they’ve realized the correct conclusion (when there is one) has not been drawn.

“But more to the point, it strikes me as more logical to systematically work your way up to the conclusion and then state it. For these reasons, I generally recommend IRAC to my students.”

By the way, the Issue, Under, Here, Therefore method, which is a variation of the IRAC method, is a good one for those who are accustomed to using it.

Those writing in the Issue-Under-Here-Therefore way must, however, be careful to be sure that their use of the words “*under*”, “*here*” and “*therefore*” are not so recurring in their answers that they bother the grader. Graders may be troubled somewhat by an approach that seems mechanical in the extreme. For that reason, I propose that you continue to use the words “*under*”, “*here*” and “*therefore*”, but that you do so along with occasional variations or substitutions for those words.

Of course, if you are enrolled in a CBX review course I am not suggesting that you make any changes from what you are being taught. I merely wish for you to consider my above-stated comments as reinforcement of the goals that you already have in mind.

Studying harder than you have ever studied for anything else ever before in your life as you study for the CBX can, in the end, give you a tremendous achievement that will be well worth the many weeks of complete devotion provided by you toward accomplishing your goal. Absolutely, good luck to you as you proceed forward with your focus on that goal!!!

Best wishes,

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