SmartBarPrep

The Smart Guide to the MBE

A Guide to Mastering the Multistate Bar Exam (MBE)

July 2025 Edition

SmartBarPrep

STUDY SMARTER

OPTIMIZE YOUR BAR PREP

Smart study tools that simplify and optimize your bar exam prep by helping you learn faster, practice more effectively, and prioritize the highly tested topics & rules.

Our Proven 3-Step Method to Study Smarter

1. Prioritize

Color-coded Priority Outlines, Attack Sheets, & Frequency Charts to streamline the mountain of information you need to know for the bar exam.

2. Optimize

Smart flashcards that use cognitive science & adaptive learning to accelerate the learning experience. Printable flashcards are also available.

3. Practice

Real questions licensed from the bar examiners along with our smart strategy to practice more effectively for the Essays, MBE, and PT's.

The MBE is the **Key to passing the bar exam...**

The MBE is the **key to passing the bar exam**, *but* most advice makes studying complicated.

Our goal at SmartBarPrep is to **simplify the studying process**... so we created this guide breaking down the MBE into simple parts with strategies and tips to master the exam.

Everything in this guide is based upon our work with thousands of examinees, constant research, and what really works to achieve a high MBE score. The creator of SmartBarPrep scored in the top 5% on the MBE (a 171.1 scaled score – see <u>here</u>), and we want you to do the same or better!

What You'll Learn

We will cover key aspects of how the MBE works and how to maximize your score, including:

▸ Understanding & Deconstructing the MBE – Format, Subjects/Law Tested, Timing & Pace
▸ How Many Questions to Expect for Each Subject and Sub-Topic (Chart Included)
▸ The Structure of MBE Questions and Answer Choices
▸ MBE Preparation the Right Way ... A Step-by-Step Study Strategy (with Tips) to Obtain a High MBE Score
▸ The Best MBE Questions to Use... and Where to Find Them
▸ Test Day Tips & Strategies
▸ MBE Scoring – How your MBE score is calculated

Ready to start?

Contents

Chapter 01

FORMAT & OVERVIEW OF THE MBE

What You'll Learn:
- Format of the MBE – number of questions; scored vs. unscored questions
- MBE Test Day Sessions – time and how many questions per session
- How Much Time to Spend Per MBE Question
- The 7 Subjects Tested on the MBE

MBE Format

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          200 Multiple-
        Choice Questions
         /            \
175 Scored Questions   25 Unscored Pretest
                           Questions
```
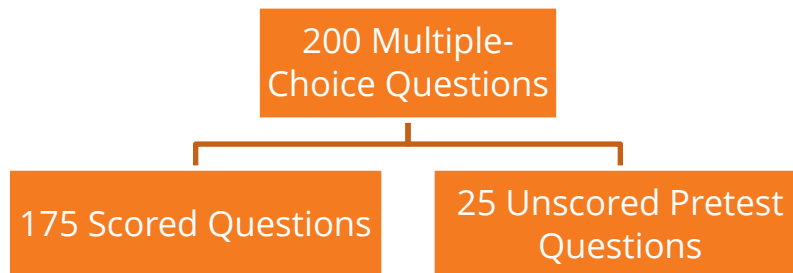
*The unscored questions are *indistinguishable and distributed evenly*, so **you must answer ALL 200 questions**.

MBE Test Day

In-person bar exam jurisdictions use two 3-hour sessions with 100 MBE questions per session.

In-Person Exam Jurisdictions		
MBE Test Day – Two 3-hour Sessions		
MBE Session # 1	3 Hours	100 Questions
MBE Session # 2	3 Hours	100 Questions

Timing & Pace

To finish 100 MBE questions within each 3-hour session, **you have 1.8 minutes (1 minute 48 seconds) per question**.

Subjects Tested on the MBE

Seven (7) Subjects are Tested on the MBE, *with* **25 scored questions from each subject area**:

- Civil Procedure[1]
- Constitutional Law
- Contracts
- Criminal Law & Procedure
- Evidence
- Real Property
- Torts

*Note, the additional 25 *unscored* pretest questions may be from any of the seven subject areas.

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[1] Civil Procedure was added to the MBE in February 2015.

What You'll Learn:
- What the *official* MBE Subject Matter Outline is… and why it's so important!
- The MBE's Scope of Coverage – what subjects and topics are tested
- How Many Scored Questions to Expect Per Subject *and* Sub-Topic

The *official* MBE Subject Matter Outline is a document you MUST read!

The MBE Subject Matter Outline is prepared and released by the drafters of the exam, the National Conference of Bar Examiners ("NCBE"), and **indicates the MBE's scope of coverage**.

The 2025 MBE Subject Matter Outline can be found [here] or [here].

Take the time to familiarize yourself with this document. **It outlines the scope of topics tested for each Subject Area _and_ spells out how many questions will come from each Topic-Category**. As an example, the section for Constitutional Law specifies that:

"Approximately **half** of the Constitutional Law questions on the MBE will be based on category IV [Individual Rights]."

These are important **"clues" that you should use to prioritize your studying** (e.g. focusing on Individual Rights more than other topics when studying Constitutional Law).

To simplify things for you, below is a **chart we made with the breakdown of each subject _and_ sub-topic** taken from the most recently released MBE Subject Matter Outline.

MBE FREQUENCY CHART

Subject	Sub-Topic Category	Ratio Tested	% Tested	# of Scored Questions
Civil Procedure				
	I. Jurisdiction and Venue	2/9	22.2%	5 or 6
	II. Law Applied by Federal Courts	1/12	8.3%	2 or 3
	III. Pretrial Procedures	2/9	22.2%	5 or 6
	IV. Jury Trials	1/12	8.3%	2 or 3
	V. Motions	2/9	22.2%	5 or 6
	VI. Verdicts and Judgments	1/12	8.3%	2 or 3
	VII. Appealability and Review	1/12	8.3%	2 or 3
	Total Scored Questions: Civil Procedure			*25*
Constitutional Law				
	I. The Nature of Judicial Review	1/6	16.7%	4 or 5
	II. The Separation of Powers	1/6	16.7%	4 or 5
	III. The Relation of Nation and States in a Federal System	1/6	16.7%	4 or 5
	IV. Individual Rights	1/2	50.0%	12 or 13
	Total Scored Questions: Constitutional Law			*25*
Contracts				
	I. Formation of Contracts	1/4	25.0%	6 or 7
	II. Defenses to Enforceability	1/8	12.5%	3 or 4
	III. Contract Content and Meaning	1/8	12.5%	3 or 4
	IV. Performance, Breach, and Discharge	1/4	25.0%	6 or 7
	V. Remedies	1/8	12.5%	3 or 4
	VI. Third-Party Rights	1/8	12.5%	3 or 4
	*1/4 of all questions will be based on UCC Article 1 and 2			
	Total Scored Questions: Contracts			*25*
Criminal Law & Procedure				
	I. Homicide	1/8	12.5%	3 or 4
	II. Other Crimes	1/8	12.5%	3 or 4
	III. Inchoate Crimes; Parties	1/8	12.5%	3 or 4
	IV. General Principles	1/8	12.5%	3 or 4
	V. Constitutional Protection of Accused Persons	1/2	50.0%	12 or 13
	Total Scored Questions: Criminal Law & Procedure			*25*

Subject	Sub-Topic Category	Ratio Tested	% Tested	# of Scored Questions
Evidence				
	I. Presentation of Evidence	1/4	25.0%	6 or 7
	II. Relevancy and Reasons for Excluding Relevant Evidence	1/3	33.3%	8 or 9
	III. Privileges and Other Policy Exclusions	1/12	8.3%	2 or 3
	IV. Writings, Recordings, and Photographs	1/12	8.3%	2 or 3
	V. Hearsay and Circumstances of its Admissibility	1/4	25.0%	6 or 7
	Total Scored Questions: Evidence			*25*
Real Property				
	I. Ownership of Real Property	1/5	20.0%	5 or 6
	II. Rights in Real Property	1/5	20.0%	5 or 6
	III. Real Estate Contracts	1/5	20.0%	5 or 6
	IV. Mortgages/Security Devices	1/5	20.0%	5 or 6
	V. Titles	1/5	20.0%	5 or 6
	Total Scored Questions: Real Property			*25*
Torts				
	I. Intentional Torts	1/6	16.7%	4 or 5
	II. Negligence	1/2	50.0%	12 or 13
	III. Strict Liability and Products Liability	1/6	16.7%	4 or 5
	IV. Other Torts	1/6	16.7%	4 or 5
	Total Scored Questions: Torts			25
Total Scored Questions: All 7 Subjects				**175**
Total Unscored Questions*				**25**
Total # of MBE Questions				**200**

*Note, the additional 25 *unscored* pretest questions may be from *any* of the seven subject areas.

What You'll Learn:
- What Law to Apply when Answering MBE Questions
- The Default Statutes & Rules to Apply for certain MBE Subject Areas

All MBE questions are to be "answered according to _generally accepted fundamental legal principles_, unless noted otherwise in the question."[2]

In addition to the scope, **the MBE Subject Matter Outline also gives "instructions" as to what rules/statutes apply for specific subject areas**. For example, it specifies to assume that joint and several liability with pure comparative negligence applies for Torts questions (unless noted otherwise).

Below is a summary of the MBE "instructions" found in that outline.

<u>Summary of MBE Instructions</u>

Answer ALL questions according to _**generally accepted fundamental legal principles**_.

Unless otherwise indicated in the question, _**assume that**_:

- **Civil Procedure**: The Federal Rules of Civil Procedure are applicable;
- **Civil Procedure**: Title 28 of the U.S. Code is applicable for trial and appellate jurisdiction, venue, and transfer;
- **Constitutional Law**: The terms "Constitution," "constitutional," and "unconstitutional" refer to the federal U.S. Constitution;
- **Contracts**: The Official Text of Articles 1 and 2 of the Uniform Commercial Code are applicable;
- **Evidence**: The Federal Rules of Evidence are applicable;
- **Torts**: Survival actions and claims for wrongful death are available; and

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[2] See, https://www.ncbex.org/exams/mbe/preparing-mbe

- **Torts**: Joint and several liability, with pure comparative negligence, is the relevant rule.

Other than the above, assume that there is NO applicable statute _unless_ otherwise noted in the question.

You MUST KNOW these default MBE instructions going into the exam, as they could dictate the applicable rules of law, and thus could affect which answer you choose. This is especially true for Torts questions, where the examiners have stated the default rules to apply (e.g. comparative negligence, joint and several liability).

Below are key aspects of the MBE that every examinee must know when taking the exam.

- **Choose the BEST answer choice (and choose only _one_ answer per question)**. Multiple answer selections will result in an _incorrect response_.

- **Answer EVERY Question (even if you aren't sure of the answer)**. Scores are calculated _only_ by the number of questions _answered correctly_ – points will NOT be subtracted for incorrect answers. Thus, make sure you answer EVERY question, _even if_ it's a complete guess.

- **Mark ALL answers on the _separate_ Answer Sheet**. You must indicate all answers on the separate answer sheet DURING the 3-hour time limit of each MBE exam session. We cannot stress this enough... ONLY the answer sheet will be scored (no credit will be given for anything written in the test booklet). Thus, make sure you build in time during the exam to transfer all of your answers to the answer sheet.

What You'll Learn:
- The 3-Part Structure of MBE Questions
- The Components of an MBE Answer Choice

MBE Question Structure

According to the NCBE, the format of an **MBE question is divided into three (3) parts**:[3]

Stem   →   The fact pattern setting up the problem.

Lead-In →   The question at the end of the stem.

Options →   The choices available for answering the question – each question has four (4) answer choices.

Sample MBE Question

A buyer orally agreed to buy from a seller all the computer chips that the buyer would "require" for the following two years. In reducing the agreement to writing, the buyer's secretary mistakenly typed that the buyer would buy all that he would "desire" rather than "require." Both parties signed the written agreement without noticing the error. After three months of performance, the buyer ceased buying chips from the seller and began buying them from other vendors.

STEM (Fact Pattern)

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[3] See, The Bar Examiner, August 2008, Recent Changes in NCBE's Multiple-Choice Examination Programs, at pg. 26.

In a suit for damages, will the seller prevail?   **LEAD-IN (The Call)**

(A) No, because the buyer's written promise is illusory.

(B) No, because the written agreement is ineffective due to lack of consideration.

OPTIONS (Answer Choices)

(C) Yes, because the parties' three months of performance established a two-year contract.

(D) Yes, because a court will reform the written agreement to make it conform to the oral agreement.

The Structure of MBE Answer Choices

Most Answer Choices can be further broken down into the following components:

Result   → the legal result that occurred (e.g. prevail, guilty, liable)

Logical Connector   → the kind of relationship between the reason and the result (e.g. if, because, since, unless)

Reason   → the reason why the result occurred (e.g. plaintiff failed to exercise reasonable care)

(A)   No ,   because   the buyer's written promise is illusory.

      Result   Logical   Reason

                connector

Understanding the structure of MBE questions and answers allows you to break each question into its components so you can understand the question being asked and the answer choices presented. This is especially important as the examiners have included answer choices intentionally meant to trick you.

Knowing the structure is also advantageous because you will then have a good understanding of the test itself, which allows you to maximize your performance and score extra points on the MBE!

What You'll Learn:
- Our 6-Step Approach to Effectively Prepare for the MBE
- 11 MBE Study Tips to Master the MBE

A high MBE score is the **KEY** to passing the bar exam for three reasons.

- <u>First</u>, if your MBE score is high enough it can compensate for weaknesses in other sections of the exam (e.g. essays, performance test).
- <u>Second</u>, the MBE is worth the most of any section on the bar exam (50% in UBE states and normally between 40-50% in other states).
- <u>Third</u>, studying for the MBE pays double dividends because there is usually a substantial overlap in the subjects tested on the MBE and essay portions of the exam (especially in UBE states).

Since there are now only 175 scored questions,[4] gaining every point is crucial to passing. That is why having a great strategy is essential to your bar preparation.

Below you will find OUR **Smart Study Strategy** to excel on the MBE. This is the same strategy the creator of SmartBarPrep used to score in the top 5% on the MBE (a 171.1 scaled score – see [here](#)).

Go ahead and try it out for yourself!

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[4] Prior to the July 2017 bar exam, the MBE consisted of 190 scored questions and 10 unscored pretest questions.

<u>Step 1</u>:   **Learn the law for a subject thoroughly BEFORE attempting to do practice questions**.

Taking practice MBE questions prior to developing a good grasp of the law for a subject area is a waste of time and serves no purpose because you don't know the law yet. Don't make this mistake. Instead, you should have a good working knowledge of the law before attempting MBE questions for the subject area. That way you can make the most productive use of your time, and review those questions to build on your knowledge of the subject matter.

You can learn the subjects by bar review classes/lectures, books, or outlines. Keep in mind, you don't need to have everything memorized perfectly – **you just need a good working knowledge of the subject** (a.k.a. a good grasp of the law or reviewed the subject in some way). It's your choice what to use to learn the law, but make it fast and then start your MBE practice.

🔆 **MBE TIP**

If possible, **it's best to learn the MBE subjects first (*before* the essay subjects)** when preparing for the bar exam. This way you can start practice questions sooner, as you will be learning the MBE material earlier in the study cycle.

<u>Step 2</u>:   **Breakdown each subject into a *condensed* outline or document.**

After learning the law for a subject, you should <u>condense</u> **that subject into something you can use for future review (outline, mini-outline, attack sheets, flashcards, etc.)**. This is essential for breaking down and committing the legal rules tested to memory, and will be your go-to document while studying. You can then add to this document later on as you continue your studying and taking MBE practice questions.

If you don't have time to create your own document, **you can also use an outline from a friend or bar review company** and then add your notes to it.

Step 3:   Take *a lot* of practice MBE questions!

Practice makes perfect, and for the MBE taking a lot of practice questions must be a priority. Once you learn a subject area, you can start taking questions for that subject – this is why prioritizing learning the MBE subjects first is important. Then, as you learn more subjects you can start taking mixed question sets. Taking 25-30 practice questions per day gives you enough practice, while also allowing you time to review your answers that same day. Closer to the exam, and after you have built up your mental stamina and focus, you should increase the amount of questions you take in each sitting, eventually building up to simulated half and full exams.

🔆 MBE TIP
Only take MBE practice questions that have explanations.

After you take practice questions, you MUST review your answers to see why you got a question correct/incorrect. This is KEY, and why question sets <u>with</u> explanations should always be taken. You CANNOT waste your valuable time researching why you got a question wrong because no explanations were provided, or simply not review why you got the question wrong and moving on.

Exception: There is one notable exception to the above rule… the MBE questions released by the NCBE in December 2017 (called the "MBE Study Aid").

The NCBE released 210 questions drawn from previous MBE's, with 30 questions for each of the seven MBE subject areas (including Civil Procedure). An answer key is included, but *not* explanations.*

<u>Why should the MBE Study Aid be used *even without* explanations?</u> It includes 210 *very recent* questions released by the drafters of the exam, which is the **closest thing to the actual MBE questions still used on the test today**. Plus, it includes the first ever actual used Civil Procedure questions released – 30 in total (previously, only 10 sample Civil Procedure questions were released in the past by the NCBE).

*Note: In 2019, the NCBE released detailed explanations for the 30 Civil Procedure questions.

🔅 MBE TIP
Take MBE practice questions from multiple sources.

You should strive to take practice questions from as many different sources as possible (official released NCBE questions, BarBri, Kaplan, AdaptiBar, etc.). This will get you acclimated to different styles and difficulty of questions, so you'll be prepared for anything on exam day. See Chapter 7 of this guide for an overview of the different sources of MBE practice questions.

🔅 MBE TIP
Practice like it's the ACTUAL exam.

You want to simulate actual test day conditions as much as possible to minimize any surprise on exam day. As such, you should take MBE questions under ***timed conditions*** <ins>using</ins> **paper, a pencil, and an Answer Sheet** (to bubble in your answers). The MBE is still administered in paper format, so it's best to practice in that medium.

<ins>For timing</ins>, remember you must keep a pace of 1.8 minutes (1 minute 48 seconds) per question. Practicing while timed may be uncomfortable at first, but it will condition you for the actual exam setting. Likely your timing will be longer than 1.8 minutes per question in the beginning ...and that's ok. It's still good to keep track so you know your baseline average time, and then you can track for improvement as you take more questions.

🔅 MBE TIP
Track Your Progress.

Create a spreadsheet to track your MBE practice, including the number of questions answered correctly, the subject area(s), and your time and pace. ***Tracking this data keeps you accountable***, and can help you spot your problem areas or if you have an issue finishing questions in the allotted time.

🔆 MBE TIP
DO NOT take a full 200 question Simulated Practice MBE
***until 1 month* before the exam.**

Taking a full simulated MBE (6 hours in one day – broken up into two 3-hour sessions) is an exhausting and mind-bending experience, so taking only one should be enough. Ideally, the full simulated exam should be taken within 1 month of the MBE exam because you will be better prepared to take a full 200 mixed-question set then, and you want to simulate exam conditions closer to the actual test. If possible try to make it the simulated exam from a bar review course. BarBri offers this in many states and usually holds the simulated exam in the same testing center where you will actually take the bar exam.

🔆 MBE TIP
Take the NCBE Practice Exams, but not until the final
2-3 <u>weeks before</u> the exam.

Between 2014 and 2022, the NCBE has released 810 real MBE questions. You can find these questions in the NCBE Study Aid Store or from a bar exam company that has licensed them (including us!). These are the closest example of the real questions you'll see on exam day, and are often easier than the practice questions released by the big bar review companies. Taking these right before the exam can give you a much-needed confidence boost.

<u>Step 4</u>: "Actively Review" the Practice Questions Taken.

The quality of your review is more important than the quantity of questions taken. If you do 1000's of questions, but never review explanations of why your answer was correct or incorrect, then you're missing the point of doing the practice questions in the first place.

The main goal of taking practice questions is to <u>figure out your weak spots and correct them</u> – to learn why you got a question wrong so it doesn't happen in the future. Passively checking your answers and reading the explanations just DOESN'T help you do that effectively. Instead, you MUST perform what we call "Active Review".

To perform "Active Review", you should draft a short rule statement for any MBE question you got wrong *or* got correct but was unsure of the answer. Draft these rules from the

explanations provided. These rule statements should be sorted by subject and compiled into **your personalized MBE rule sheet** (place this at the end of your condensed outline for each subject). Then, add to this document as you take more practice questions.

If you don't prefer a rule sheet, you can always **make flash cards** for these rules OR add the rule statements into the body of your subject outlines.

Your choice. Pick one and go!

<u>Example of How to Draft a Rule Statement from MBE Explanations</u>

Sample MBE Answer Explanation

Should the court grant the entrepreneur's motion?
(A) No, because the company's claim arises under federal law.
Correct. The claim asserts federal trademark infringement, and therefore it arises under federal law. Subject-matter jurisdiction is proper under 28 U.S.C. § 1331 as a general federal-question action. That statute requires no minimum amount in controversy, so the amount the company seeks is irrelevant.

Sample Rule Statement
Subject matter jurisdiction is proper in a federal-question action (e.g. federal trademark infringement claim).

By performing active review, you will also become familiar with the type of questions asked and what they are REALLY asking. Understanding the questions and how the law is tested is key to working faster as well. This is a tactic of studying the test itself, not just studying the law. Scoring high on the MBE depends upon not only knowing the law tested cold, but also recognizing which rule or issue is being tested.

💡 MBE TIP
Don't Just Review only the Questions You Got Wrong.

Even if time is limited, at minimum we suggest that you review: (1) the *questions you got wrong*; AND (2) the *questions you got right but were unsure about* (see below for how to keep track of these). This will prevent you from skipping over questions you got right, but didn't fully understand why.

How to note questions you're not sure of: While answering questions, we recommend making a "dash" next to the question number that you're not 100% sure of – or you can make any mark that's quick and easy. After the practice session, review the questions you got wrong ALONG WITH those "dashed" questions you were unsure of (*even if* you got them correct).
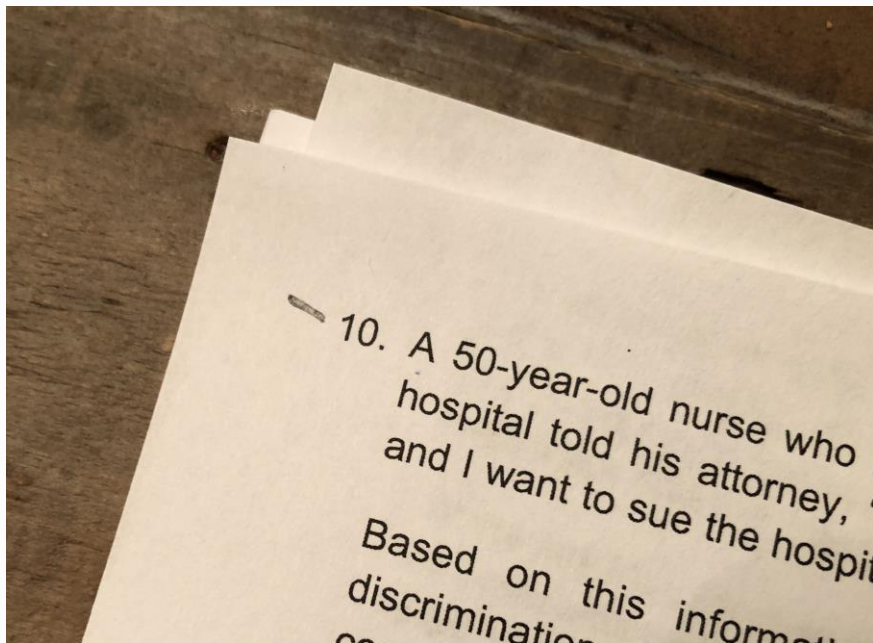
If you have the time, you should even review the answer explanations for *every* question you take.

Step 5: **Keep Studying the Law & Taking Practice Questions to Master the MBE Subjects**.

You should be constantly reviewing your Outlines and Personalized MBE Rule Statement Sheets (or flashcards) during the entire course of the bar exam review period. During your "active review" you should be adding notes and rules to these documents as well. This way you are constantly reinforcing your knowledge of the law and reviewing what tripped you up in the past.

🔆 **MBE TIP**

Optimize your MBE performance by focusing on the HIGHLY tested MBE topics.

Remember the topic categories within each subject are NOT created equal as some are tested in a *higher percentage* than *others*. You can use the chart we made in Chapter 2 of this guide to prioritize your studying – it shows the percentage each topic is tested for a subject *and* how many questions to expect for that topic.

🔆 **MBE TIP**

Focus on *recalling* the law and applying it to factual situations, unlike the essay section where you need to recite a rule word-for-word in your answer.

What's important here is knowing the rule internally (*grasp* of the law) and how that rule relates to factual situations (application). This can be achieved through taking a lot of practice questions over the course of the MBE study period to hone your skills in applying the rules to specific factual situations (the goal is after a while, this will just click).

Step 6:   **Analyze Your Progress to Spot Bad Habits or Weak Areas, and Then Fix Them**.

After taking a lot of MBE questions and reviewing your answers, you should start noticing patterns in how you answer questions. Try to recognize and diagnose any weak areas or bad patterns.   Once diagnosed, you should fix that weak spot or implement a "default strategy" – a strategy you will always adhere to when answering questions – to correct the problem pattern.

> For example, I noticed that whenever I changed my answer choice, I usually got the question wrong and my first choice was correct. To fix this, I implemented this default strategy: I would read all answer choices, and decide on an answer. Once decided, my default strategy was to *never* change an answer choice unless I was 100% positive of the new changed answer choice. If there was any doubt (even a .001% chance), I was not allowed to change the answer. This strategy limited my bad habit of changing answer choices when my first choice was usually correct.

Default Strategies also set the stage for automating things you should not be spending time on when taking the exam (e.g. having a system for bubbling the answer sheet; never changing an answer unless you are 100% positive of the second answer). Knowing yourself and developing strategies to address your problem areas is KEY to obtaining a high score on the bar exam.

We are often asked what practice questions to use when preparing for the MBE?

Our answer is always the same… **take practice questions from as *many different sources as possible***. If you can afford it, you should take a mix of NCBE, BarBri, and Kaplan questions. You can also use Adaptibar, as their software contains all of the released NCBE questions. This will get you acclimated to different styles and difficulty of questions, so you'll be more prepared on exam day.

Here are some sources of practice questions, and where to find them.

NCBE Official Released Questions

Recently Released MBE Questions (2014-2022)

The NCBE has released 810 real MBE Questions in the last few years. Here's a breakdown of each set:

- **400 MBE Questions & Explanations (released in 2014 & 2017)**: These questions were *formerly* referred to as "Online Practice Exams (OPE's)." The OPE's contain questions from six MBE subject areas: Constitutional Law, Contracts, Criminal Law and Procedure, Evidence, Real Property, and Torts.   NOTE: The OPE's <u>do not</u> include Civil Procedure, which was added to the MBE in February 2015.

- **210 MBE Questions (released in Dec. 2017, updated in 2019 & 2022)**: These questions were *formerly* referred to as the "MBE Study Aid." The MBE Study Aid contains 210 questions drawn from previous MBE's, with 30 questions for each of the seven MBE subject areas (*including* Civil Procedure). The questions are grouped by subject. An answer key is included, but *not* explanations.

- **Civil Procedure Explanations (released in 2019)**: In 2019, the NCBE released *official* answer explanations to the 30 Civil Procedure questions released in the MBE Study Aid (discussed above).

- **MBE Complete Practice Exam (released in 2021)**: 200 multiple-choice questions in one simulated practice exam, similar to a full-length MBE. All 200 questions are from actual past administrations of the MBE bar exam, and answer explanations *are provided* for this simulated exam.

These recent MBE questions can be found on the NCBE's new mobile-friendly eLearning platform [here](#) (just note that the NCBE no longer refers to the questions as "OPE's" or the "MBE Study Aid").

SmartBarPrep has also licensed official MBE questions & explanations from the NCBE. You can find them in our practice materials!

Sample MBE Questions (FREE)

- The NCBE has released 10 MBE Civil Procedure Sample Test Questions. These include an answer key and explanations. NOTE: These sample questions were *removed* from the NCBE website in June 2023.

- The NCBE has also released 21 MBE Sample Test Questions. An answer key is provided, but *not* explanations. These can be downloaded for free [here](#).

Older Released MBE Questions (FREE – No Longer Available)

- 1,181 past MBE questions have been released from very old exams (1972-1998). NOTE: These MBE questions were *removed* from the NCBE website in June 2023, and are no longer available.

MBE administered in Feb. 1991	Sample MBE (200 Questions)
MBE administered in July 1991	Sample MBE II (200 Questions)
MBE administered in July 1998	Sample MBE III (200 Questions)
MBE's administered between 1972-1991	581 Sample MBE Questions

- We recommend that you **DO NOT use these older questions** for three reasons. <u>First</u>, no explanations are provided. <u>Second</u>, the question format and law tested is now outdated. <u>Third</u>, even the NCBE *does not* recommend their use on their website.[5] The only time these questions should be used is when the bar review company has updated the questions to the current format and law tested. For example, Adaptibar has updated all of the older MBE questions in their platform.

<u>Other Sources of MBE Practice Questions</u>

Besides the official released NCBE questions, you should also use practice MBE questions from commercial bar review courses, such as BarBri or Kaplan.

If you can afford it, you should use *both* BarBri and Kaplan questions as part of your bar preparation. Each company's questions are drafted slightly differently, which will acclimate you to different types of question styles. We believe these questions are usually more difficult than the actual questions on the MBE. Because of this, these questions are extremely helpful because it really trains you to spot the nuances in the law, and if you're scoring well on these "harder" questions then it's likely you'll do well on the actual MBE.

Even if you aren't enrolled in their bar review course, MBE Question books from BarBri and Kaplan can generally be found on eBay from past examinees (just make sure to buy a book without any markings).

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5 See, https://www.ncbex.org/exams/mbe/preparing-mbe ("Because these questions are outdated, NCBE does not recommend their use but nevertheless makes them available because the questions may still be in use by commercial bar review courses under a licensing agreement with NCBE."). Note: This quote was removed from the NCBE website as of November 2019.

What You'll Learn:
- Why you must bubble-in an answer for all 200 questions – *even if* it's a complete guess.
- Why spending too much time on any one question can be disastrous.
- The question number you should have completed at important exam intervals.
- The ideal system for transferring your answers from the test booklet to the answer sheet.
- How to approach and read an MBE question.

1. Bubble-in one answer for EVERY question on the Answer Sheet *even if* it's a complete guess.

Scores are calculated *only* by the number of questions *answered correctly* – points will NOT be subtracted for incorrect answers. Thus, make sure you answer EVERY question, *even if* it's a complete guess.

If you are almost out-of-time and still have questions left, you are better off bubbling-in random selections for the questions you have left (rather than leaving them blank). Even by randomly guessing, you still have a 1-of-4 chance statistically of getting the question correct.

Don't leave potential points on the table... make sure every question on the answer sheet has an answer bubbled-in!

This may sound obvious, but you wouldn't believe the amount of test takers that don't do this and loose valuable points.

2. Don't Spend Too Much Time on Any One Question – Pick an Answer Choice, and Move On

Pick an answer choice within the 1.8-minute time limit, and keep moving! It's important to not spend too much time on any particular MBE question – even the most difficult ones. One question will not dictate whether you pass or fail, so don't dwell on it. Examinees that usually struggle with time have a tendency to get stuck and spend 5-6 minutes per question a number of times on the exam. This wastes valuable time, and can mess with your confidence as you get further into the exam. DON'T fall into this trap!

Read through the question and answer choices carefully, pick one answer, and then move on. Don't second guess yourself – you need complete focus for the next MBE question. Understanding and keeping myself aware of this simple fact played a big part in cutting down my overall time per question so I could finish all questions within the allotted time.

3. Be Aware of Your Timing & Pace

To complete 100 MBE questions within each 3-hour session, you have **1.8 minutes (1 minute 48 seconds) per question**.

This will put you on pace **to complete *at least* 33-34 questions per hour** during each session.

On exam day, it is recommended that you **use a timer** to keep track of the point you should be at while taking the exam. You can use the following intervals as your guide:

Question # Completed	Time
Question 17	30 minutes
Question 34	1 hour
Question 50	1 hour 30 minutes
Question 67	2 hours
Question 84	2 hours 30 minutes
Question 100	3 hours

Just make sure the timer/watch complies with your state's bar exam guidelines for acceptable items in the exam room – some jurisdictions do not allow watches or timers, but will have a clock clearly visible in the exam room that you should take advantage of.

4. Have a System for Bubbling-In the Answer Sheet

Have a System for WHEN and HOW you will transfer answers to the Answer Sheet. DO NOT bubble in your answers at the end of each session...this is a recipe for disaster. What if you run out of time, and then get no credit! Plus, transferring at the end is likely to result in you rushing when bubbling in your answer choices, possibly leading to mistakes.

Since only the answers marked on the Answer Sheet will be scored, you should have a pre-determined system of how/when you'll transfer your answers from the test booklet to the Answer Sheet. Here is ours!

SmartBarPrep's Answer Sheet Technique

WHEN TO TRANSFER:

We recommend that you take two (2) full pages of questions – an open booklet – at a time (noting your answers in the test booklet). Once finished, then transfer those answers to the Answer Sheet.

When 30-minitues is remaining in the exam session, then switch to transferring 1 page of answers at a time. When 10-15 minutes is left, transfer 1 question at a time.

This will ensure you have all of your answers bubbled-in on the Answer Sheet when time is up.

HOW TO TRANSFER:

Below is the only foolproof way that we have found to make sure the right answer gets put into the right line of the Answer Sheet.

When bubbling in the Answer Sheet, _transfer only 1 answer at a time_ while saying the question number and answer letter in your head while transferring (e.g. 38 is C, look at Answer Sheet line 38, and then say C as you bubble it in). Although this sounds tedious, this technique will prevent you from inadvertently bubbling an answer on the wrong question line.

Be careful and _do not_ rush when transferring answers.

5. How to Approach & Read an MBE Question

There are three schools of thought on how to read an MBE question.

Method # 1 – Linear Approach: Very simply, **read the ENTIRE question and all the answer choices carefully from top to bottom** before selecting an answer. (Facts → Call → Choices). If needed, look back at the facts to verify, clarify, or eliminate an answer choice.

Method # 2 – Call-First Approach: This approach is similar to the Linear Approach, except that you **read the Call of the question first** – the call is the short statement/question that follows the fact pattern. This helps you identify the subject and the issue being tested before reading the fact pattern.

Method # 3 – Jump-Around Approach: For this approach follow these 4-Steps:
- **Step # 1: Read the Call of the question first**. The call is the short statement/question that follows the fact pattern. This helps you identify the subject and the issue being tested before reading the fact pattern.
- **Step # 2: Read the answer choices**. Reviewing the answer choices will ALSO help you identify the issues tested, so you know what to look for when reading the fact pattern.
- **Step # 3: Read the entire fact pattern, and mark it up as needed.**
- **Step # 4: Select the best answer choice.**

Under any method, it is usually easy to eliminate two of the answer choices. If you're undecided or stuck on two choices, make sure you have identified the legal issue being tested. This is key to determining the correct answer.

We generally recommend using Method # 1 (the Linear Method) for two reasons. First, we believe more time is expended in Methods # 2 and 3 by jumping back and forth to different parts of the question. Second, in some instances we have seen an examinee's view of the facts to be skewed as to what the question is really asking because they read the call and/or answer choices first.

However, different methods work for different people. If you have time, it's best to test each method separately under timed conditions, and see what works best for you (considering timing, number of correct answers, and which method you find easier to use).

Knowing yourself and how you think, and trusting in that, is what will make the difference in your score.

No matter which method you use, **DO NOT try to choose an answer while reading the question. Instead, focus on reading everything carefully, and then (and only then) choose the best answer choice**. This includes reading ALL of the answer choices before choosing an answer, as the bar examiners may try to trick you in choosing one of the first answers listed.

What You'll Learn:
- How Your MBE Score is Calculated – Raw Scores & Scaled Scores
- How to Approximate Your Scaled Score
- Total Weight of MBE Score in Each Jurisdiction

How Your MBE Score is Calculated – Raw Scores & Scaled Scores

There are **175 scored questions, with 25 scored questions from *each* subject area tested** (see chart below).

Subject Area	# of Scored Questions
Civil Procedure	25 Questions
Constitutional Law	25 Questions
Contracts	25 Questions
Criminal Law & Procedure	25 Questions
Evidence	25 Questions
Real Property	25 Questions
Torts	25 Questions
Total Scored Questions	**175 Questions**

*Note, the additional 25 *unscored* pretest questions may be from *any* of the seven subject areas.

Each *scored* MBE question is worth one point, for a total of 175 points. This **raw score is then converted to a scaled score between 1-200**. The NCBE scales all scores nationally using a complex statistical formula to adjust for any differences in test difficulty relative to prior administrations of the MBE (to make sure a scaled score on one examination is equivalent to a score on any other examination).

You want to aim for a scaled score of _at least_ 140-145 (which is the average score). **Ideally, you should want a 150+ scaled score to have confidence to pass the exam**.

The national average MBE scaled score for the last few exams was: 130.8[6] for Feb. 2025; 141.8[7] for July 2024; 131.8[8] for Feb. 2024; 140.5[9] for July 2023; 131.1[10] for Feb. 2023; 140.3[11] for July 2022; 132.6[12] in Feb. 2022; 140.4[13] in July 2021; 134.0[14] in Feb. 2021; and 132.6[15] in Feb. 2020. The average scores for the three July/Fall 2020 in-person exams ranged from 137.2 to 146.1, but had significantly less candidates due to Covid-19.[16] Historically, the average MBE score is lower in February than in July.

Based on our review of past exam examinee score reports, there is a high correlation to having a high MBE score and passing the exam.

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[6] https://www.ncbex.org/news-resources/ncbe-announces-national-mean-february-2025-mbe

[7] https://www.ncbex.org/news-resources/national-mean-july-2024-mbe

[8] https://www.ncbex.org/news-resources/national-mean-february-2024-mbe

[9] https://www.ncbex.org/news-resources/national-mean-july-2023-mbe

[10] https://www.ncbex.org/news/national-mean-feb-2023-mbe/

[11] https://www.ncbex.org/news/july-2022-mbe/

[12] https://www.ncbex.org/news/february-2022-mbe/

[13] https://www.ncbex.org/news/national-means-july-mbe-august-mpre/

[14] https://www.ncbex.org/news/february-2021-mbe-national-mean/

[15] http://www.ncbex.org/news/february-2020-mbe-march-2020-mpre/

[16] See the following announcements from the NCBE: https://www.ncbex.org/news/october-in-person-mbe/, https://www.ncbex.org/news/sept-2020-mbe-results/, and https://www.ncbex.org/news/july-2020-mbe-mean-score-increases/

How to Approximate Your Scaled MBE Score

When taking a full MBE practice exam, **you can typically add 10-15 points to the number of questions correct to approximate your scaled score (see formula below)**.

Number of Questions Correct (out of 200 Questions)
(if taking less than 200 questions, then multiply the % correct x 200)

+

Estimated Scale Factor (10-15 points)

=

Approximate MBE scaled score

The above formula is useful to gauge how you are doing when taking practice exams. BUT, please note that this is an over simplification of the scaling process, and is _not_ how the MBE is actually graded and scaled – it doesn't take into account scored vs. unscored questions and the MBE scale that varies from exam-to-exam.

Don't concern yourself too much on determining how your scaled score is calculated. For MBE preparation, **your main focus should be on increasing the number of questions you answer correctly**.

Total Weight of MBE Score

The MBE is worth a large chunk of the total bar exam score:
- **50%** if your state is a UBE jurisdiction (New York, New Jersey, etc.), or
- Between **40-50%** in most other states.

Below is a chart of showing how much the MBE is worth in each jurisdiction.

Jurisdiction	MBE %	Notes
Alabama	50%	
Alaska	50%	
Arizona	50%	
Arkansas	50%	
California	50%	
Colorado	50%	
Connecticut	50%	
Delaware	40%	
District of Colombia	50%	
Florida	50%	
Georgia	50%	
Hawaii	50%	
Idaho	50%	
Illinois	50%	
Indiana	50%	
Iowa	50%	
Kansas	50%	
Kentucky	50%	
Louisiana	-	Jurisdiction does not use the MBE.
Maine	50%	
Maryland	50%	
Massachusetts	50%	
Michigan	50%	
Minnesota	50%	
Mississippi	40%	
Missouri	50%	
Montana	50%	
Nebraska	50%	
Nevada	33%	
New Hampshire	50%	
New Jersey	50%	
New Mexico	50%	

Jurisdiction	MBE %	Notes
New York	50%	
North Carolina	50%	
North Dakota	50%	
Ohio	50%	
Oklahoma	50%	
Oregon	50%	
Pennsylvania	50%	
Rhode Island	50%	
South Carolina	50%	
South Dakota	see note	Scaled score of 135 or higher is required.
Tennessee	50%	
Texas	50%	
Utah	50%	
Vermont	50%	
Virginia	40%	
Washington	50%	
West Virginia	50%	
Wisconsin	50%	
Wyoming	50%	
Guam	50%	
Northern Mariana Islands	50%	
Palau	see note	Scaled score of 120 or higher is required.
Puerto Rico	-	Jurisdiction does not use the MBE.
Virgin Islands	50%	

Chapter 10

WHAT'S NEXT?

Congratulations! You've completed The Smart Guide to the MBE, which means you now really understand how the MBE works, how to prepare for the exam, and most importantly how to maximize your score.

Simply by applying the lessons you've learned in this Guide, you'll have a huge advantage over other examinees.

So what's next?

You must start _applying_ the lessons, strategies, and tips in this guide! The most important of which is condensing the law for each subject, taking a lot of MBE questions, and "actively" reviewing the explanations. That's it! The right strategy goes a long way, but remember that hard work and practice are required to excel on the MBE.

We hope you found this guide useful. If you have any questions or have your own MBE tips to share, please don't hesitate to reach out to us.

Best of luck on the upcoming bar exam!

Cheers,

Matthew Bates
Creator, SmartBarPrep

"*Knowing is not enough; we must apply. Willing is not enough; we must do."*
        – Johann Wolfgang von Goethe (German Philosopher, 1749-1832)

OUR STUDY TOOLS

OPTIMIZE YOUR BAR PREP

Priority Outlines

Color-coded outlines to streamline the mountain of information you need to know for the bar exam. Includes priority ratings, each rule's frequency, list of exams tested, & model rule statements.

Smart Sheets

Concise breakdowns of the law tested (2-9 pages per subject) – with a color coded priority rating (high/med/low) – to focus on the highly tested MBE & Essay rules.

Smart Flashcards

Smart flashcards that use cognitive science & adaptive learning to accelerate the learning experience. Printable flashcards are also available.

Frequency Charts

Charts that show the frequency of items tested on the MBE and Essay sections – so you can see what's highly tested and prioritize your studying.
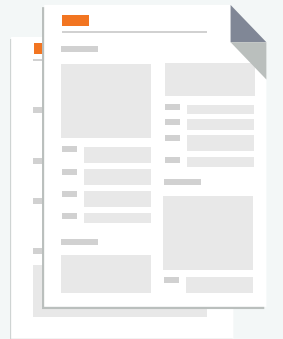
Smart Guides

Guides that simplify and explain how to prepare for the bar exam, with tips, strategies, & step-by-step approaches to maximize your score.

Real Practice Questions

Real questions licensed from the bar examiners along with our smart strategy to practice more effectively for the Essays, MBE, and PT's.

DEFINITIONS

FRE = Federal Rules of Evidence   P = Plaintiff   D = Defendant   V = Victim   W = Witness

A. Probative Value

Is the evidence relevant?
Should it be excluded under Rule 403?

Relevance

1) Any tendency to make a fact *more or less probable*; AND
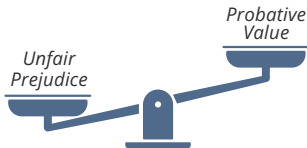2) Fact is *of consequence*.

Relevant evidence is ADMISSIBLE *unless* a rule/exclusion provides otherwise.

HIGH

Probative Value

Unfair Prejudice

Rule 403 Exclusions

Court may EXCLUDE evidence if its *probative value is substantially outweighed* by:

a) Unfair Prejudice;
b) Confusion;
c) Misleading the Jury;
d) Undue Delay;
e) Wasting Time; **OR**
f) It's Cumulative.

HIGH

B. Policy Exclusions

Does a policy exclusion bar the evidence?

Subsequent Remedial Measures

NOT admissible to prove:
a) Negligence;
b) Culpable Conduct;
c) Product/Design Defect; **OR**
d) Warning/Instruction Needed.

BUT, is allowed for *other purposes.*

HIGH

Plea & Plea Negotiations

NOT admissible in *subsequent* cases:

a) Statements during Plea Discussions;
b) Nolo Contendere Plea;
c) Withdrawn Guilty Plea; **OR**
d) Statements during Proceedings for (b) & (c) Above.

MED

Settlement Offers & Negotiations

NOT admissible to:
a) Prove or disprove a claim's **validity or amount**; **OR**
b) **Impeach.**

BUT, is allowed for *other purposes.*

MED

Offer / Payment of Medical Expenses

NOT admissible to prove *liability*.

■ BUT, related statements or admissions *are allowed*.

MED

Liability Insurance

NOT admissible to prove *fault*.

■ BUT, is allowed for *other purposes.*

MED

C. Physical & Documentary Evidence

Was the evidence properly authenticated?
Was the original item offered? If not, does an exception apply?

Authentication

All evidence MUST be *authenticated*.

Physical Evidence:
a) Witness testimony; **OR**
b) Substantially unbroken chain of custody.

Voice Recording:
a) Heard person speak; **AND**
b) Identified recorded person as speaker.

Video Recording:
1) Witness testimony,
2) That the video accurately depicts the scene/activity.

HIGH

Best Evidence Rule

Original *writing*, *recording*, or *photograph* is required <u>UNLESS</u>:

a) **Reliable duplicate**;
b) Original **lost / destroyed** & no bad faith;
c) Original **cannot be obtained by judicial process**;
d) **Not produced after proper notice** to a party in control & whom offered against; **OR**
e) **Not closely related to a controlling issue.**

MED

D. Character Evidence & Related Concepts

Is the character, prior bad act, or habit evidence allowed?
Is the method of proof proper?

👤 CHARACTER EVIDENCE

GENERAL RULE

HIGH

NOT admissible <u>unless</u>:

a) **Non-Propensity Purpose;**
b) **"Character in Issue"** (essential element or ultimate issue); **OR**
c) **FRE Allows It** (to prove propensity).

Follow arrows for specific rules when Character Evidence IS ALLOWED as circumstantial evidence to prove *propensity*.

CIVIL CASES

General Rule

NOT admissible to prove propensity.

Victim's Character (Sex-Offense Case)

V's *sexual behavior or predisposition* is allowed ONLY IF:

1) Probative value substantially outweighs,
2) Danger of:
   i) Harm to victims; **AND**
   ii) Unfair prejudice.

<u>Opinion</u> & <u>Specific Acts</u> proof is allowed. <u>Reputation</u> allowed ONLY IF victim placed it in controversy.

HIGH

Method of Proof for Character Evidence

■ **Reputation** or **Opinion**: ALL instances
■ **Specific Acts**:
   (a) Cross-Examination; **OR**
   (b) "Character in Issue"

[Note: Special rules apply in Sex-Offense cases.]

HIGH

⏱ HABIT / ROUTINE

Habit / Routine

ADMISSIBLE to show a person *acted in accordance* with a habit or routine practice.

■ <u>Habit</u> = Regular response to a repeated situation.

CRIMINAL CASES

Defendant's Character

D MAY offer evidence of their own character trait.

■ Prosecution CANNOT offer *unless* D opens the door.

Victim's Character (Non Sex-Offense Case)

D MAY offer evidence of V's character.

■ If D presents evidence, Prosecution MAY offer:
   a) V's good character; **OR**
   b) D's bad character.

Victim's Character (Homicide Case)

Prosecution MAY offer V's peacefulness trait *only if* D claims V was first aggressor.

Victim's Character (Sex-Offense Case)

NOT admissible to prove V's *sexual behavior or predisposition*.

<u>EXCEPTIONS</u> — **Specific Acts** proof is allowed:

a) Of V's sexual behavior to **prove D wasn't involved** in the crime;
b) Of D & V's of sexual relations (i) to prove **consent** (if offered by D), or (ii) for **any reason** (if offered by Prosecution); **OR**
c) If it **violates D's Constitutional rights**.

HIGH

🔗 PRIOR BAD ACTS

Prior Bad Acts

NOT admissible to show *propensity*.

■ But, IS ADMISSIBLE for a **non-propensity purpose**.

<u>Non-Propensity Examples</u>:

■ Motive,
■ Identity,
■ Mistake/Accident (*Absence of*),
■ Intent,
■ Common Plan or Scheme,
■ Opportunity, or
■ Preparation.

Sexual Assault / Child Molestation Exception

Prior similar Sexual-Assault or Child Molestation crimes ARE ADMISSIBLE to *prove propensity*.

HIGH