



## Podcast Episode 80: Bar Exam 101

- Lee Burgess: Welcome to the Law School Toolbox podcast. Today, we are talking about bar exam basics for 1Ls, 2Ls and 3Ls, who have the bar exam on the horizon. Your Law School Toolbox hosts are Alison Monahan and Lee Burgess. That's me. We're here to demystify the law school and early legal career experience so you'll be the best law student and lawyer you can be. We're the co-creators of the Law School Toolbox, the Bar Exam Toolbox and the Catapult Conference. Alison also runs the Girls' Guide to Law School. If you enjoy this show, please leave a review on Itunes and if you have any questions don't hesitate to reach out to us. You can reach us via the contact form on [lawschooltoolbox.com](http://lawschooltoolbox.com) and we'd love to hear from you. And with that, let's get started.
- Alison Monahan: Welcome back. Today, we're talking about the basics of the bar exam. Now this might send shudders down your spine if you're a 3L looking to take the bar exam this summer, or perhaps you're thinking, "Hey, I'm a 1L. Why should I be worrying about this yet?" Well, reality is the bar exam is a pretty big deal and is the final hurdle ... Well, technically, one of the final hurdles since you still have to pass your character and fitness to getting your law license. Basically, if you don't pass the bar exam somewhere, you cannot practice law.
- So, like anything else in law school whether it's exams or jobs, whatever, we think you actually need to be thinking about it or at least have it on your radar from day one.
- Lee Burgess: Yeah, unfortunately. Nobody likes to talk about the bar except like me and the people who work for us. Even you're not thrilled to talk about the bar sometimes.
- Alison Monahan: I feel like I took two of them. I don't really want to think about it again. It wasn't a fun experience. Unless you're a kind of a freak of nature like maybe Lee is or a few of our tutors, this is not something that most people really want to spend a lot of time thinking about.
- Lee Burgess: Exactly, but it is a reality.
- Alison Monahan: You've got to understand what you're getting into.



Lee Burgess: Exactly. Let's just start with some bar exam basics. Every state has their own bar exam, right? Well, that's kind of how it used to be.

Alison Monahan: Sort of.

Lee Burgess: The lawyer answer is: it depends. Some states, like California or Pennsylvania or Florida, still administer their own exams, and they're very state specific. There is a movement nationally to administer what is called the Uniform Bar Exam. Right now across the country, there are at least 25 jurisdictions that have adopted what is known as the UBE. If you want to look at a list of states, we have a link to the [National Conference of Bar Examiners](#) website who runs this test in the show notes.

What's crazy about the bar exam right now, or if you're a 1L, is you should probably find out if your state has adopted the UBE that might shift before you graduate. Because oftentimes the way that the shift happens is it's that the state decides to make this transition, and then they have to give notice. Changes don't happen 2 months after they make this decision.

Alison Monahan: Right, this is a sort of bureaucratic process that you're probably going to have fair warning. For example, we already know about upcoming changes in California that we've known about for a year and they haven't happened. Just to be totally clear, in case someone's not sure about this, basically, if you pass the bar in a state you can practice, typically, in that state, so you've got to pick which state. There's not a uniform, federal test that you can just take. These are still state specific exams.

Lee Burgess: Very true. What's interesting about the UBE, and as it's being administered in all these different jurisdictions, what's kind of challenging is that you might think that if you pass one state that you can waive into all 25 states, and that's not necessarily the case.

Alison Monahan: That would be awesome.

Lee Burgess: That would be amazing. We're going to talk later in the podcast of the bar exam future and I think a lot of people would like that to be the bar exam future. Each state can still require a certain score to be admitted. Just because you passed in one state doesn't mean that you're going to have a high enough score to pass in another one. They might still have their own character and fitness requirements. States like Washington have an additional multiple choice online test that you have to take. There are different requirements in different states.



You need to do some research and think, "If I want to practice in DC, New York, and New Jersey, does it matter?" All of three of which, by the way, are UBE states, "Does it matter which one of those jurisdictions I take the exam in? Can I waive into all of them? What's the deal?" It's just not as clear cut as it used to be.

Alison Monahan: Right, but it could be better, because it used to be if you wanted to be admitted in, for example, New York and New Jersey, you would have to sit for 3 days of testing because you do the MBE multiple choice day, which is universal, then the New York day and the New Jersey day. I'm assuming that doesn't happen anymore.

Lee Burgess: No, that is going away as New Jersey switches over to UBE. Yes, I do think it's better for a lot of students. There are also students who are getting creative on how to deal with the UBE reality. I have also known students who have struggled academically with tests and want to practice a type of law at the federal level where it does not matter what state they're licensed in. They are strategically taking the UBE in jurisdictions which have the highest rate of passage and the lowest pass score and once they pass that test, then they are able to practice at the federal level, and that's all they really care about. I guess there's some form of shopping going on in the bar world, but it's changing and you have to really educate yourself to make sure that you're making the choices that are necessary to be licensed in the way that you need to be licensed.

Alison Monahan: That was true for me. I just needed to pass the bar somewhere because I was doing federal patent litigation. When I was trying to decide which exam and I was deciding between New York and California and I couldn't decide, and the judge I was working for was in Boston and he's like, "Why don't you take Massachusetts?" I was like, "I don't really want to stay in these terrible winters." He's like, "It has a 90 percent pass rate." I was like, "Oh, maybe that would be a good choice." It was just a moment of like, "Wait, I could take one of the 2 hardest bar exams in the country, or I could take one of the easiest ones. I just need to be admitted in federal court, I think I'll take the easy one." I took the bar later in California, but honestly, it really didn't ever make any difference. I think I did one pro bono case where I needed to be admitted in California, but that was it.

Lee Burgess: It's really worth educating yourself about what your career options and being strategic. The UBE is definitely continuing to gain steam, especially with the fact that New York now administers it. That was really one of the large jurisdictions that needs to switch over. But you've still got to be smart. I definitely know



people who are thinking long term, career wise, that they want to take California and New York as the UBE and just have their licensing for their entire career done at that point.

Alison Monahan: I think, on the one hand, you need to be admitted somewhere, hopefully quickly, after you graduate, but it's always hard to predict in the future. Do you really need to be admitted in this new place? Do you not need to be? The advantage of the UBE, in theory at least, is that if you have to move someplace, presumably, you might be able to transfer your scores, which would be great. I don't know, you think the UBE is easier? Sometimes people seem to think that.

Lee Burgess: I think the UBE is easier for some people. It depends on what your struggles are. I think the thing about the UBE versus California with, we're going to talk about the changes upcoming in California in just a minute. It's a 2 day exam, the February exam in California is 3 days, it'll switch to 2 days in July.

Alison Monahan: If you're not registered for the 3 day one, maybe you want to wait.

Lee Burgess: Yeah, it really depends.

Alison Monahan: Or maybe not.

Lee Burgess: Or maybe not. Because again, it depends on what your strengths and weaknesses are. I think the harsh reality of the UBE, which has been the reality in most states, is there's a lot of multiple choice. It's half of your score is that 6 hour multiple choice test, the MBE on the second day. That's kind of brutal for a lot of people. I think that the nice thing about the UBE is the written portion, half of it is something called the multi state performance tests, which are 90 minute, closed universe research assignments. You don't have to know any law for those. I think it's beautiful that there's a whole chunk of the test that you can just take without memorizing anything.

Alison Monahan: Again, some people struggle with it. It's not something you can just show up to if you're not the best legal writer and you're not used to reading documents quickly and putting stuff together quickly. I think all the parts of the bar exam can be challenging.

Lee Burgess: Yep. Let's just run through, really quickly, exactly what's on the UBE if you've never heard of it. The first day, which is always a Tuesday, is a 30 minute essay exams in the morning. These are called the MEE, the multi state essay exam.



Then you have these two 90 minute performance tests which are called the MPT in the afternoon. Those are the closed universe assignments, mimicking an assignment you would get at work. You don't need to know any law, but they're still really easy to screw up. You need to practice them and get comfortable with the different types of assignments that they give out.

Alison Monahan: For example, they might ask you to write, I don't know, what would they ask you to do?

Lee Burgess: You can be writing an objective memo, you can write a persuasive brief to the court. You could do other tasks; I've seen tasks like a closing argument or things like that. They give you detailed instructions, but you have to be familiar with the different types of assignments so when you get the detailed instructions you basically know what to do with them.

Alison Monahan: Right. I think the key here is you want to have a plan. You don't want to go in cold, and be like, "oh, I don't need to study for this part."

Lee Burgess: The second day of testing is the MBE, which is 6 hours of multiple choice questions covering 7 topics towards contracts, Con Law, Civ Pro, Property, Crimes, and Evidence. If you're a 1L, you might be thinking to yourself, "Wow, this sounds like my first year curriculum." You're right. Studying for the bar can often feel like you're reliving your first semesters of law school which is one of the reasons why you don't want to mail that stuff in because it's going to come back and haunt you.

Alison Monahan: I think it's also worth, if you have really good study aids, really good attack plans or flow charts or something, save those. You might want to look at them later.

Lee Burgess: Exactly. I think that's a really, really good point. The other thing to think about if you're a 1L or a 2L and you're thinking of taking the UBE is, are there things you're struggling with that are going to pop up on this test? We're going to talk a little bit more about things you could even do during school to prepare for the exam. But if multiple choice is plaguing you in law school and it's plagued you forever, maybe working on that before the bar time is wise. If you are struggling with legal writing or struggling with writing under time pressure, then perhaps doing some planning beforehand to make sure that you are a little more prepared is wise. You really want to know what's coming and evaluate if you see some red flags that are going to cause some problems for you.



Alison Monahan: I think the reality is, in the bar study period, you have a very concentrated time to learn a lot of information. It's very difficult to learn all that information plus trying to learn how to do legal writing or learn how to take multiple choice questions. You need to do that part beforehand.

Lee Burgess: I think that's true. The study skills part should not be what you're working on during bar time. Bar time should just be about getting familiar with the substantive material, some of which may be even in classes you didn't take in law school, and then practicing and learning how to execute the test. Learning how to IRAC should not be what you're doing during your study period.

Alison Monahan: Sometimes, I'll talk to students, they're like, "I'm getting 40 percent on the MBE, do you think I can pass?" It's like, "No." If you dig that type of hole for yourself, you are not going to pass. I'm sorry.

Lee Burgess: No. Statistically, it's not possible.

Alison Monahan: It's literally impossible if you're doing that poorly.

Lee Burgess: I think you have to be really honest with yourself about it. Again, it's not that you can't overcome, it's just that you may need a bit more preparation than just the standard couple months of study, or in Allison's case, a couple weeks of study. She's a special snowflake we don't like to emulate how she studies for her bar exams.

Alison Monahan: No, the only reason I passed is because I'm really good at standardized tests, and even then, it was really hard.

Lee Burgess: Exactly.

Alison Monahan: I think there are tutors and things out there which, if you know, if you're one of those people who's just like, "I've always been bad at standardized tests, I've always been bad at multiple choice, there's nothing I can do about it." That's not true. There are specific, multiple choice, bar tutors, and it would behoove you to call one of those people and just ask them, "Hey, I'm a 2L or a 3L, I want to start working on this beforehand, can you help me, or what do you suggest I do?"

Lee Burgess: Yeah. We're going to talk about different bar prep tools. I think tools like AdaptiBar, things like that that can just focus on the multiple choice, you can actually get access to those, typically, in this early spring. You can have months



of studying with that to really get up confidence. You can work on the performance test early because I think the performance test is a lot like riding a bike. Once you figure out how to do it, you just need to keep up with it so you don't forget, but it's all about figuring out what your plan is and learning how to execute those parts of the test. You can do stuff like that early if, again, if you struggle with legal writing, or you struggle with writing under timed conditions. There's a lot of ways that you can make this work for you. I think a lot of people don't want to approach the test thinking, "I've got to do all this stuff and I'm a 3L." Or, "I should just wait to see what happens." Let me tell you, as someone who spends hours and hours and hours on end talking to people who failed the bar, not worth it. Don't roll the dice.

Alison Monahan: We could pretty much tell you what's going to happen.

Lee Burgess: Yeah, don't roll the dice.

Alison Monahan: It's not going to result in a passing score.

Lee Burgess: Then the opportunity cost of failing is so high. If you could put in some extra effort and some strategic work to minimize the chance of not passing, I think you are better for it.

Alison Monahan: For sure. One and done.

Lee Burgess: One and done. Let's talk for a minute about the California bar exam changes that are coming. We know we have a lot of listeners in California. The California has been notoriously difficult forever and ever and has always this three day exam for years and years, but it's changing in 2017, in July, to a two day exam. Everyone wants to know if this is going to be easier, and California, who loves to fail about 50 percent or more of the people in the room, I'm not going to bet on it. I think it's just going to be over faster.

Alison Monahan: I don't think they're going to be raising their pass rates.

Lee Burgess: No, I think it's just going to be shorter.

Alison Monahan: It might be less brutal. The third is really brutal.

Lee Burgess: The third day is brutal from an exhaustion perspective. The first day of the California bar is going to now include 5, one hour essay questions, and then one



90 minute performance tests. I think one of the downsides to the new California exam is if you're good at performance tests, you don't have the opportunity to pad your score with some performance test scores. It's really all about the essays and the multiple choice, which I think is actually a doozy for a lot of people. I think it's still going to be quite challenging.

Alison Monahan: You use to get, essentially, one day. 2 sessions or PTs, and 2 sessions that were all exams.

Lee Burgess: Yeah. You'd have the morning of essays and the afternoon PT, and then that duplicate of that day.

Alison Monahan: So you're doing half and half.

Lee Burgess: Yeah, a third of your testing time was performance tests, which you didn't have to know anything for. Which I was pretty excited about.

Alison Monahan: Yeah, I was like, "This is like free points for good writers."

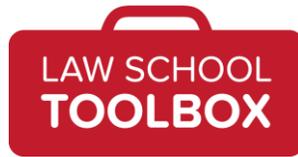
Lee Burgess: Exactly.

Alison Monahan: You're right. I think could have a negative impact on some of the people you don't really expect to fail, I think it could cause more of them to fail. They're not going to have that extra session of, "Oh, you're a good writer, so we're going to give you some extra points."

Lee Burgess: There's going to be some shake up with this, but I think California's, by making this change, is still making it quite a challenging test. They're only dropping one essay question. They're still giving you 5 of these one hour essays which are really challenging. Such is life, we're going to deal with what is handed out to us and students are going to prepare for this exam. I think it's just important to not go into it thinking that just because it's shorter, California's being more lax in who it's going to pass, because I don't think that's what's happening.

Alison Monahan: No, not at all. In fact, I'm looking at this, I'm like, "I think I would have been way more likely to fail this test."

Lee Burgess: Yeah, I think you would have too.



- Alison Monahan: I don't think I walked in prepared well for the essays. That really could have come back to bite me. If instead of an entire PT, I had to do 2 extra essays, proportionally, that would have put me a lot closer to failing, let's put it that way.
- Lee Burgess: I think that some folks who are taking the attorney's exam may find that reality as well. In California ...
- Alison Monahan: That's going to be brutal.
- Lee Burgess: The attorney's exam really becomes all about that California specific law without the padding of the big performance test scores, I think. It's going to be tough for a lot of people.
- Alison Monahan: There's no way Kathleen Sullivan would pass the exam.
- Lee Burgess: That's what's coming up in California. If you are going to be taking the California bar after July 2017, you definitely want to make sure that you understand the changes and talk to people to make sure you know how to prepare adequately.
- Alison Monahan: I think particularly for out of state takers, that's going to be just more brutal.
- Lee Burgess: Yeah.
- Alison Monahan: You've got all those subjects and the essays that you probably haven't studied, like community property and all this stuff.
- Lee Burgess: California wills and trust. California evidence. California civil procedure was just tested for the first time, which was super brutal. People just really did not expect that one to come up.
- Alison Monahan: Yeah, I don't think they're making it easier at all, so beware.
- Lee Burgess: Exactly. Other states that have their own exams, Florida is quite unique. You still have to take the MBE on the second day, but their essay exams are different. Texas is a little bit different. Pennsylvania even has its own performance test, it's a little bit different. If you are in one of these jurisdictions that's still administering their own exam, even though it is general advice, should still be helpful. You need to go and educate yourself on the specifics of the exams that



you are ending up needing to take. I think North Carolina still has its own exam too.

Alison Monahan: I think so. One of the problems in these states that are becoming increasingly outliers, not doing the UBEs, it's actually hard to find tutors.

Lee Burgess: That's very true.

Alison Monahan: We get a lot of requests for people that are like, "I need a tutor in Texas." It's like, "Um, I've tried to find people, but ... "

Lee Burgess: Yeah. Texas still uses the MPT, the multi take performance test, and so we can help you with that and with some MBE stuff, but we can't help you with Texas specific law, we don't have anyone on our team who's an expert in Texas law. You got to shop around and make sure that you can find the resources you need, especially in these very unique jurisdictions.

If you are literally breathing and attending law school, you have probably had some soft of interaction with a bar provider who has been tabling at your school, trying to get you to sign up, maybe during orientation. I don't think they're allowed to do it during orientation, but it kind of feels that way.

Alison Monahan: Or day one, I remember, of 1L year, they had their reps running around. It was like, "Oh, have you signed up for a bar course yet?" I'm like, "I haven't even gone to class yet."

Lee Burgess: The big ones are BARBRI and Kaplan. There are other online courses that are more economical that are still good courses. [Themis](#) and [Barmax](#) are some others that are out there.

Alison Monahan: Some of the states have state specific ones, in these outlier states.

Lee Burgess: The reality, though, I think, that you need to think about is, you don't have enough information when you are a brand new 1L to know what your reality is going to be for the bar. You don't necessarily know what state you're going to practice in. You don't know what your academic strengths and weaknesses are. You don't know if you're going to go take Massachusetts where there's a 90 percent pass rate. Maybe you don't need to pay \$5000 or however much some of these commercial bar courses take. Not everybody needs to study in the same way. Everybody comes to this with different needs. We're talking a lot of



money comes through these bar companies. Yeah, they're giving you \$100 discount here or a \$100 discount there, but I think you would be wise to just wait a little bit and learn more about, and comparison shop, just so you can make some really wise decisions. You don't know what your financial situation's going to be when it's time to sit for the bar exam. A thousand here, a thousand there, it can actually really start to make a really big difference when it comes to taking out bar loans.

Alison Monahan: Yeah, I think there's so much pressure for people to sign up immediately. There's this super high pressure sales, like, "You're going to fail if you don't sign up now." They're like, "We'll give you all these 1L outlines and stuff." It's like, "Okay, great." Maybe that's worth it to you to pay thousands of dollars, but the reality is I think you're absolutely right. You don't know what type of lawyer you're going to be, and you don't know where you're going to practice. "Oh yeah, of course, we'll give you a course anywhere," but the reality is if you take California, you might need a full service program. If you take a state with a very high pass rate, you might be able to get by with something that's a lot less expensive and still be pretty sure you're going to pass.

Lee Burgess: Yeah. It's really individualized, and it's important to remember that these large bar review providers are trying to sell one solution to every student at every law school in every state.

Alison Monahan: There are also, at least BARBRI is owned by a VC firm. These are venture capitalists. They're there to make money. They're not there to individualize your personal bar prep and care for you along the way. Their goal is to make money, and there's nothing wrong with that. But I think just taking a deep breath and stepping back from these high pressure sales tactics can also give you a lot better idea later on about what's going to work best for you.

Lee Burgess: Yeah, because most people don't even realize at the very beginning that almost all of these providers offer some sort of free prep for the MBRE, which is the ethics exam that you have to take, typically when you're a 3L, which is a multiple choice, few hour exam, but they'll give you materials for free so you can try out their products. They'll say, "Oh, you'll also get MBRE prep materials for free." You'll get that anyway.

Alison Monahan: Yeah, everyone could have that. You don't have to sign up and pay to get the free materials, you can just go and ask for it.



Lee Burgess: Right. The beauty is, I think, that that really allows you to shop around. Sign up for a few different providers, compare their material, see what you like. Talk to graduates who went to your school. See if they have good things to say about some of these bar programs, see if they have bad things to say.

Alison Monahan: Right. Because each one has their strengths and weaknesses. None of these are terrible programs, people do each of these programs and they pass the bar. People also absolutely do each of these programs and fail the bar. There's no guarantee here. You ultimately are the one who has to put in the work, and you have to find a program that is affordable for you and that works with what you actually need.

Lee Burgess: I think what a lot of people expect from these bar programs is that it's going to be one, out of the box solution for them, even if they have specific needs. I think that's a mistake. There are supplementary programs or tutors or things like that can help you work with your own strengths and weaknesses to set yourself up for the most success.

Alison Monahan: Right, we just did an entire podcast on this.

Lee Burgess: Yeah, we just mentioned [AdaptiBar](#) earlier in this podcast, which is an MBE prep program, we'll link to a [podcast we did on the MBE](#) that has a promo code for them, it's very helpful. There can be other substantive supports like lead sheets which are some outlines that we like a lot that are very bare bones outlines. People find a multiple of materials that are given to you by the bar prep programs to be very overwhelming, so we like lead sheets because they're very bare bones, outlines a little closer to what minimum competency looks like. We have programs like [SketchyLaw](#), which is a visual learning program. There are videos some students find very helpful. You have flashcards, like Critical Pass. You have tutors like us who work with first time and repeat takers, both either outside the prep period or during the prep period. You name it, but again, you have to think for yourself about what your strengths and weaknesses are, and then build your team or your group of resources that are going to meet your individual needs.

Alison Monahan: Right. I think that's the key. This is not a one size fits all solution, even though sometimes it's presented that way. There is absolutely no guarantee if you shell out thousands and thousands and thousands of dollars and do whatever program tells you to do that you're going to pass.



Lee Burgess: We talked about in [our last bar episode](#), that I think one of the worst pieces of advice is, "Oh, well just do everything that your bar prep company tells you and you'll pass," because I've talk to people like that all the time and they don't pass. That doesn't mean you're going to pass. Just because you do the busy work doesn't mean you're going to pass. You still have to be able to perform in the room and make it happen.

Alison Monahan: Some people may have other issues going on. You know have you have test anxiety issues, or you have some other outside issues that you think maybe you need to deal with before you sit for the bar exam. Deal with those before you fail.

Lee Burgess: It's so true. Accommodations, also something to think about. If that's something that you are dealing with in law school and you want to make sure you understand what the accommodations requirements are for the jurisdictions that you are planning on sitting for the exam. Different states have different thresholds for where you can get accommodations.

Alison Monahan: Overall, I would say they're more strict than law schools, typically.

Lee Burgess: I think that's true. They often want a lot of documentation, and they usually want you to have had accommodations in law school as well. Basically, if you are suffering from something or have a situation that requires accommodations, again, we're talking about accommodations of all sorts of things; pain, back pain, carpal tunnel, debilitating anxiety, learning disabilities, health related things. I've had students who have needed accommodations because they need to eat. They can't go 3 hours without eating. Opportunities to take more bathroom breaks. Opportunities to have your own room. There's so many accommodations. If you're in law school and you know that you're going to need specific accommodations, you better make sure that your state's going to be amenable to that, or maybe you need to think about taking the exam in a different states.

Alison Monahan: I know one thing that comes up repeatedly is women who are breastfeeding.

Lee Burgess: Yeah, a good one.

Alison Monahan: Certain states are not accommodating of that, which is probably illegal, and they're being sued, but you don't want to find yourself in a situation where suddenly you're like, "Oh my God, I can't have a separate room, or a break for breastfeeding? What am I going to do?" You need to figure this out in advance.



- Lee Burgess: Yeah, it really is something that you don't want to be dealing with during the stress of bar prep, that's for sure. I think another thing people haven't really thought about when they're in law school is that your law school also may actually have classes that are sort of, or actually bar courses, that you get credit for. The ABA allows schools to offer courses in the bar exam that you can get credit for. They oftentimes have some sort of non bar prep name, which I always found kind of funny. Legal drafting was one of the classes at my school, and that was basically to teach you how to take the performance test, which is called legal drafting. I've seen all sorts of things. Advanced Legal Analysis, or, I can't even remember. I've taught some of these courses, I can't even remember what some of them are called. They're not called Bar Prep 101, which is what they should be called. You should find them.
- Alison Monahan: Some schools now are starting to require them, even.
- Lee Burgess: That's because many many school bar passage rates are going through the ...
- Alison Monahan: Yeah, and the ABA's becoming, they're getting ready to be more strict on whether a schools going to be accredited if they don't have a certain bar passage rate. This is something that schools are putting more and more resources into because it's in their interest that you pass the bar, particularly that you pass it the first time, and you become a lawyer and happy, and donate money. But also, they're going to not be able to be accredited if all their students fail the bar.
- Lee Burgess: Exactly. You should ask around and find out what these classes are at your school, if they're not required, take them. Take them.
- Alison Monahan: My impression at least is a lot of people don't really take them very seriously.
- Lee Burgess: I think that's true. I know when I taught them there were definitely people in my classes, sorry if you're listening, that didn't take it seriously. We talked a lot about that in the beginning. We made a challenge to everybody to turn off their WiFi, I still know when people were chatting online, or shopping online, or doing whatever online instead of being present. I had students who didn't do the assignments that I assigned and students who didn't put in effort. I even gave out, my class, at certain points, wasn't even pass/fail. Some student even got grades. But people don't take it seriously. It's such a waste of time. If you're going to do any sort of prep for the bar, just do the work. It's going to pay off. You're going to pass. Failing is so much worse.



- Alison Monahan: I think there's just we see a lot of overconfidence, I feel like, of people going into the bar, there's this idea of, "I went to 3 years of law school, I'm going to take a bar prep class, how would I possibly fail? I've never failed anything in my life." How many calls have you had with students from Stanford who are like, "I've never failed anything in my life."
- Lee Burgess: Yeah, who are just floored by the fact.
- Alison Monahan: Every year. No school in the entire country has 100 percent bar pass rate. None of them.
- Lee Burgess: Nope. Look it up.
- Alison Monahan: Someone always fails. I don't care where you went to school.
- Lee Burgess: Another thing, if you're scratching your head and saying, "I don't really buy it." You're like, "It can't be that hard." I think that you should, when you have some free time, ha ha, go walk over to your academic support office, or go to the library where they typically will have some bar related books, that you should flip through. Take a few MBE questions, read some essay questions. See how easy they are. Because at first blush, you might say, "That's okay," and then you might take 10 comm law questions and find out that you got none of them right.
- Alison Monahan: The MBE, I would say, is the most difficult multiple choice test by far I've ever taken in my life, hands down.
- Lee Burgess: Yes, hands down.
- Alison Monahan: What's an amazing, excellent score? Probably 80 percent?
- Lee Burgess: Yeah. Most people, you're trying to get around 65 to 70 percent. Somebody who gets an 80 percent or above on the MBE is pretty amazing. I know there are people who get higher than that, but yeah, you're rocking it.
- Alison Monahan: These are very smart people who all studied, and they're still missing, the best people taking the test are still missing probably 10 to 15 percent of the questions.
- Lee Burgess: Yeah, that's crazy. These are probably people who knocked the LSAT completely out of the park.



Alison Monahan: I was going to say, this is not the SAT or LSAT where you can get a perfect score. I would guess there's not a single person who sits for the bar exam, anywhere in the country, who gets a perfect score on the MBE in any given year.

Lee Burgess: Yeah, I mean, I know there are at least one or two people who claim that they have, but, who knows.

Alison Monahan: How would they even know that?

Lee Burgess: Some jurisdictions will let you figure out, if you try and transfer your scores, you actually get your score.

Alison Monahan: Maybe a handful of people.

Lee Burgess: But very very small. Most of the people listening to this podcast were not going to knock it out of the park.

Alison Monahan: I'm guaranteeing you, I did not get 100% on the MBE.

Lee Burgess: I guarantee you I did not get 100% on the MBE.

Alison Monahan: That's the only reason I passed the bar, so I know I did pretty well on it.

Lee Burgess: Go learn a little bit more about the test. If you don't have time to do it, if you're a 1L, and you don't have time to do it during the school year, something you can do over the summer to just get a bit more familiar with it.

In our last few minutes, I just wanted to look ahead into the future and talk a little bit about what changes might be coming to bar land in the coming years. I think the UBE is on a roll. I think they are going to continue to have wider adoption. I think this idea of being able to move between states, at least some states, it's going to continue to take off. I think there are going to be growing pains, as there are with everything. I don't see California and Florida and some of these other states giving up their tests all that soon, but we'll see. I think it's something to watch.

Alison Monahan: I think if you're looking at from the perspective of the state, if you're just a random state that most people are not breaking down the doors to move to like they might be in Florida or California, why not just use the UBE. Who wants to write and grade these questions? It's a hassle.



- Lee Burgess: It is, it's an expensive process. A really expensive process for the states to administer this test themselves. I also think there's talk, and I think the ABA frequently has discussions on this, because we read articles about it, of allowing students to take the bar exam while their still in law school, so you don't have this delayed licensing. I don't think this is really going to happen anytime soon, but it's something that's definitely being discussed. I think there are pros and cons to that. A lot of my friends took the CPA exam in college so they could have that license when they graduated. Maybe it's going to happen, but for now, it's not. It's definitely something that's being talked about. Then, of course, there is a camp that just wants to get rid of the bar exam completely, which I highly doubt will be the reality.
- Alison Monahan: Wisconsin, isn't Wisconsin, if you go to school in Wisconsin, you don't have to take the bar exam?
- Lee Burgess: At least you used to. I don't know if they've changed the rules. It was only, I think, if you went to the University of Wisconsin.
- Alison Monahan: I think it's any school in Wisconsin.
- Lee Burgess: Is it any school in Wisconsin?
- Alison Monahan: I'm not sure.
- Lee Burgess: I don't if people are, no offense to Wisconsin listeners, I just don't know that the number of lawyers are beating down the door to go move to Wisconsin in the same that New York or California feel like they're trying to manage their lawyer population.
- Alison Monahan: The other thing is, I'm not entirely sure, does that really get you license in federal courts? I guess if you're admitted in Wisconsin it does, but I don't know. It's a weird outlier. That and Louisiana. Those are the weirdest outliers.
- Lee Burgess: I think there's a lot of debate about whether or not the bar exam is the right way to get people licensed. Whether an apprenticeship makes more sense, if this an archaic exam, if it is prejudice against certain populations.
- Alison Monahan: If you did what you do on the bar in real life, you'd be committing malpractice. I'd say there's a strong argument that maybe it's not that relevant, but it is what it is, you don't have a choice.



- Lee Burgess: Yeah, it is what it is, it is the license exam, and you need to figure out the rules of the game so you can win the game. In the end, once you're licensed, nobody's going to ask you how you prepared for the bar exam unless it's a 3L looking for mentoring advice. All that matters is you did get licensed. You just do everything that you can to set yourself up for success, and make sure that you have the resources and you've done so you hopefully aren't calling me because you got disappointing bar exam grades.
- Alison Monahan: Yep. Not what we want to see. We want you to pass the first time.
- Lee Burgess: We do. Well, unfortunately, with that, we are out of time. Hope this hasn't been too anxiety inducing. But it's okay, because it's better to think about it now than to not think about it.
- Alison Monahan: I'm really scared for people in California now.
- Lee Burgess: We've talked about the changes in California, it's really sunk in during this podcast.
- Alison Monahan: It doesn't really sink in until I was like, "You're losing an entire session of performance tests. That is horrific." That's really hard.
- Lee Burgess: California takers, Allison is feeling the pain right now for you.
- Alison Monahan: I'm really am licensed, even if I'm inactive. I'm like, "Don't want to go through that again." I really do think it makes it harder, I don't think it makes it easier.
- Lee Burgess: I think it's going to be challenging in a different way. Well, if you enjoyed this episode of the Law School Toolbox podcast, perhaps enjoyed is the wrong word, maybe it's appreciated.
- Alison Monahan: How about enlightening.
- Lee Burgess: Enlightening and appreciated, please take a second to leave a review and rating on iTunes, we'd really appreciate it. Be sure to subscribe so you don't miss anything. If you haven't checked it out, we have a sister site to the Law School Toolbox called the Bar Exam Toolbox, which is full of tips and tricks for the bar exam for free. You've got tons and tons of helpful reading on there. We also offer courses for first time and repeat takers and tutoring for first time and repeat takers in both California and the UBE. If you want to chat about anything



bar related, you're welcome to drop us a line, I'm happy to talk to you about how we can support you. If you have any questions or comments, please don't hesitate to reach out to myself or Alison at [Lee@lawschooltoolbox.com](mailto:Lee@lawschooltoolbox.com), or [Alison@lawschooltoolbox.com](mailto:Alison@lawschooltoolbox.com). Or you can always contact us via our website [contact form](#) at [Lawschooltoolbox.com](http://Lawschooltoolbox.com). Thanks for listening and we'll talk to you soon.