



Lee Burgess: Welcome to the Bar Exam Toolbox podcast. Today, we are sharing some tips on deciding where to take the bar exam. Your Bar Exam Toolbox hosts are Alison Monahan and Lee Burgess, that's me. We're here to demystify the bar exam experience so you can study effectively, stay sane, and hopefully pass and move on with your life. We're the co-creators of the [Law School Toolbox](#), the [Bar Exam Toolbox](#), and the career-related website [CareerDicta](#). Alison also runs [The Girl's Guide to Law School](#). If you enjoy this show, please leave a review on your favorite listening app, and check out our sister podcast, the [Law School Toolbox podcast](#). If you have any questions, don't hesitate to reach out to us. You can reach us via the [contact form](#) on BarExamToolbox.com, and we'd love to hear from you. And with that, let's get started.

Alison Monahan: Welcome back to the Bar Exam Toolbox podcast. Today, we're talking about making the decision to take California or some other state-specific exam, or the UBE. Well, Lee, I know that you mentioned you've had a lot of conversations with prospective bar takers about this recently, so why don't you give us some thoughts?

Lee Burgess: Yeah, this keeps coming up a lot. And I think, especially right now with the current remote exam, people are starting to think more globally about where to sit for the bar than maybe they used to. And I think it also has to do with people really thinking about whether or not they need their individual state where they're sleeping, that bar exam based on the work that they're going to do. So for instance, oftentimes if you work in-house does not matter where you're licensed. If you work for the federal government, it does not matter where you are licensed. Some people don't even want to practice law, so it really doesn't matter where you're licensed, but they just want to be able to say that they're an attorney and not just have the signature where it's like, "comma JD".

Alison Monahan: Yeah, that's always a giveaway.

Lee Burgess: I know. That just means "comma, not a lawyer".

Alison Monahan: "Comma, didn't pass the bar exam yet."

Lee Burgess: Right, exactly. Or I think there's also a group of people who've been struggling with one bar exam or one state's passing threshold, and they want to mix it up. I think this happens a lot for people who have continued to struggle with the California bar exam, and then want to take an easier exam after that.

Alison Monahan: Right, and I think as the UBE becomes, I guess, more uniform across the country and starts to really spread, more and more people really are questioning, "Do I



need to take this very state-specific test? Is it absolutely necessary that I do this?" Because the reality is, once you've taken the UBE, you have that portable score. So, it just gives you so much more flexibility, particularly if it's early in your career, you're maybe not sure exactly where you want to settle long-term. When you're looking at a state like, say, Virginia or something, unless you're definitely staying there for your whole career, I'm not sure that I would say to go take that exam.

Lee Burgess: Yeah, I think that that's very true. So, for some people who might be listening to this, who don't really understand the basics of how this UBE score works, let's just give the CliffsNotes version, because I think a lot of people don't know. So if you are considering to, let's say, shop around, you should know that although the UBE is a standardized test throughout all the jurisdictions that have adopted it, each state gets to grade their own test, and each state gets to select their own passing score, so not all states are the same. Arizona is always one of the tricky ones. I think it's a 280, whereas in other jurisdictions – I think Michigan or Alabama – 260. Very different. Very different. So, even if you're thinking about score portability, one of your goals is also to get the highest score possible, so it can be the most mobile score around the jurisdictions. Because one of the things that a lot of people in Arizona talk about is should they just kind of travel on over to New Mexico, which has a lower score that you need to be licensed. But then they still won't get that very high score needed necessarily on the test, and then they can't just drive back over to Arizona and try and get a license, because Arizona is like, "You didn't get a super high score, you've got to take it again." So you really need to think about these things that you're trying to do. Just because you're licensed in one state, doesn't automatically mean that you're going to get reciprocity in another UBE state. Oftentimes, it has a lot to do with the individual scores.

Alison Monahan: Right. Or if you've practiced long enough, they might let you. But the goal with the UBE, like you said, is get a high enough score, you can just basically use it anywhere. It doesn't really matter where you sit, nobody cares.

Lee Burgess: Yeah.

Alison Monahan: And certain states just let you sit there even if you know that you're not planning to apply, to be admitted, so that's interesting, I think that we've got some blog posts around that. Basically, the idea is, it's a score you get once, and then you can use it in various jurisdictions as needed, as opposed to, "Congratulations, you're licensed in California! Hope you never want to move."

Lee Burgess: Right, yeah. It's like, "Good luck!"



Alison Monahan: Because I don't really think they have reciprocity basically with anyone. And some states have always had more reciprocity than others. There are these notorious outliers like California and Florida that basically don't want a bunch of people retiring there. Therefore other states, not unreasonably, are like, "Well, sorry, we're not going to let your people come here either. Goodbye!"

Lee Burgess: Yeah. I also think you want to try and think further down in your career too, because depending on the type of law that you want to practice, sometimes that'll drag you to certain locations around the country. I have a friend who does aviation law, and there are really only a few states that you really practice aviation law.

Alison Monahan: Right.

Lee Burgess: I think Texas is one of them. And so, he had to go to Texas to practice this very specific kind of law. In his career, if he really wanted to be at the top, that's where he kind of needed to go. So, as much as you can look down the road, it is helpful to kind of plan ahead. I think that there is this idea around the UBE now that it's like, "Well, I'll just go take Iowa because they have a high pass rate." And it's like, "Okay, well, make sure that you really can get that law license in Iowa." You still have to meet all the requirements for licensure if you want an Iowa bar card. If they have some sort of moral character or ethics exam, you still need to talk to these different jurisdictions and learn about them. It's just not so easy as paying your money and just logging in on the remote site to take the test. There are a lot of other steps to getting a law license somewhere else, and I think oftentimes, people don't really understand that.

Alison Monahan: Well, also I think looking at UBE, I'm not sure it makes that much sense to talk about, "Well, the pass rate in this state is high or not." I think what makes more sense is to look at what their score requirement is, because the pass rate presumably has more to do with the pool of people who are sitting for that particular exam. It's not like you're magically going to get a higher score if you take the test in a different state. You're going to get whatever score you get.

Lee Burgess: And some of these states have a pretty small pool of people who sit.

Alison Monahan: Right, exactly. And it's probably like people who went to the local law school, they have a certain set of characteristics, and you can pretty well predict from year to year how they're going to do. Other places are not really like that. New York or California have tons of people sitting who have completely different



qualifications, and the overall pass rate has not a lot to say about what your actual odds of passing may be.

- Lee Burgess: Right. So, when people start asking these questions about which test to take, the common questions are, "But what is the easiest?"
- Alison Monahan: Right, which one's easiest?
- Lee Burgess: That's my favorite question, "What's the easiest?" And so I always have to give my lawyer answer of, "It depends."
- Alison Monahan: Right.
- Lee Burgess: Right?
- Alison Monahan: Well, I think this used to be more of an issue. When I first sat, before everyone was using the UBE, I was trying to decide, should I take California, should I take New York, I wasn't sure where I wanted to work. And I was clerking in Boston and my judge says, "Oh, why don't you take Massachusetts?" And I was like, "Well, I don't really think I want to stay in Boston, it was too cold." And he says, "Yeah, but they've a 90% pass rate." And I think I signed up that day.
- Lee Burgess: Right.
- Alison Monahan: Because that was significantly higher, and I just sort of looked at it and I was like, "Well, I just need to be licensed some place." And in the end, it turned out it really barely mattered where I was licensed because all I did was I was a patent litigator, which I didn't know I was going to do at the time I took the bar. But that's all federal, so it didn't matter. If we were going to a case in Delaware, we just hired local counsel and everyone waved in, and it didn't make any difference that I was admitted in Massachusetts and other people were admitted in California, it was totally irrelevant.
- Lee Burgess: Yeah, that's true. I think when you're making this decision, you have to think ahead, make a choice that makes sense for you. Because I think if you really want to practice in California, and then you just are like, "Well, I'll go to some other state and take the UBE, but I want to practice California Law, so then I'll have to get some job or it doesn't matter for the five years, and then maybe I can take the attorney's exam" – that's awfully complicated.
- Alison Monahan: Right.



- Lee Burgess: You just really need to follow through these scenarios to make sure that you fully appreciate what you're signing up for. With all that time and effort, should you just hire a tutor or figure out what's going on on the California bar and see if you can win that war? Maybe, if that's really the goal that you're trying to meet.
- Alison Monahan: Yeah, I think if somebody knows that they're fairly certain they want to be in a particular place, then you should just take that exam.
- Lee Burgess: Yeah.
- Alison Monahan: I mean, duh.
- Lee Burgess: Yeah, I know.
- Alison Monahan: Sometimes you get these really convoluted scenarios where you're sort of like, "What you're telling me is your entire life and all of your family and everyone you want to be near are in California. But rather than just studying for the California bar, you're going to first go try to take the UBE and then you're going to turn around a year from now while you're working and try to take California." I'm like, "This doesn't seem to make a lot of sense."
- Lee Burgess: Yeah.
- Alison Monahan: Just keep it simple.
- Lee Burgess: Yeah. One of the other reasons why people love to talk about this kind of forum shopping, as I've come to call it, is they are struggling to pass in a certain jurisdiction. They're struggling to get to that 280 in Arizona, they're struggling to get to the 1390 in California, and they really want to figure out where they're more likely to pass. And so, I think this is also a complicated analysis depending on your individual situation. As we have said, easier can mean a lot of different things, and the problem is that the tests themselves aren't that different anymore.
- Alison Monahan: Right.
- Lee Burgess: I think it used to be back in the day that New York had a lot more multiple choice, and so the rule of thumb was that foreign-trained attorneys often did better in New York because it was easier for foreign trained attorneys to do multiple choice than to do the writing-heavy three-day California exam. That was one of the rules of thumb. But now the exams in California, New York, are both two days, and they both have one day of writing and one day of multiple



choice, and a lot of these differences have somewhat washed away. And so you really want to see what's the same. So, the UBE and the California bar are both two days now. They have one full day of multiple choice. They both have 90-minute performance tests, although California only has one. And then they have essays, and then the difference is California has five 60-minute essays, and the UBE has six 30-minute essays. But you're still doing a day of writing on each one. So they're different, but they're not necessarily as different as I think people wish they would be.

Alison Monahan: Right, and also California has lowered their passing score to 1390. So that, at least at the margin is going to put them closer to some of the UBE states, certainly. I think the differences are kind of collapsing a bit, but yeah, if somebody is super far off from passing in California and they've taken the exam a couple of times and they're still really far off, I'm just not sure you're magically going to get better at the bar exam because you switched jurisdictions.

Lee Burgess: Right, because you have to go to learn new law. And that's the thing, the UBE teaches stuff that's not tested on the California bar.

Alison Monahan: Yeah, secure transactions, whoo!

Lee Burgess: I know, which is the most heavily-tested topic.

Alison Monahan: And no one likes that.

Lee Burgess: No one likes it. And then there's civil procedure.

Alison Monahan: I think actually they test civ pro most.

Lee Burgess: It's civil procedure and secured transactions. They're some of the top two.

Alison Monahan: And those are not most people's favorite topics, let's face it.

Lee Burgess: No. So, it is important to really think through this. I was just talking to someone who's been struggling with California, who was wrestling with this decision. The MBE was the pain point.

Alison Monahan: Well, that's not going to make any difference.

Lee Burgess: Right. The MBE is going to be the other test.

Alison Monahan: Yeah.



Lee Burgess: So you could either restudy for California, where you're already passing the writing portion, to try and get that MBE score up, or spend extra time studying brand new law and new strategies for a different test, and still dealing with the MBE problems. If you want to practice law in California, I think you take the California exam in that scenario.

Alison Monahan: Oh, for sure, because why would you... You're just making the part you're already passing harder for yourself and still not passing the part you're not passing. I don't know, I think you're better off just getting an MBE tutor at that point.

Lee Burgess: Yeah, you've got to figure out what are the underlying issues that you're struggling with, and I think that it's so often this decision of, "Well, let's just throw this other exam away and go try something else." Sure, you hear stories of that working, but the reality is, exam-taking problems tend to follow you around, they don't disappear just because you move to a different state. So if you struggle with multiple choice, you're still going to struggle with multiple choice in that new state. If you struggle with writing, you're still going to struggle with writing. You've got to figure out what are the underlying issues. Now, one time I will say that forum shopping is important is about accommodations. And this is something that I have definitely seen come up with students. Some states – UBE states – are notoriously difficult in dealing with accommodations. New York, I'm talking about you, I've heard some horror stories. Their appeals process is not particularly clean, feels like it doesn't meet ADA requirements. I'm not an ADA lawyer, so I don't know, but it's what I've heard.

Alison Monahan: It's not legal advice, just information.

Lee Burgess: I'm just saying it has made me crinkle my nose and be like, "That doesn't pass the sniff test."

Alison Monahan: I'm not sure that that's really okay, but what is your recourse? Yeah, answer to that question, your recourse is basically probably considering applying somewhere next door.

Lee Burgess: Yeah, like, "Hey, New Jersey!"

Alison Monahan: Yeah, "You're so much nicer. You'll consider my application for accommodations." And once you have the score, it doesn't matter.



- Lee Burgess: Right, exactly. And so, accommodations is one thing that you really want to think about. The other thing that I have had come up with not just who's nicer or more generous with their accommodations or maybe has actual due process around the accommodations process is what they will give accommodations for, and the timeline of the application. We have had students who've had surgeries, or get pregnant, or are breastfeeding, or things that can change kind of late in the game, and some states have time. You have time to apply for accommodations when other states you don't. So, you really have to pick up the phone and find out this information. And I think that would be the other piece of advice, is if you're really planning to forum shop, you need to do some research. You need to call these jurisdictions. The rules are constantly changing, so you need to do a deep dive and make sure you understand the pros and cons of each jurisdiction, and make sure that if you take that test there, that you can get the law license.
- Alison Monahan: Right. I know one place people like to take sometimes is D.C. because they'll let you pass only portions of the exam. So maybe you pass the MBE, maybe you pass the writing, and the next time you can only sit for part of it. Things like this sometimes are appealing to people for various reasons. I'm not sure if any other states do that.
- Lee Burgess: I don't think so, I think that's a D.C. thing.
- Alison Monahan: Yeah, so that's a weird one.
- Lee Burgess: That's a weird one, yeah. And I think that's because so many people waive... I don't even know why they would do that – so many people waive in to DC.
- Alison Monahan: Yeah, I think they let you waive in, or at least they let you use your MBE score. I don't know, it's complicated. Again, go and look it up. But say that you did passing on the MBE in a different jurisdiction, but you didn't... I guess people do it because they pass the MBE in a different jurisdiction, they didn't pass the essay, so their total score wasn't passing. So then D.C. will let them only sit for the essays and then they could focus basically on that.
- Lee Burgess: Yeah.
- Alison Monahan: There is some weird stuff out there. Everyone's making up their own rules.
- Lee Burgess: Yeah, everybody's making up their own rules. And I think that that's one of the things that's kind of weird about this whole UBE movement, is it's standardized, but not.



Alison Monahan: Right.

Lee Burgess: Which makes it a little strange.

Alison Monahan: Yeah.

Lee Burgess: Really, Arizona has to be that different from New Mexico? It just seems strange, but it is.

Alison Monahan: I find it fascinating if you look at the distribution of scores required across the country, it's not necessarily what I might expect, just on kind of general knowledge of different states. So, yeah, it's interesting. I do think if you really aren't sure where you want to end up and you don't have a really firm plan, I would lean strongly towards taking this test in a UBE jurisdiction, just because you have more flexibility. More and more states are coming online with the UBE, so again, they all have different rules about how old your score can be and things like that. But one of those interesting questions is, what do you do if you are interested in being licensed in a state that has announced that they're going to switch to the UBE but they haven't yet? I think that's a tricky one. You definitely want to be sure... The ideal scenario would be that they say upfront they'll accept scores within five years or something, and then you just go sit in a UBE state, get that score and eventually get licensed a year or two later. But it would be very annoying to me as an applicant if the state is about to switch, but they haven't, and then I end up with this one-off score that a year later I could have used halfway across the country.

Lee Burgess: Well, and that was one of the big things during COVID, which was you could take this exam, but is it a transferable score, or is it not a transferable score, should you delay? That was such a frustrating time for so many people, because a lot of people were like, "But I'm taking the UBE so it'll be a transferable score."

Alison Monahan: Yeah, the July 2020, switched to October 2020-ish – that was a real mess, because the whole point is the portability, and if you don't have that, then it's a different scenario.

Lee Burgess: Yeah. I think it's going to be interesting in the aftermath of all these remote exams, what will happen to some of this. So if some states decide to continue to give remote exams, which I realize depends a lot on the National Conference of Bar Examiners' willingness to abide – the remote control with the remote exam – I think you're going to see people doing a lot more of this kind of shopping



around, which may in the end lead to more standardization, if they think that that's really what people are doing.

Alison Monahan: Yeah. Everything is kind of a wild world out there. You just have to really be sure you understand what you're getting into and what you're signing up for, and make sure that whatever your outcome you're looking for is achievable based on where you're taking the test, because things are in flux. They're even talking about changing the exams in a few years, and the questions are like, "When's California going to switch to the UBE?" And most people seem to think it's inevitable at some point. But they haven't announced anything, so we are in this state of flux.

Lee Burgess: Yeah. I still think it all goes back to really sitting down and thinking about where you want to be and what type of work you're planning on doing and what license is going to be the most meaningful. I really do.

Alison Monahan: Right, and not over-complicating it. People sometimes can sort of game things out where you're like, "But this just doesn't really make a lot of sense. It seems like you're making it way more complicated than you need to. You have no reason not to just sit in New York. Just sit in New York."

Lee Burgess: Right, I think that's true. And hopefully, post-COVID we don't have to have all these different decisions about taking it in-person, taking it remotely, all of these crazy decisions. It'll just be what makes the most sense for your profession as a whole, and like everything in life, you just make the decision with the information you have in the moment and go from there. Nobody knows exactly what's going to happen in the future. And I wouldn't put money on what states like California will do, because I've always been surprised. I was shocked that they reduced the score to 1390, to be honest.

Alison Monahan: Right, or shocked that they went from three days to two days. we were like, "Whoa, didn't see that coming."

Lee Burgess: Didn't see that coming.

Alison Monahan: Yeah. I had graduated now, then my decision would have been a lot easier about what to take because I would have said, "Well, I'm clerking in Boston, there's a high likelihood I might work in New York. I'll sit in one of those states and take the UBE." But that wasn't a choice at the time.

Lee Burgess: Yeah. So, you just make the best decision you can, and just remember that these tests are really... You can conquer them. It is an achievable goal.



Sometimes it takes work and creativity, but just make sure that you set yourself up for success no matter what plan you make – I think that's the key. Don't say, "Oh, I'm going to go take this UBE jurisdiction with a 260 cutoff, so I don't have to study." That's a terrible idea.

Alison Monahan: Right. People have to be realistic about what they're getting into. None of these exams are simple, none of them are easy, none of them can you just roll into without having a look though the material and pass. I don't think anyone could really do that.

Lee Burgess: No. And you also have to think through your... Say you're at a job interview, and you're in some other state, and they're like, "You have a license in Alabama, but you went to law school in Chicago." You're like, "Yeah." "But what was in Alabama?" "The lower bar score." You just got to think how the story is going to play out. And maybe some people will totally respect that, but I don't know, I would probably ask that if we got a resume that had a random bar jurisdiction. And some people have very legitimate reasons. We often see it when they might be a partner of somebody who's in the military, that seems very common. We've had people who worked for us who were in that situation who end up moving every couple of years, and so they're barred in whatever states was the first place they went after law school. But you've got to think about how this stuff is going to look and play into your story.

Alison Monahan: Absolutely. It looks a little funny if you're just like, "Oh, I just went and got this because it was the only place that would let me in, because I had a 262."

Lee Burgess: Exactly. I guess I respect you getting that license, but you're going to still need to spin that story. I think a lot of people don't care the date of admission, but I think if the location seems a little odd, I'm sure that somebody's going to ask you about it.

Alison Monahan: Somebody's going to ask. You're going to need to have some reason and you're going to need to be able to say something about it.

Lee Burgess: Yeah, I would ask. I'd ask. It's on the list of things I would probably look at on a resume.

Alison Monahan: Yeah, we would probably be like, "Huh, that's curious. Why do you think that they did that?" And like, "Probably because that's the only place they could get admitted, don't you think? We should ask about that."

Lee Burgess: Yeah, exactly. Alright, well, any final thoughts?



Alison Monahan: No. I think for me, it just goes back to... It's kind of a weird situation because on the one hand, don't over-complicate things, but also consider the future. So, if you're not really that tied to a place, then I think giving yourself flexibility with the UBE is great. But if you are tied to a place, even if it's only for, say, a few years, I think just take it there and get it done.

Lee Burgess: Yeah. Plenty of people go get licensed somewhere else. It's not fun, but you can do that.

Alison Monahan: Yeah. If you have to take another test, you take another test a few years later. It's not the end of the world.

Lee Burgess: No.

Alison Monahan: Done it. It wasn't fun, but whatever. Now I have two licenses.

Lee Burgess: And it's fine, you can meet that goal too.

Alison Monahan: I guess if I get disbarred in one state, I guess I can always practice in the other.

Lee Burgess: Yeah, probably why you're practicing, to get disbarred.

Alison Monahan: I was like, "Hey, I got this security blanket. If California kicks me out, I'll just go be reactivated in Massachusetts." I'm joking, I don't think they'd let me do that.

Lee Burgess: I don't know that they'd let you do that. I feel like if you get disbarred in one state...

Alison Monahan: It might carry over. They might at least have some questions.

Lee Burgess: I feel like if you get your driver's license revoked from one state, I don't know that you can go get a new driver's license somewhere else.

Alison Monahan: Yeah, true, they're probably going to check.

Lee Burgess: I feel like there's some sort of reporting requirement to that.

Alison Monahan: Hey, I don't know that these states talk to each other, so there you go.

Lee Burgess: I feel like there's a check box on the application: "Have you been disbarred?"



Alison Monahan: Actually, that's true, there is. Yeah, they'd probably ask me that before letting me reactivate.

Lee Burgess: Probably, yeah. Alright, well, with that, we are out of time. I want to take a second to remind you to check out our [blog](#) at BarExamToolbox.com, which is full of helpful tips to help you prepare and stay sane as you study for the bar exam. We've got stuff about California, UBE, pretty much most bar exams; less about Florida and Louisiana. Sorry, guys. You can also find information on our website about our courses, tools, and one-on-one tutoring programs to support you as you study for the UBE or California bar exam. If you enjoyed this episode of the Bar Exam Toolbox podcast, please take a second to leave a review and rating on your favorite listening app. We'd really appreciate it. And be sure to subscribe so you don't miss anything. If you are still in law school, you might also like to check out our popular [Law School Toolbox podcast](#) as well. If you have any questions or comments, don't hesitate to reach out to myself or Alison at lee@barexamtoolbox.com or alison@barexamtoolbox.com. Or you can always contact us via our website [contact form](#) at BarExamToolbox.com. Thanks for listening, and we'll talk soon!

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