



## COMPARISON OF MASSACHUSETTS & NATIONAL LAW FALL 2021

### **Books for the Course**

Required:

*Emanuel's Strategies & Tactics for the MBE (7<sup>th</sup> Ed. Wolters Kluwer)*

*Wanda M. Temm, Clearing the Last Hurdle (2nd or 3rd Edition)*

*You should order these books online. The bookstore will not be open to normal business because of the pandemic.*

Suggested Reading:

- The teaching materials each professor posts on the TWEN website for Comparison. Some of these materials are quite extensive and very helpful.
- National Conference of Bar Examiners officially released Questions (<https://store.ncbex.org/>).
- Subject Outlines on National Conference of Bar Examiners website: <https://www.ncbex.org/pdfviewer/?file=%2Fdmsdocument%2F226>.
- MBE questions from other sources such as BarBri, Themis, Kaplan, etc.
- Your outlines and notes from when you initially took each of the seven courses/subjects comprising Comparison

**What You Should Do Before the Classes Start**

As soon as you get the *Strategies & Tactics* book, you should read the sections at the beginning entitled “How to Use This Book” (pages xix to xxiii) and “How to Attack the MBE” (pages xxv to xlix). There are some excellent suggestions in these pages, so you should come back and refresh your memory by rereading portions during the course, and even after you have passed the course and are studying for the bar exam.

### **Structure of the Course**

The course is comprised of:

1. **The Seven (7) Substantive Law Sections,**

- A. The substantive sections are: Evidence, Criminal Law/Procedure, Civil Procedure, Torts, Contracts, Real Property, and Constitutional Law. Each section will be covered in blocks of two weeks apiece. Classes will be three (3) days a week: Mondays and Wednesdays from 1 p.m. to 2:30 p.m. (Days) and 6 p.m. to 7:30 p.m. (Evenings) and Saturdays from 9 a.m. to noon (usually, the first half of the session is devoted to the professor’s coverage of the subject and the second half will be the “Bar Exam Skills” session conducted by Professor Kukas.
  
- B. Prior to the first class of each substantive section, you may take a 10-question comprehensive Assessment Quiz on the substantive material to be covered in the upcoming section. The Quiz will be posted on Examsoft shortly after you take the final exam on Saturday morning, and you will have until 11:59 p.m. on the Sunday preceding the first class of the upcoming subject to take and submit it. It is our plan that this is the only assessment you will take remotely; all other quizzes and exams will be given live and on campus.

The Assessment Quiz will be graded from 1 to 5, with each correct answer counting for one-half (1/2) point. That total will be added to your final section score as described below. Doing well on the Assessment Quiz provides an opportunity to add up to 5 points of extra credit to your final section score; a good score on the Assessment Quiz can therefore make the difference between passing the section or not. So, you should prepare properly to do well on the extra credit Assessment Quiz. This will also help form a foundation for success for the rest of the section, and ultimately for the bar exam. Here are the steps you should take to succeed on the Assessment Quiz:

1. Begin to prepare as soon as the final exam for the prior section is over and continue to prepare until you take the Assessment Quiz, presumably on Sunday evening.
2. Begin your preparation by going straight to the “Strategies & Tactics” section at the beginning of each substantive section in your *Strategies & Tactics* book. These seven introductions to the specific substantive sections provide excellent study and test taking tips. These sections will help you immensely.
3. The professor of each section will have placed videotapes or PowerPoint lessons conveying substantive lectures of the subject matter to be covered in each section. You should watch these at: <https://www.dropbox.com/sh/3rcb5lhzo9h3l0r/AAB2gtaop8oKUSUOG2ZguGE3a?dl=0>. You can also get there through the “COMP Dropbox Recordings and Materials” page. The videos have been broken down into 20 to 30 minute “shorts” to make them easier and more convenient to digest.
4. Many of the professors will have placed written study aids and other helpful materials on the TWEN site. Each of the professors has a subject page on the Comparison TWEN site, e.g., Civil Procedure, Contracts. You should check to see if those materials are on the TWEN site and, if so, read them.
5. Each of the substantive law sections in your *Strategies & Tactics* book has 65 to 70 MBE questions with answers and explanations. You should do these carefully and thoroughly. This means that you should understand the legal reasons for each right and wrong answer for each question. Merely doing the questions and checking your answers is a wasted effort. You need to understand the law and reasoning of each question to prepare properly.
6. Consider using additional study aids and bar review materials such as Themis, Kaplan and BarBri if you find them helpful. Experience suggests that most successful students use a variety of sources. Everyone learns differently and you should employ whatever resources you have available to help you succeed.
7. Finally, and perhaps most importantly, please understand that you should approach this section – indeed, the entire course – as a means of laying a solid foundation that will help you reach your ultimate goal: passing the bar exam on the first attempt. Trying to do only enough to eke by in each section (a task-oriented approach rather than a goal-oriented approach) will lead to success neither in this course nor on the bar exam.

- C. Each substantive law section will include a minimum of four 5-question quizzes administered during the classes plus an additional exercise to be completed in each section for Professor Kukas. Each of these (6 or more) assessments will carry a total value of 5 points and your highest three scores will be averaged to create a final quiz score ranging from 0 to 5.
- D. Each section will conclude with a 45-question final section exam, with each question counting one (1) raw point; the highest possible raw score is 45 points.
- E. Each section will be finally scored on a 200-point scale as is the bar exam. Here is how that will happen: First, your raw score on the final section exam will be added to the average of your quiz scores to comprise a final raw score. The highest final raw score you can obtain is a 50 (45 on the final section exam plus an average quiz score of 5). For example, let's say that you get a 5, 3, 2, 4, and 3 on your quizzes, and a 29 out of 45 on your final section exam. Your top three quizzes – 5, 4, and 3 – will be averaged:  $5 + 4 + 3 = 12$ ;  $12 / 3$  equals an average of 4 on the quizzes. When you add the average quiz score of 4 to the final exam score of 29, you get a final raw score of 33.

Now, we convert the 33 out of 50 possible points into a 200-point scale. Since 50 divides into 200 by multiple of 4, we merely multiply the final raw score by 4: here,  $33 \times 4 = 132$ .

The passing score of each section is a 135, so you have not yet passed the section. However, you have already taken an Assessment Quiz that can add up to 5 points onto your final section score. If you got 6 out of 10 on the Assessment Quiz, we will add 3 points onto your score and pass the section:  $132 + 3 = 135$ . The highest possible score you can achieve is a 200 out of 200; while the Assessment Quiz provides a way of increasing your score on account of diligence, it cannot be used to raise your grade above a 200.

## 2. **Your Section Scores Comprise Half of Your Final Score**

At the completion of the seven substantive sections, your final score from each section will be added and averaged to constitute half (50%) of your grade. The following rules apply in determining whether you have qualified to take the final exam at this point (you cannot pass the course without qualifying to take the final exam):

- A. The passing score for each section is 135.

- B. You must achieve a 135 average after the seven (7) multistate subjects to qualify to take the final exam. Stated another way, there are 1400 possible points you can achieve at the end of the seven multistate sections ( $200 \times 7 = 1400$ ). You must achieve at least 945 points ( $135 \times 7 = 945$ ) to qualify for the final exam. The 135 average passing score is firm because there has to be a cutoff somewhere and this is what the collective faculty has decided must be the cutoff. You will not be allowed to take the final exam if you score an average of less than 135 points on the seven sections, or less than 945 points after adding the scores of the seven sections.
- C. You *also* must pass five (5) of the seven (7) sections with a final score of at least 135 to qualify to take the final exam. Once you fail a third section, *you will immediately become disqualified from taking the final exam*, although you may finish out the sections only for the purpose of practice for the next semester.

3. **A Six-Hour, 200-Question MBE Style Exam Comprises the Other Half of Your Final Score**

For those who qualify, on Saturday, November 20, 2021, you will take a 200-question, six-hour, “multistate” (multiple choice) final examination. For standard-time takers, the exam will be given in one (1) “Morning” session (9 a.m. to 12 p.m.) and one (1) “Afternoon” session (1 p.m. to 4 p.m.). Each correct answer counts for 1 point and you can score up to 200 points. This will count for half (50%) of your final score. Your final score for the course will be calculated as follows:

- A. The section grades will count for fifty (50%) percent of your final grade (assuming, of course, that you score at least a 135 average at the end of classes/section exams and have obtained a 135 on at least five (5) of the seven (7) sections).
- B. The final multistate exam will count for fifty percent (50%) of your final grade. Here are a few of examples of how that will work:
1. Your final section average is 136. You get 138 on the final exam.  
 $136 + 138 = 274$ ;  $274 / 2 = 137$ . You have passed the course.
  2. Your final section average is 136. You get a 132 on the final exam.  
 $136 + 132 = 268$ ;  $268 / 2 = 134$ . You have failed the course.

3. Your final section average is 146. You get a 132 on the final exam.

$146 + 132 = 278$ ;  $278 / 2 = 139$ . You have passed the course.

As you can see, it is important to do more than merely pass each section with scores of 135; barely passing gives you no cushion if you stub your toe on the final exam. In the third example, you have built an 11-point cushion that protected you when you scored 3 points under passing on the final exam. Consider the possibilities. Achieving a 150-point average going into the final exam gives you a 15-point cushion. This means you will pass the course even if you score as low as a 120 on the final exam ( $150 + 120 = 270$ ;  $270 / 2 = 135$ ). The course rewards you for doing your diligent preparation right from the beginning and maintaining the highest scores possible throughout the course. This is also the key to building a strong foundation to enable you to pass the bar exam on the first attempt.

#### 4. **Scoring the Course**

After averaging the final section scores and multistate final exam score, you must have a 135 to pass the course. Students scoring a 135 or better will receive a “Pass” for the course. Students with a 155 or more average at the end of the course will receive a “Pass with Honors” for the course. (Students who have previously failed the course may not pass with honors regardless of how well they perform when they do pass.) Students who score less than a 135 (or who have failed to qualify for the final exam) will fail the course and will have to repeat it successfully in order to graduate.

#### 5. **Professor Kukas’s Bar Exam Skills Sessions on the First Saturday of Each Section**

Usually at the beginning of each section, Professor Kukas will conduct “examsmanship” skill sessions that seek to help you improve your test-taking skills for the bar exam. Although you will not receive a direct grade from that portion of the class, attendance is mandatory and will affect whether MSL will reimburse you for a portion of your commercial bar review course after graduation.

MSL reimburses students up to \$1,000 toward their commercial bar review courses provided certain conditions are met. Specifically, qualifying students are eligible for 50% of the cost of their commercial bar review course, up to a maximum of \$1,000. However, to obtain this reimbursement, Comparison students MUST:

- A. Attend *live* 29 of the 33 substantive Comparison lectures (i.e., 18 of the 33 Monday, Wednesday, Saturday classes) given during the semester

- B. Attend *live* 6 of the 7 Bar Exam Skills sessions given by Professor Kukas during the semester. These workshops are an integral part of the Comparison curriculum.
- C. Have completed at least 75% of their commercial bar company's program (please do not seek reimbursement before that point); and
- D. Attend at least 80% of the workshops offered by MSL during the two months preceding the bar examination.

6. **Quizzes and Exams**

- A. All quizzes shall be administered on campus in a scantron format, with the exception of the Assessment Quizzes preceding each section, which will be given remotely via Examsoft. We are doing live assessments this semester because the Massachusetts Board of Bar Examiners has informed us that the February 2022 bar exam will be administered live.
- B. All students taking quizzes and exams in person shall be required to **bring two #2 pencils to all quizzes and exams.**

7. **Other Relevant Course Policies**

- A. Students may review their exams only if they make a request in writing to the *Professor who taught the applicable section* within seven (7) days after receiving your final scores from that section. All exam reviews will be conducted live, on campus, with the professor present. Some professors may choose to conduct a single group review in lieu of multiple meetings with individual students.
- B. On multiple choice exams and quizzes, grades will be changed only if the student can show a demonstrable mistake made in scoring the bubble sheet. Please note that students sometimes mark two answers, and sometimes fail to properly erase an answer before choosing another one. These are incorrect answers and will not be changed. The bubble sheet must clearly show one answer chosen – the correct answer – for your score to be changed. This means that, just like on the bar exam, you must be diligent in properly erasing incorrectly marked answers. You should also know that the scanner we use to correct the bubble sheets is extremely accurate. The odds of there being scanning error are miniscule.
- C. Any questions about missing or incorrect quizzes and exams should be directed to Laura Lussier in the front office: [lussier@msslaw.edu](mailto:lussier@msslaw.edu). Once Laura receives your request, she will pull the appropriate materials and check for any internal mistakes.

- This usually addresses the issue. If such does not address the issue, she will direct you to *the professor who taught the section*, with whom you should deal in attempting to address the situation. The failure to raise an issue with a quiz or exam score, by making an email request to Laura Lussier, within seven (7) days after the final score sheet for the particular section is delivered results in a waiver of the right to question the accuracy of the scores.
- D. Once you fail a third (3<sup>rd</sup>) section of the course, you will have failed the course. After failing three (3) sections, you may continue to take section quizzes and section exams for the practice, but you will not be allowed to take the final, 200-question, six-hour exam.
- E. As you can see, it is important that you take this course seriously from the beginning. Failing a section early on puts you “behind the eight ball” from the start. If you are struggling at the beginning of the course, please contact Professor Malaguti immediately to ask for advice on how to succeed. Please do not let deficiencies linger; if you do, it may soon be too late to do anything about it.
- F. A couple of you have been granted permission to “audit” the Comparison course. As with all audited courses, Comparison auditors will be given no credit for taking the course, and the course will not count toward graduation requirements. **UNDER NO CIRCUMSTANCE WILL AN AUDIT OF COMPARISON BE CONVERTED INTO AN ADMINISTRATION OF THE COURSE FOR CREDIT. IN NO CIRCUMSTANCES SHALL THE GRADE OF “AU” FOR COMPARISON, AS SHOWN ON AN AUDITING STUDENT’S TRANSCRIPT, BE CONVERTED INTO A “P” OR ANY OTHER PASSING GRADE ON THE AUDITING STUDENT’S TRANSCRIPT. IN ORDER TO COMPLETE THE PROGRAM AND GRADUATE, STUDENTS WHO AUDIT COMPARISON PRIOR TO TAKING THE COURSE FOR CREDIT WILL ALWAYS HAVE TO RETAKE THE COURSE FOR CREDIT AFTER THE AUDIT IS COMPLETED.**