

How to Approach an MBE Problem

Background Information

Depending on your jurisdiction, you may have several MBE problems on one or more subjects. MBE problems test your ability to do the following:

- 1- Read and comprehend a fact pattern;
- 2- Identify the issue(s) raised by the fact pattern;
- 3- Recall the correct law which applies to the issue(s) identified;
- 4- Perform an analysis by applying the correct law on the issue(s) raised by the fact pattern, to the facts presented;
- 5- Reach the correct conclusion based on your application of the law to the fact pattern and understand the reason why this is the correct conclusion;
- 6- Correctly select the correct conclusion and the correct reason for that conclusion from four answer choices.

Steps to Successfully Completing an MBE Problem

Step 1: Identify the area of law being tested scanning the answer choices quickly. Once you've determined which of the seven subjects the problem is about, tap into that area of your brain where you've stored the information on that subject. Go to Step 2.

Step 2: Read through the fact pattern presented, dissecting and analyzing the facts as you read within the context of the area of law you've identified in Step 1. Mark-up your facts by annotating the events that took place and the potential issues that may exist based on those events. Do not simply underline or circle words; instead, make a bracket around text and write next to it an annotation of what that text signifies.

Step 3: Cover up the answer choices, read the question.

Step 4: If you've already analyzed the issue presented by the question, look up to your annotation of the facts and determine the conclusion to the issue and the reason for that conclusion.

If you haven't already analyzed the issue presented by the question, analyze the issue using your annotation of the facts and determine the conclusion to the issue and the reason for that conclusion.

Step 5: Uncover the answer choices and immediately cross out all answer choices that do not present the conclusion you reached. For example, if your conclusion is that the defendant should be found guilty, immediately cross out any answers that say, "innocent." Other examples of conclusions are grant vs. deny, liable vs. not liable, suppress vs. admit, etc.

Step 6: At this point, if you've completed Step 5, you will likely only have two answer choices that you have not crossed out. One of those two answer choices is clearly

correct, and one is clearly incorrect. The correct choice is the one that matches up to the conclusion and reason you determined in Step 4 above. Begin reading the answer choices, and as soon as you find the choice that matches your conclusion and reason from Step 4 above, circle that choice and move on to the next question. Be careful not to cross out an answer that substantively states the conclusion and reason you reached in Step 4 above, but does so using different words than the words you articulated in Step 4 above.

* Each of these six steps should be repeated with each and every single question. Once you complete an MBE problem, discard it from your mind, and move on to the next MBE problem, beginning with Step 1 and working your way through Step 6. It is important to clear out your mind between each problem – a deep breath is an effective way to do that. If you encounter a problem where you completely cannot recall the applicable law and cannot eliminate any of the answer choices, do not waste your time trying to figure out the law, and instead circle your predetermined default letter choice and move on to greener pastures where you know the law and actually have a chance of determining the correct answer.

MBE problems also test your endurance and confidence because they are written in ways that can easily trick an examinee experiencing fatigue or hesitation. Some ways in which an examinee might be tricked on an MBE problem are as follows:

- 1- A fact pattern written in a way that indicates the questions will be about one subject, but then the question is about a completely different subject. For example, if an examinee reads the problem thinking it's about torts and then gets to the question and answer choices to find the question is actually about criminal procedure, the examinee will become flustered, expend too much time having to reread the problem, and then lose confidence because he or she has made a costly mistake.
- 2- A fact pattern that includes facts about a situation, which the examiner isn't even going to ask you about. For example, you might have a fact pattern about evidence obtained in violation of the 4th Amendment, and you clearly identify the violation, but then the question isn't about the violation, but is instead about whether the evidence can be admitted