

Online Adaptation of Bar Exam Success: A Comprehensive Guide Faculty Strategies and Notes

Success Guide Overview

This brief paper provides an online update to *Faculty Notes for Bar Exam Success: A Comprehensive Guide* (hereinafter, *The Success Guide*) by Sara J. Berman. The original *Faculty Notes* document can be found at <http://exchange.westacademic.com/docs/26718>

The Success Guide is a book designed for use in law school academic and bar success courses, and as a stand-alone volume for students who are navigating the road to bar success. The *Success Guide* also assists law school faculty in counseling and mentoring students preparing to pass the bar exam.

As law schools have migrated (in many instances overnight) to online teaching, we have updated these Faculty Notes to highlight some of the many ways *The Success Guide* can be adapted to online formats. The author has decades of experience with online teaching and learning having been a faculty member and assistant dean in the nation's first online law school, teaching in online bar review, and serving as an ABA Fact Finder on distance learning in law schools.

First and most important, *The Success Guide* is available to students in print and audio formats. On the West Study Aid platform, students have easy remote access to the entire book, selected chapters, and the dozens of formative assessment exercises. Students can do the reading and complete the self-assessments anywhere and any time.

The Success Guide provides material to assist and encourage law students –in critical skills and growth mindset development. Students must be encouraged to stay positive about the bar exam, especially in these times of uncertainty when the exam is being delayed in many jurisdictions. *The Success Guide* frames bar preparation in the kind of positive light that will help students persevere, even in the toughest times.

Critical reading, effective writing, and logical thinking are the underlying, foundational keys to bar success; they are also essential transferable skills for success both in law school and in the profession. Faculty can assist students in using this time of social distancing to engage in robust skills development online.

One of the most important tools for students to systematically engage in skills' training throughout law school is the performance test (the UBE version of which is the MPT or multistate performance test). Performance tests can be assigned online as teaching tools, online formative assessment, and, when modified, as online midterm and final exams. See, *Integrating Performance Tests into Doctrinal Courses, Skills Courses, and Institutional Benchmark Testing: A Simple Way to Enhance Student Engagement While Furthering Assessment, Bar Passage, and Other ABA Accreditation Objectives*, Journal of the Legal Profession, Vol. 42, No. 2, 2018, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3206929. See also, [Bar Exam MPT Preparation & Experiential Learning For Law Students: Interactive Performance Test Training](#) by Sara J Berman (ABA Publishing 2017. Faculty can request courtesy review copies from ABA Publishing.)

Planning Ahead for 1L-2Ls; using time wisely while waiting for delayed bar exams for 3Ls-4Ls.

The *Success Guide* provides strategies to learn to critically read and write effective bar essay, produce passing MPT answers, and to read, analyze, and answer multiple-choice questions. The *Success Guide* also explains how to self-assess and improve performance after completing each of these testing formats. All of this can be done in distance learning settings. Critical learning for bar success comes both in completing and after completing practice tests. That is when students can “see” where they erred and how to improve. The surest way to bar and professional success is to continuously improve –a message the *Success Guide* reinforces in every chapter.

As is detailed in Angela Duckworth’s book *Grit*, deliberate practice is essential to becoming an expert. For students to acquire the requisite skills for bar success, they must engage in a great deal of independent work with practice test questions, wise feedback and intentional repetition until the requisite level of mastery is achieved. As is underscored in the *Success Guide*, there is simply no substitute for hard work. But, that work must also be strategic and effective, and students must find the inner drive, meaning, purpose, and fulfillment to sustain a level of commitment to excellence.

The *Success Guide* focuses on solutions to challenges beyond insufficient content knowledge that cause students to fail, including the skills mastery noted above, as well as health and wellness, belonging, fighting stereotype threat and imposter syndrome, time management, financial planning, managing family commitments and expectations, and more –critical for the trying times that law students are facing today. The *Success Guide* provides a framework and dozens of self-assessment exercises to help students put themselves on the road to not only passing the bar but to successfully transitioning from law students to professionals –all of which can be completed online.

Chapter-by-Chapter Notes –Adapted for Online Learning

Below are highlights of selected teaching opportunities in the *Success Guide*.

Introduction

Who is *Success Guide* for? The *Success Guide* assists and informs both law students and their support networks, people who serve as key players in either assisting with or detracting from students' success in law school and on the bar exam. While people are social distancing can be an excellent time to read about and plan for success with the challenges ahead.

Faculty can assign and hold discussions or one-on-one Zoom meetings with students after the students share parts of the *Success Guide* with their family and significant others –including Chapter 6 which provides additional information for family, friends, and partners.

The Bar Exam is an opportunity for empowerment. Many characterize the bar exam as a hazing ritual. It is critical to set a positive tone early on –the *Success Guide*'s Introduction provides a compelling case for why bar studies are useful, compelling, and critically important. Adopting this empowering frame of mind –about any professional challenge—is critical, especially in today's difficult and trying times.

Introduction to Part I

Expecting to pass, or not. This section of the *Success Guide* begins to set out a framework for growth mindset in the context of academic and bar success, positivity being perhaps the most important skill as law students face the future.

Chapter 1

Goal setting: The *Success Guide* provides goal-setting self-assessment exercises that form the foundation of bar success. These can all be done online, remotely –independently, or as part of asynchronous or synchronous sessions; they can be included in Orientation, 1L, upper division, and during intensive bar review.

Why law school? Purpose-driven study is proven to be an effective base for learning. This chapter includes many self-assessments that can be assigned to help students cultivate a purposeful approach to their studies –all of which can be assigned online. Failure to sufficiently articulate “why” they are pursuing a law degree and licensure can cause confusion, hesitation, and frustration that prevent students from being fully engaged in the learning required for academic and bar success. These times especially are important for law students to focus on their “why” and spend some time realizing just how important their contributions to a society governed by the rule of law will be when they graduate and are licensed, with tools to not only do well but do good.

Camaraderie and accountability within the class. When speaking with law students, I encourage positive peer pressure. I urge them to understand that while they may have been “competing” against each other or class rankings and the like during law school, upon graduation they are a team. The entire class *can* pass the bar exam. And, the better the class as a whole performs, the more prestigious each person’s diploma will be. See [Fostering Student Success: Part I Challenges Posed by Changing Times and Changing Culture](#) and [Fostering Student Success: Part II -Possible Actionable Steps to Encourage Growth Mindsets](#).

Student portfolios: Faculty can conduct individual Zoom meetings with students to help them see their progress (or failure to progress), using as jumping off points for discussion, self-assessments students complete using *The Success Guide*. Faculty may require that students keep portfolios of various works to review before they graduate. Portfolios are discussed further, along with how they can assist in learning outcomes, in [Integrating Performance Tests into Doctrinal Courses](#), which discusses the role of MPTs in portfolio work.

Re-Framing Negative Self-Talk. The self-assessments in this section, supported by learning science principles, navigate students toward growth mindsets and away from detrimental fixed mindsets. This is essential in times of national crisis and personal challenge. Students can work on these exercises individually, in small groups, and/or with faculty.

Debunking Bar Myths and the Self-Doubt they Encourage: This section, perfectly adaptable to online learning, will assist in “doubt-busting” to help clear a path for active learning.

Stereotype threat: Information in this section is critical in today’s trying times.

Keep it simple. As an online assignment, faculty can require law students to explain legal rules to laypeople. Students who do not know or understand rules in certain subjects will have a hard time articulating them on exams. Make lay translation an assignment. (See, Say it in Your Own Words: Translate and Reverse Engineer Legal Jargon to Read More Effectively The Learning Curve, a publication of the AALS Section on Academic Support (Summer/Autumn 2017), at SSRN author page at <https://ssrn.com/author=2846291>). Students can identify someone (a layperson) to explain concepts to and, in individual or group bulletin board posting exercises, post an explanation to a concept as if they were talking to their designated layperson. Faculty might post a “legal term of the day” and require students to use the term in plain English in a sentence that they post on the class bulletin board.

A number of colleagues have also assigned two books I co-authored for lay readers about the civil and criminal justice systems to cultivate this very fluency, see [Represent Yourself in Court](#) and [The Criminal Law Handbook](#), both co-authored by UCLA Law Professor Paul Bergman and myself and published by Nolo.com. An experiential learning twist on lay translation work is to include, as part of an exam or formative assessment, requiring that students write a letter to a “client” explaining concepts from the course in plain English. This is useful preparation for MPTs, which may include such assignments. [Represent Yourself in Court](#) and [The Criminal Law Handbook](#) also serve as excellent summer reading for law students.

Chapter 2

Know your strengths and weaknesses. This chapter’s self-assessments –all online in the West Study Aid series--help students become aware of how to leverage strengths and improve weakness –in both skills training and content knowledge.

Practice tests: This begins to introduce the critical importance of forming and maintaining practice habits. Give students no option; make practice tests as low stakes formative assessment part of class work and homework in curricular and co-curricular bar support. Faculty can use bulletin board assignments to reinforce daily practice.

Pre-planning exercise: gaps in knowledge: One of the best ways to use the “extra time” students may have as a result of the pandemic, (making “lemonade out of lemons” as much as possible) will be for students to identify bar-tested subjects that they did not take or took but did not understand well, and create opportunities to fill in knowledge gaps *prior to* bar review. The *Success Guide* urges students to do what it takes to make bar review truly a review and not bar learning –all of which can be done remotely online.

Shifting blame: This section, a good read now in times when many are quite legitimately in agreement, addresses the temptation for students to blame their professors, law school, and

others. Energy focused on blaming should be re-directed toward study and self-care. The *Success Guide* reinforces this message.

Critical reading: the most important habit to cement early on. Encourage students to think carefully about how they can get into the habit of reading critically and carefully. The *Success Guide* offers many different self-assessments to reinforce this skill, all of which can be completed remotely. There are no limits to the other assignments faculty can create and administer online. For example, faculty might require students to summarize in one sentence a legal newspaper article or legal blog post every day for a month and give occasional, random quizzes to see how readily they recall specifics, how much they got out of what the author was trying to convey, and how easy or difficult it is for them to digest the information and repeat it back succinctly in their own words.

The law school and/or individual faculty can put together reading lists and organize online “book groups” to discuss law-related reading –an excellent activity not only for long-term remote or in-person work, but particularly important in times of social isolation. These can be asynchronous as part of guided bulletin board discussions or synchronous via Zoom (or other broadcasting tools).

Bar Success Plan: Similar to a business plan for a successful business, law students need bar success plans to prepare for passage. You can require students to complete these on their own, and use them as a springboard for discussion when counseling and mentoring students. These require no adaptation for online format. Students simply email them to faculty or post them in the LMS (learning management system such as Canvas or Blackboard, whatever law school uses).

Bar Awareness: Working in the online environment is most conducive to students doing individual research to be sure that they know what subjects will be tested on their bar exam. Students can use this knowledge for many reasons, as outlined in *The Success Guide*, including to gain fluency in the terminology relating to subjects that they have not studied prior to bar review.

MPTs are excellent teaching vehicles in early start. Most students benefit from starting before traditional bar review, especially for at-risk students. MPTs are ideal for early start because they are skills-based and do not require extra law knowledge or memorization. See Chapter 8 for more on MPTs, *Bar Exam MPT Preparation & Experiential Learning For Law Students: Interactive Performance Test Training* (ABA Publishing, 2017), and *Integrating Performance Tests into Doctrinal Courses, Skills Courses, and Institutional Benchmark Testing: A Simple Way to Enhance Student Engagement While Furthering Assessment, Bar Passage, and Other ABA Accreditation Objectives*, *Journal of the Legal Profession*, Vol. 42, No. 2, 2018, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3206929.

The author employed performance tests as formative assessment in teaching online courses in criminal procedure, business associations, contracts, torts, criminal law, remedies, community property, and in online bar support.

Nontraditional students: Most of what is in this section will help students who are adapting to transition to online learning.

Chapter 3

First Generation students: This section includes self-assessments that are particularly important for students who come from families in which they are first-generation college and law school grads. Faculty can bring a host of guest lecturers into online classrooms who can serve as powerful role models. (For resources, see at <https://www.cali.org/content/guest-speakers-available-remote-teaching-law-school-courses-coronaviruscovid-19>)

Professionalism and professional identity: This section includes frank discussion and self-assessments demonstrating how professionalism affects law school success and bar passage, as well as employment. All of these can be adapted for online learning. (For more on incorporating professional identity into law schools see the body of work by Professor Neil Hamilton and Professor Jerome Organ, and the Holloran Institute.)

Attorney referrals for moral character issues: Moral character and fitness, and the MPRE are critical steps along the path to licensure. This section helps assuage concerns and encourage planning for these pieces of the process. Students can learn about this now, while working remotely, so that they are prepared when they complete these applications.

Chapter 4

Active v. passive learning: Self-assessments in this chapter help students become aware of what they do, how they learn, and how much energy/focus different types of tasks require. Active learning, critical in traditional legal education, is even more important in online learning.

Time management: This includes self-assessments to increase focus and manage time, critical for both law school and bar exam success. They can be done independently or turned in and reviewed by ASP faculty. Time management is perhaps the most critical skill in times of social isolation and when engaged in online distance learning.

Combating distractions and managing misinformation: These are among the greatest challenges today's students face. The chapter assists with concrete tools that students can employ on their own and/or in conjunction with law school courses. Like time management, combating distractions and managing misinformation are key –now more than ever!

Chapter 5 --Bar review has been largely online for more than a decade so everything in this chapter is either directly applicable or easily adaptable to the age of distance learning.

Getting the most out of bar review: This chapter has extensive suggestions and exercises to help students learn the most from their bar review classes.

Mentors: Start an alumni or faculty mentor program at your law school, if you don't have one. Try to pair mentors and mentees who have something in common and will care about one another. (In one successful mentoring program, faculty were encouraged to choose students with whom they had connections to mentor resulting in much more effective mentoring than random assignments.) This chapter explains the role and importance of a bar mentor. The author created and ran a successful online bar mentoring program for a decade.

Chapter 6 –The concepts underscored in this chapter are vital in times of social distancing, perhaps now more than ever before.

Cultivating a support network: Law schools can hold workshops and events to encourage the creation of positive support networks.

Positive peer pressure: This chapter helps students to see the advantages of helping each other to succeed.

Educating Family and Friends: This chapter helps students with concrete tools to show the people in their lives how to help them (and how not to hurt them) during the bar preparation process.

“Supporters and Saboteurs” This section of this chapter guides students in identifying who will support them in bar preparation and who will not. Do not require students to turn this self-assessment in. It is for them alone, and it may be sensitive (especially if they determine that certain people close to them are not supportive). But it is critical for students to look at these issues, and do so early enough to do something about it.

Chapter 7 –Concepts in this chapter are vital in the age of social distancing and remote learning.

Study schedules: This chapter makes the case for scheduling and prioritizing study, while maintaining critically important self-care, sleep, and other ingredients for bar passage. The self-assessments guide students to create living documents that they will adapt to fit their needs and then commit to. These can be used in courses and workshops, for law school success, and in early start and intensive bar preparation.

Test anxiety and worry: Talk about these issues. Too many professors exude bravado regarding the bar exam, and students often fear “they are only ones” who are intimidated by it. Give them concrete tools, such as those proposed in this chapter, to combat study and test anxiety.

How to memorize: This is no longer self-evident. In generations past, from elementary school on, students were forced to do a great deal of memorization, but with our smart phones and fingertip information access, we train memory a lot less than we used to. Tell the students specifically how to memorize. Get them talking about what works for them and why. Help them harness learning science and understand basic principles of metacognition. This chapter assists in that process.

Chapter 8: This chapter focuses on bar exam testing formats: Essays, MPTs, and MBEs.

This chapter is the “heavy lifting” section of *The Success Guide*. Reading and studying it while waiting for a bar exam will help 3Ls and 4Ls facing uncertain times, and will also help 1Ls and 2Ls who are planning ahead.

Active reading exercises: Critical reading is essential for success in law school, on the bar exam and in the profession, and it is not a skill that all of our law students enter law school with. This chapter provides tools and self-assessments for training critical reading –all on the online study aids platform.

Critical, thoughtful, engaged reading is “the success thread that runs through all types of bar testing.” Students do not read this way intuitively, nor should we as educators expect it of them. We need to teach law students to read in this way. The *Success Guide* sets out a three-sense strategy for reading --touching each word, while looking at it and saying it aloud. Dedicate class time to reading, for example reading statutes.

A wonderful online learning exercise would be to require students to create short videos of themselves reading statutes aloud, word for word. Help get the students comfortable with the idea of reading aloud themselves. Reinforce the habit of reading slowly and carefully.

MBEs and MBE self-assessment: This chapter helps students develop a sound strategy for approaching multiple choice questions (how to read and select the best answers), and it provides self-assessments to assist students in engaging in daily practice MBE training and

continuous improvement, learning to identify why they missed each question they missed or guessed on. (A guess is equivalent to a wrong answer in bar preparation.) The chapter proposes many varied teaching tools --all of which can be adapted to online learning -- including creative suggestions such as reverse engineering MBEs and drafting MBE questions and sample answers to help students master the testing format.

Essays and MPTs and self-assessment of bar exam writing

This chapter provides a deep dive into how to read, outline, write, and then self-assess answers to bar exam essays and MPTs. The chapter also provides assurance and a variety of techniques to assist students with test anxiety and those who are simply reluctant to take practice tests. You can assign the parts of this chapter in sections, or all together.

As with other chapters, this chapter provides generally applicable advice and is careful to remind students to consult their faculty, their bar examiners' and the NCBE's websites, and other reliable resources for advice that is specific to their jurisdiction.

Written Feedback on Student Exams and Other Forms of Critique --nearly all of this was already being done "remotely" by email or through the LMS and is easily adaptable to online format.

A faculty member is only one person. There is little more frustrating than slaving away to comment extensively on student answers only to see that the students do not read comments (or do not read them carefully). Students can complete a self-assessment before their work is graded and a rewrite after they have completed the work, turned it in, and studied professor comments.

An online teaching tool for MBEs that requires little faculty time is described in *MBE Media Gallery: A Low Investment High Yield Teaching Technique*, by Sara Berman, Learning Curve Summer/Fall 2018

Peer grading may also be effective and can be adapted to the online format.

Exam Tips and Strategies: The Success Guide directs students developing condensed subject-specific strategy sheets to use during the week prior to their bar exam.

Performance Tests

This chapter guides students in how to complete MPTs, tackling both the required time management and content management, with a logical systematic approach. (More detailed information as well as ten practice tests and sample answers are included in my ABA publication, [Bar Exam MPT Preparation & Experiential Learning For Law Students: Interactive Performance Test Training.](#))

Online note: All of the sample exams in [*Bar Exam MPT Preparation & Experiential Learning For Law Students: Interactive Performance Test Training*](#) are in an online library that those who purchase the book from the ABA have free access to. This provides a treasure trove of work that can be done online, remotely.

Note that students who have taken trial advocacy and/or other clinical courses sometimes do well on PTs –in part because of exposure to factual analysis skills. For those who do not, a good “supplement” may be *Represent Yourself in Court: How to Prepare and Try a Winning Case*. *Represent Yourself in Court* serves as an easy-to-read tool for busy law students to get an understanding of the basic proof requirements and documents prepared in the litigation context—often exactly what is tested on PTs. It is a perfect book to assign while students are working from home,

Understand how important it is to complete performance tests early on and not to have students wait to first be exposed to this type of testing in bar review. Because they involve skill not memory, performance tests are the best tools for early start, and, again, perfect assignments to complete while studying online.

Document types: Faculty can have students make a list of the most frequently tested tasks and then create their own “bar exam form book” with samples of each of those types of documents –perfect online exercise.

MPT assessments and spin-off exercises –all of which can be completed online: Students can get exposure to different types of documents and save time by using the same PT library and file and creating spin-off exercises. After every PT the author teaches, she seizes the opportunity for extra learning by asking students to think a bit about how their answer might differ in tone, format, and content if they were asked to draft a different type of exercise (with the same facts and law). So, for example, if the PT task was to draft a closing argument, she might ask them to draft the opening statement and see how it would differ, or to imagine that they are counsel for the opposing side coming in with a last-minute settlement offer and to draft that offer. In any number of PTs, she might ask students to write letters to the client informing the client of options and advising the client on the pros and cons of each. The author will often ask students to imagine they were able to hire an investigator or to conduct discovery, and she asks them what facts they would seek out and why. See “*Getting Extra Practical Training out of Performance Tests with Spin-Off Exercises*,” from *The Learning Curve*, September 2015 at 13, (A publication of the AALS Section on Academic Support) [The Learning Curve September 2015](#).

Chapter 9 –All adaptable to the online format

Eight weeks and counting: This chapter helps students prepare for bar review. It reviews the importance of simulated exams, clearing calendars to free up as much time and energy as possible during intensive bar preparation and more.

Chapter 10

This chapter discusses the celebration of success and setting of new goals. An idea for ASP/Bar Support faculty: create an online media gallery with photos of swearing-in ceremonies, of graduates who have passed the exam, of inspirational quotes and letters from students you helped to pass the exam. Be sure to get permission from students before posting information from or about them.)

Part II and the remaining chapters focus on repeating the exam. Both out of a responsibility to all students and because the ABA's new standard 316 measures cumulative pass rates, law schools must devote more attention and resources to repeaters. You can hold online repeater workshops, online repeater alumni panels, and post reliable resources especially for repeaters. These chapters identify some of the challenges that are unique to repeaters and provides a springboard for steering graduates to success on their next bar exam. They are meant to be read in conjunction with all the materials in Part I of the *Success Guide*.

Additional Resources

The remainder of the original Faculty Notes outlined content for workshops and courses that use The Success Guide as a text. All of those are adaptable to the online format. As noted above, The author has decades of experience with online teaching and learning having been a faculty member and assistant dean in the nation's first online law school, teaching in online bar review, and serving as an ABA Fact Finder on distance learning in law schools.

Please contact the author for additional guidance on online academic and bar success programming and online pedagogy in law school.

About the Author

Sara Berman, a graduate of the UCLA School of Law, is an author, legal education thought leader, and nationally recognized bar exam expert. Berman has held doctrinal faculty positions and senior administrator, academic support and bar success positions in law schools in California and Florida and served for fifteen years on the faculty and in the senior administration of the first fully online law school. Her courses included criminal law and procedure, torts, contracts, remedies, and community property, as well as an array of curricular and co-curricular offerings in academic and bar success. Her publications include *Bar Exam MPT Preparation & Experiential Learning For Law Students: Interactive Performance Test Training* published in 2017 by the ABA, and *The Criminal Law Handbook: Know Your Rights, Survive the System*,

and Represent Yourself in Court: How to Prepare and Try a Winning Case, both coauthored with UCLA Law Professor Paul Bergman and published by Nolo.com. Please visit the author's SSRN page at https://papers.ssrn.com/sol3/cf_dev/AbsByAuth.cfm?per_id=2846291